

**CITY OF SOUTH PORTLAND**

**Name of Body:** Planning Board  
**Results for Meeting of:** October 11, 2016  
**Meeting Begins:** 7:00 p.m.  
**Meeting Location:** Council Chambers, City Hall

**RESULTS**

**Members Present**

William Laidley, Chairperson  
Kevin Carr  
Linda Boudreau  
Isaac Misiuk  
Taylor Neff  
Kathleen Phillips  
Adrian Dowling

**Staff Present**

Steve Puleo, Community Planner  
Tex Haeuser, Planning & Develop. Director

**Pledge of Allegiance**

Chairperson William Laidley opened the meeting at 7:00 p.m. and welcomed all in attendance. He reviewed the meeting’s agenda and reminded the audience and Board of policies regarding a Planning Board Meeting and Public Hearings. He read into the record Planning Board Regulation #5, standard condition of approval: This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. No project, plan or development previously approved by the Planning Board may be altered or modified without securing prior approval of the Planning Board in the form of an amended approval; provided however, that, if at any time it becomes necessary or desirable to make modifications to the project, plan or development, the Planning Director may approve modifications determined by the Planning Director to be de minimis in that they (i) do not amount to a waiver or substantial alteration of any condition or requirement set by the Planning Board; (ii) do not affect any approval standard; (iii) meet all applicable ordinances and laws; (iv) are reviewed and approved by all appropriate City staff and consultants; and (v) do not involve any changes to lot lines. De minimis changes include only the modifications listed in Section 24-27 of the Subdivision Ordinance and Section 27-140 of the Zoning Ordinance.

**Item #1. Approval of the September 27, 2016, Planning Board minutes**

**A. Dowling motioned to approve the September 27, 2016, Planning Board minutes.  
L. Boudreau seconded; (7-0).**

**Item #2. Consent Calendar**

No Items

Item #3. PUBLIC HEARING – Special Exception Accessory Dwelling Unit – Santoro-ADU – 1651 Broadway – Ms. Hannah Santoro – FINDINGS

Ms. Hannah Santoro is requesting a special exception approval to create an Accessory Dwelling Unit (ADU) in her home located at 1651 Broadway. The applicant proposes to convert the second-floor loft area above a two-car garage and a portion of a first-floor office. The applicant will add a full kitchen to the “loft” space and a ¾ bathroom and laundry room in the office area. Access to the proposed ADU will be from a doorway from the garage area. The proposed ADU will be 787 square feet in size and will be attached to a 2,260 square foot principal dwelling, making it 34.8% of the principal dwelling. All living areas will have CO detectors and hardwired smoke detectors. The applicant is planning to live in the proposed ADU. The property is further identified as Assessor’s Map 52, Lot 86, located within the Residential District A.

Public hearing notices were mailed on October 3, 2016, to the 37 property owners within 500 feet of the proposed project, the applicant, the Conservation Commission, the Planning Board, and City Council.

**L. Boudreau motioned to postpone this item to the next regularly scheduled meeting, based on the condition that they will get feedback from the fire department. A. Dowling seconded; (3-4) (Neff, Laidley, Misiuk, Carr).**

**I. Misiuk motioned to approve the special exception application of Ms. Hannah Santoro dated September 20, 2016, and drawings dated August 1, 2016, for an Accessory Dwelling Unit located at 1651 Broadway with the following conditions:**

**1. Planning Board Regulation #5, standard condition of approval, as read by the Chair at the opening of the meeting.**

**2. Prior to issuance of the Planning Board Certificate of Approval, the applicant shall provide to the Planning & Development Director revised plans showing maintenance of the first floor “Airlock” in the existing office area.**

**~~2.~~ 3. Prior to issuance of the certificate of occupancy, the applicant shall provide evidence to the Planning and Development Director that the Certificate of Approval for the ADU has been recorded in the Cumberland County Registry of Deeds and the exterior stairway shall be removed. T. Neff seconded; (4-3) (Dowling, Boudreau, Phillips).**

FINDINGS

**K. Carr motioned to accept the findings with the addition of Condition #2 and the change of previous Condition #2 to #3. I. Misiuk seconded; (7-0).**

Item #4. PUBLIC HEARING – Amended Site Plan – Troiano Waste Services, Inc. Facility Expansion – 10 Filmike Way – Filmike, LLC – FINDINGS

Filmike, LLC is requesting an amended site plan approval to make modifications to their waste hauling facility located at 10 Filmike Way. The applicant received a Planning Board approval in March of 2015 to construct an expansion to the principal building with a 6,000 SF truck maintenance addition, a Compressed Natural Gas (CNG) fueling station, and an expansion of the solid waste handling area of the facility. The applicant is proposing to amend the approval by

modifying their proposal to eliminate the building addition, reduce the expansion of the solid waste area, and change the CNG to a 12,000 gallon above-ground diesel fuel tank. The applicant's proposal still includes a driveway entrance from Commercial Street. The applicant has modified their Natural Resource Protection Act (NRPA) Permit and will be filing a Solid Waste Permit Amendment with the Maine Department of Environmental Protection (MDEP). The stormwater will be captured and directed to a "Filtterra" water quality treatment unit. The property is further identified as Assessor's Map 80A, Lot 1C, 1D, and 1E, located within the Conditional Non-Residential Industrial Municipal Solid Waste Transfer District (INR-MSW-1).

Public hearing notices were mailed on October 3, 2016, to the eight property owners within 500 feet of the proposed project and the applicant. Notices were sent by e-mail to the Conservation Commission, Planning Board, and City Council.

**K. Phillips motioned to approve the waiver of Planning Board Regulation #1. (d) and #2, to allow a public hearing prior to receiving all outside agency approvals and to condition the Planning Board approval to restrict all land use activities until the applicant has provided all outside agencies' approvals to the Planning Director. W. Laidley seconded.**

**Vote (6-1) (Boudreau).**

**L. Boudreau motioned to approve the request for a waiver of Section 27-1428 (a), Time Limitations, to allow a two-year "Start of Construction" approval period that expires on October 11, 2018;**

**to approve a request for a waiver of Section 24-26 (b), to allow for a two-phased development to be completed five years after the approval, expiring October 11, 2021;**  
**to approve a request for a waiver of Section 27-1526 (F)(1), Upland Vegetated Buffer Strip Adjacent to Freshwater Wetlands, to allow for the reconfiguration for the loss of Upland Vegetated Buffer;**

**to approve the amend site plan application of Filmike, LLC dated September 9, 2016, through October 4, 2016, and drawings dated February 24, 2016, through October 4, 2016, for the Troiano Waste Services, Inc. Facility Expansion located at 10 Filmike Way, as follows:**

- 1. Planning Board Regulation #5, standard condition of approval, as read by the Chair at the opening of the meeting.**
- 2. Prior to the scheduling of a pre-construction meeting with the City, the applicant shall pay all outstanding review escrow account fees and post the necessary performance guarantee(s) in such amount(s) as established by the City.**
- 3. Prior to the issuance of a building permit, the applicant shall provide the Planning and Development Director with satisfactory evidence that one of the first six methods set forth in Section#3(B) of the City's Site Plan application form relating to the applicant's financial capacity is in place.**
- 4. No changes to the grading plan, detention pond, or stormwater detention system are allowed without the prior review and approval of the Planning Board prior to implementation.**
- 5. As part of the separate conveyance of Lot 1, 2, or 3 shown on the Minor Subdivision for Filmike, LLC recorded in the Cumberland County Registry of Deeds in Plan Book 209,**

Page 384, Filmike, LLC shall convey all necessary drainage, stormwater management, access and utility easements to benefit the owner of said lot, with a copy of the recorded instrument contemporaneously provided to the Director of Planning and Development.

6. As part of the separate conveyance of either Lot 3 shown on the Minor Subdivision for Filmike, LLC recorded in the Cumberland County Registry of Deeds in Plan Book 209, Page 384 or the lot described in a deed recorded in the Cumberland County Registry of Deeds in Book 14316, Page 47, Filmike, LLC shall convey the necessary drip edge infiltration trench easement to benefit the owner of Lot 3, with a copy of the recorded instrument contemporaneously provided to the Director of Planning and Development.

7. The property is subject to a Stormwater Management System Maintenance Agreement that runs with the land and is binding upon the property owners' successors and assigns as their interests may from time to time appear. Said agreement(s) shall be amended by the owner of Lots 1 and 3 as well as the owner of Lot 2 and, contemporaneously with the recording of the mylar, said agreement(s) shall be duly recorded by the applicant at the Cumberland County Registry of Deeds, with a copy of the recorded instrument(s) contemporaneously provided to the Director of Planning and Development.

8. On or by July 15<sup>th</sup> of each year, a completed and signed certification shall be provided by the applicant or condominium association to the City's Director of Water Resource Protection in a form provided by that Department, certifying that a qualified third-party inspection employed by the property owner or applicant has inspected, cleaned and maintained the stormwater management facilities, describing any deficiencies found during inspection of the stormwater management facilities and certifying that the person has repaired any deficiencies in the stormwater management facilities noted.

9. The Planning Board's approval is conditional on the applicant obtaining all necessary DEP approvals, Army Corps, IF&W, and other approvals before the applicant commences any land use activity. If the DEP, Army Corps, IF&W or any other agency imposes any more stringent conditions on the applicant or if the DEP, Army Corps, or other agency's conditions of approval in any way impact the City of South Portland's substantive review criteria, the applicant must be required to return to the South Portland Planning Board for review and approval of an amended site plan.

**K. Carr seconded; (7-0).**

## FINDINGS

**A. Dowling motioned to accept the findings. I. Misiuk seconded; (7-0).**

### Item #5. Public Comment on Items Not on the Agenda

None

### Item #6. Comments from the Planning Board and Director of Planning & Development

**T. Haeuser** said there are emails about upcoming meeting dates. Because of the nonconforming lots issue with City Council that has a backlog of applicants, it puts pressure on the schedule and he is requesting a Board meeting on November 15<sup>th</sup>. It sounds like they may be able to avoid a second November meeting. Things could change; the next City Council workshop is October 24<sup>th</sup> and he expects this item to be on that workshop. What the Board would look at would be a

citywide zoning change with two alternatives that is significant enough that it would change the minimum lot sizes. They are prepared to use a mail service to send out 6000 postcards to every property owner necessary in addition to other communications. He doesn't think that will necessarily end up with a large number of people at the hearing. He's not sure how to gauge this.

The Board discussed meeting dates and decided that the meeting on November 15<sup>th</sup> is a definite.

**W. Laidley** said they need to sign the mylar. On his calendar, there was something about Arts & Historic Preservation to happen this month.

**T. Haeuser** said it was tentatively scheduled for tonight but it came off because they are switching between chairpeople. He thinks it will happen next year.

**A. Dowling** said there are two vacancies. **W. Laidley** asked what the meeting may be like since Mr. Dowling is on the committee.

**A. Dowling** said the committee is looking for direction from the Board in terms of what they expect from the committee. It is still new and they are trying to figure out what their role is and what their capabilities are.

**W. Laidley** spoke about the administrative burden they put on staff with follow-ups to various issues that come up. He asked if there is there a big administrative burden.

**S. Puleo** said over the years since they've added follow ups. It's set forth a feedback loop system that allows for constant feedback between Planning and Code divisions. There are more integrated efforts to ensure the conditions of approval are being met through the process. It works well now. They are taking on even more challenges because of their need to beef up and have a better handle on construction activities in the City, primarily through their erosion and sedimentation control effort. They will see that coming forward for their approval; that being addressed directly within the plans they approve. This is a policy, Regulation #2. This will address some of the things they've been dealing with. They have taken on more burdens but are using staff as a feedback loop type system. They are constantly busy.

**T. Haeuser** said what they never see, an important function, is that they require applicants to pay for our engineer to review their things. This requires a lot of accounting. This is Mr. Puleo working with Adin Wolfgram, who is part time but goes above and beyond, keeping track of accounts and funds. As a result, they save the taxpayers a lot of money because they don't have to use their own engineering staff.

**S. Puleo** said to give an idea of how much money they process, it's probably about \$50,000 in separate escrow funds that they have set aside at any time.

**I. Misiuk** recalls that they changed the process of how to get before them and one thing was requiring permits in-hand. It seems that every meeting has a waiver of that and he's curious, what is the process of an applicant if they don't have the permits in-hand? Is there a way to better the process?

**S. Puleo** said they have to consider projects like 363 Maine Mall Road. They went through multiple changes and had multiple amendments to their site location permit. They have a site location permit for stormwater. When they amend it, it goes in a process and there is no time deadline to process it. In these cases, he feels confident that when the applicant goes to DEP, what they see here is what they will approve. This is a project with an existing permit. Troiano also has an existing permit—a Solid Waste industrial permit, which is a different division. They were permitted before and he doesn't feel as though their application will change, it's just a matter of getting through. There are others that haven't had a site location permit and are going through the process for the first time and ask for a waiver. This is where they say no. They have had several. If it doesn't have a permit and they need one to see the Board, he will push back.

**I. Misiuk** confirmed that there is a hurdle they go through before the waiver is seen. **T. Haeuser** said it's not automatic. **S. Puleo** said the ones they've seen are situations that he believes are reasonable. The reason you see any are because they have some sort of permit and it's an amendment sort of process.

Item #7. Adjournment

**8:35 p.m. K. Carr motioned to adjourn. L. Boudreau seconded; (7-0).**



**Please Note:** No new agenda items will be begun after 11:00 p.m. If during the course of a Planning Board meeting it becomes apparent that the Board will not reach certain agenda items, the Board may, prior to its 11:00 p.m. cut-off, offer to the proponents of such items the opportunity to have their items tabled immediately to the beginning of the next regularly scheduled meeting. Agenda items remaining after the 11:00 p.m. cut-off time will automatically be tabled to the next regularly scheduled meeting.