

CITY OF SOUTH PORTLAND

Name of Body: **Planning Board**
Minutes for Meeting of: **June 13, 2017**
Meeting Begins: **7:00 p.m.**
Meeting Location: **Council Chambers, City Hall**

MINUTES

Members Present

Kevin Carr, Chairperson
Linda Boudreau
William Laidley
Adrian Dowling
Kathleen Phillips
Leslie Dillon

Staff Present

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

Absent

At-Large vacant

Pledge of Allegiance

Chairperson Carr 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 May 23, 2017, Planning Board minutes.

L. Boudreau motioned to approve the May 23, 2017, Planning Board minutes. K. Phillips seconded; (6-0) (At-Large absent).

K. Carr welcomed the Board’s newest member, Leslie Dillon.

Item #2A. Consent Calendar – Performance Guarantee Releases – Conifer Woods, Maine State Office Building – 240 BARNSTABLE RD and 151 JETPORT BV

T. Haesuer introduced the item, stating that David Kasik certified that they are able to release the \$33,000.00 Public Improvements, \$9,248.00 Erosion Control, and \$8,050.00 Landscaping performance guarantees for Conifer Woods, 240 Barnstable Rd., and the State of Maine Office Building, 151 Jetport Rd.

A. Dowling motioned to approve the total release of the \$33,000.00 Public Improvements, \$9,248.00 Erosion Control, and \$8,050.00 Landscaping performance guarantees for the projects listed above. **W. Laidley** seconded; (6-0) (At-Large vacant).

Item #3. PUBLIC HEARING – Zoning Text Amendment and Zoning Map Change – Rezoning from Residential District A to Conditional Residential Use G-5. – 131 Sunset Avenue – South Portland Housing Development Corporation

*** Postponed from the May 23, 2017, meeting ***

South Portland Housing Development Corporation is requesting a Zoning Text Amendment and Zoning Map change to rezone their property located at 131 Sunset Avenue from Residential District A to a Conditional Residential Use G-5. The applicant has purchased the property from a previous owner who obtained a Subdivision and Site Plan approval for a five-unit cluster development. The property was also used during the construction of Phase I of the Thornton Heights improvement project conducted by the City. The applicant's proposal is to establish a multi-family housing project. The applicant is proposing to create a 28-unit housing project in which 20% will be affordable at 80% of the Area Median Income (AMI). A proposed condition of the new zoning district will grant a "Conservation Easement Area" to the City of South Portland. The property is further identified as Assessor's Map 62, Lot 9, located within the Residential District A.

The Planning Board will make a recommendation to the City Council on the proposed zoning map change and zoning text amendment.

Legal advertisements appeared in the Portland Press Herald on May 9 and 15, 2017, and were posted in City Hall on May 9, 2017. Public hearing notices were sent on May 9, 2017 for the Public Hearing and on June 1, 2017 for the site walk, to 89 property owners within 500 feet of the proposed project and to the applicant and sent by email to the Conservation Commission, Planning Board, and City Council.

T. Haeuser introduced the item and showed the location on the map. The initial Public Hearing was May 23rd, which was postponed, and there was a site walk on June 8th. Having had the site walk, it's now time to reopen the Public Hearing and make deliberations. He noted a traffic study.

S. Puleo said that the study has crash data from the last three years as requested by Ms. Boudreau.

T. Haeuser said the conclusion is that they will have 15 weekday AM peak hour trip ends, 19 weekday PM peak hour trip ends, and 15 Saturday peak hour trip ends. It will not be a high-

volume traffic project and will not require traffic movement permit from the Maine Department of Transportation (DOT). They have reviewed crash data for the latest available three years (2014-2016) and the review indicates that there were two accidents and no significant safety issues at this time.

S. Puleo added that the state of Maine crash reports are from the City of South Portland Police Department.

K. Carr asked if there is additional information from the applicant in regard to traffic.

Pat Bailey, South Portland Housing Development Corporation, clarified that this is a 28 unit property where 25% are affordable at all levels. The remaining 21 units are available to people at 80% of AMI.

Isaac Misiuk, South Portland Housing Development Corporation, said the traffic study is preliminary to give information about trip ends. When they get to the site plan application, a full study will be done.

PUBLIC HEARING OPEN

K. Carr explained that this is a continuation of the May 23rd Public Hearing as well as the site walk. Public comment is open but he requests that only new information or questions be brought forward. They have heard and noted all comments thus far.

Millie Pelletier, 13 Gerry Ave., has noticed a dump truck hitting a pile and pulling down live wires multiple times. She explained that the traffic report may not have this information and utilities may be able to enhance the report.

Carol Schott, 70 Thornton Ave., has concerns if a cut-through is being made from Carignan. There is a field behind her house that children play in and it would be a shame to her if it's made into a road. She believes Thornton Heights is going downhill; she noted drug and other illegal activities in the neighborhood and motels at the top of the street. She also noted transients on the railroad tracks and homeless families living there. She doesn't want to insult anyone but she is concerned that this project will bring the neighborhood down more, when there are already a number of problems in the area. She would like a residential neighborhood where people own homes and not a revolving door.

Gail Gagnon, 117 Sunset Ave., was at the site walk. There was a question for the fire department about road width and she's wondering if that's available.

Robert Davis, 125 Sunset Ave., just purchased a home adjacent to the site. He would like to know how many parking spaces there will be. He thinks this is over ambitious; the streets don't seem suitable and he sees a lot of cars on the streets. He's not in favor of the project.

Andrew Capone-Sprague, 6 Gerry Ave., would like to see the actual traffic study that states only an additional 15 transits in the morning. This seems difficult for the size of the building and he would like to see how the numbers were arrived at.

Clinton Wyman, 74 Geary Ave., lives at the bottom of the hill and he towed two fire department vehicles out of the area when they got stuck plowing out a hydrant. He's towed numerous cars that have slid down the hill in the winter.

Micah Engber, 117 Sunset Ave., asked if the South Portland Housing Authority is a tax-exempt organization and if so, if they will pay property tax on this property. If they are not, he wants to know where funding will come from for the increased services necessary. He believes that the community has great respect for their work and doesn't think anyone has anything against providing this type of housing. In the site walk, there are many multi-unit dwellings in the area and there is no problem with them. There is even a habitat for Humanity Home. However, two years ago the Board approved a zoning change for five units, and the community was concerned but understood that number of units could work. He doesn't believe it's "not in my backyard" but numbers—to go from five to 28 units is tremendous and the area cannot support it. He does not believe this meets criteria in the Master Plan.

Kathy Latendresse, 199 High St., is against the zone change and doesn't think the City should keep changing zones for convenience.

Millie Pelletier, 13 Gerry Ave., read about the Knightville situation not going through and saw that project didn't fit into the neighborhood's integrity. She asked how this project is any different. Part of what she's enjoyed is that this location feels like a neighborhood.

Nicholas Bogs, 9 Gerry Ave., is a three car, seven bike family. He asked where the children who move in will play.

Alan McGrath, 28 Tremont St., is concerned about construction vehicles and noted that there were problems with homes' foundations with the pipe separation. He also noted that the schools are already overcrowded and 28 more units could mean a lot more children.

Phil Dipierro, Carignan Ave., is not opposed to the Housing Authority's mission but he thinks this is too much for the neighborhood. He asked if there are numbers for the total number of trips in the traffic study.

S. Puleo replied that the applicant will have to provide that.

P. Dipierro said that this project does not appear to meet the goals of the City's Master Plan or fit with the character of the neighborhood. Projects like this, with zone changes, seem like they exacerbate the problem. There is zoning for a reason; this is a Residential A zone that allows for five units. He suggested making all of those affordable—28 or 23 more units at market rate seems like overkill.

Millie Pelletier, 13 Gerry Ave., would like a copy of the outcome of the Knightville case that shows how it doesn't fit. Should this go through, she believes it could open the City up to a lawsuit at the Supreme Court level for the equality of the situations.

T. Haeuser read an email from Peter Spaltro, Gerry Ave., who asked if they are considering connecting Sunset to Thornton for the project.

T. Haeuser began to answer the public's questions, beginning with the cut-through. There will not be a cut-through road.

I. Misiuk said this is preliminary, in regard to the number of parking spots, they currently have 36 parking spots, one-to-one for the units and eight for visitors.

Mike Hulsey, South Portland Housing Development Corporation, said they are an exempt organization but they feel it is important to pay taxes or a payment in lieu of taxes. It's not structured yet but they will be paying something. In regard to where children will play, they hope to bring families who need housing and they will find somewhere on site for them to play.

T. Haeuser said in regard to total traffic, this is a preliminary study and he does not believe they give those figures. The fire department request about road width is not complete, however he did measurements on Google and got about a 19 foot width for Sunset. This means it's a little less than 10 foot lanes, which is pretty narrow. Generally you want at least 10.5' per lane in an area such as this. In regard to Knightville, there is a video of the workshop held last night that could be reviewed.

P. Bailey, South Portland Housing Development Corporation, said they saw the opportunity in Knightville, came up with designs, and had meetings with neighbors. At no time did they request a zoning change, they only had community meetings and a desire to develop in that area.

T. Haeuser gave Mr. Capone-Sprague a copy of the traffic report.

A. Dowling showed a drawing included in his packet and asked for Mr. Haeuser to show how it will be oriented. **S. Puleo** showed this on the map.

A. Dowling asked how many feet there are between the buildings and the closest set of railroad tracks, using Google as a rough estimate. **T. Haeuser** said he's not sure where they will be but generally, to the railroad tracks on the map it is about 320 feet.

A. Dowling said there were public comments about trucks hitting utility poles. Is this something to be considered a compelling example of how narrow the streets are?

K. Carr said when he looks at a traffic study by an engineer, there are models. When they get general information about something that may have happened, there's only so far you can go. From his being there, it is more compelling than hearing about a dump truck. He doesn't think anyone will argue that the streets aren't narrow.

A. Dowling said he was hoping for fire department feedback about navigating around the area.

Acting Deputy Chief Mike Williams, South Portland Fire Department, met with the group and had a brief discussion. They look for 20 foot width for streets. At the end, there needs to be access to get around. He's concerned about not getting to the rear of the building. He stated that they have talked to the planners but he hasn't done a lot of serious research because it hasn't come from Mr. Puleo to him. Other concerns include distance of hydrants and sprinkling buildings.

A. Dowling asked if he feels there is a solution to these concerns. **M. Williams** said sometimes he sees that there may not be a solution and they will need to accommodate somehow. He expects them to live up to the City's codes. It is a life safety issue.

They work with the planners to try to get to a place that everyone feels comfortable with.

A. Dowling asked if there was an incident and they had to come down the streets where people are parked on both sides, what is added to their response time. **M. Williams** hopes that it is alleviated in his planning. They look for 20 foot wide streets and parking is beyond that. Their trucks are a minimum of eight feet wide. There is narrowness and they've talked about solutions. They are trying to accommodate that.

L. Boudreau appreciated the site walk. While it may disappoint the neighbors, she was surprised at the width of the streets and thought it would be more like Willard Square. On-street parking is a pet peeve of hers; all homes need to have adequate parking. When everyone parks on the street, there is a neighborhood problem. The City could post "no parking" on one side of the street. Overall, she wasn't surprised by the width. She was concerned about the topography of the street and steepness of the hills. In the winter, those will be challenging. She has concerns and overall thinks this project may be too big for the neighborhood and needs to be modified some. Again, this is a property that has a need and right to be developed and they need to find what the appropriate development is. Overall, her thought is that the project is a little too big and she's concerned about the topography and parking. She needs a better ratio of parking for tenants and doesn't believe tenants won't have multiple cars. She doesn't believe South Portland has the transportation system needed. She recommends they look at parking and increase it.

L. Dillon noticed that in the proposed zoning changes is that the minimum street frontage is 40 feet instead of 50. She also noticed that in all other residential zones that there is the possibility of increasing minimum frontage in all other residential zones by 2020. She wondered if the proposed decrease is typical and if not, does that proposed zoning change violate the move towards increased street frontage.

T. Haeuser said the 40 vs 50 is just what they need. **S. Puleo** said it is what exists.

T. Haeuser said the concept of frontages increasing by 2020 is specific to the A and AA zones where they reduced the minimum lot sizes in a number of neighborhoods and also reduced the frontages in those same zones. Specifically, just for frontages, there is a sunset clause that the Council has to act or it gives them a head's up to act. Frontages could revert to previous distances in 2020 just for those two zones.

M. Hulsey said they had 46' of frontage on Sunset and a five-foot strip up to Carignan. They put zoning in because a neighbor was opposing the project. His family sold the land so they had 50 feet and they thought if they had less, they could gift it back. That is why they asked for it.

L. Dillon said with one-to-one parking spaces per unit plus eight extras, there's an assumption of one driving aged adult per unit or one car per unit regardless of the number of adults. She's curious if there's conversation about what alternative transport options are and what incentives are. Do they serve areas with grocery stores and high employment density?

I. Misiuk said throughout many of their properties, no one is allowed more than one vehicle. It will be written into the lease that only one car is allowed.

L. Dillon asked if locating this project with that requirement is a good match for the residents they're trying to serve. **I. Misiuk** said they have projects in this area with that requirement and has been adequate thus far.

T. Haeuser asked if they run a shuttle or van service to/from. **I. Misiuk** said no. There is a residential service coordinator who picks residents up for activities such as grocery shopping and Sea Dogs games. This is still a conceptual plan; they're not sure what services will be planned.

W. Laidley said affordable housing is a general goal and not every site is a solution to the problem. This is originally zoned for five units and that was okay. Then, the proposed development said 28 and he's not sure that will work considering the issues raised by the City and neighbors. If the numbers don't work, they may have to find alternatives, but that's not up to this Board. The Council may have a different view. He has no problem with Rigby Yard. The steep drop off may be okay with a fence. This began as a marginal lot, mostly from fill from the sewer separation project and it is developable but he doesn't think it is for 28. Something less would seem to fit better.

K. Phillips said she echoes a lot of the Board's comments. She has concerns about tightness of roads. She thinks a lot of Board and neighbor issues can be controlled by limited parking to one side of the road. She thought it was beneficial to walk the neighborhood and see how many multi-families there are in that area. It sounded like a single-family residential neighborhood before but there are many non-conforming multi-family properties there. Perhaps this development is large to some people, but it is already being used in a multi-family capacity scattered throughout the neighborhood. Currently, the lot is unsightly but that's not for her to judge, it's for the owner of the lot to figure out what to do with it. For safety of children, a structure there may be more monitored and make it safer than it is now. She sees both sides of the coin. She thinks a lot can be done with the department heads to get a better control of how things are run and safety elements.

K. Carr said when they met on the 23rd, they looked at Google and couldn't figure it out. He agrees with several Board members who expressed satisfaction of being there on the ground. He tends to agree with Ms. Boudreau that notwithstanding at 131 Sunset, there are issues with regard to parking on the street and the ability to get through. He went down Gerry and wondered if his side mirrors would make it. Regardless of what happens, the City needs to look at that

neighborhood with the neighbors. For him, the issue is scope and scale. He sees it as a development that's out of scale with the neighborhood. He thinks Ms. Phillip's comments about other multi-families is important. With that regard, he looked at the property at five units and thought it was consistent. Going to 28, he doesn't think it works. He's not unsympathetic to the economics of the situation and that's a significant factor. He thinks they need to take a step back and ask if it's a good fit. He didn't attend the Knightville workshop but he heard a summary of the conversation about being a good fit and scale and he thinks this is a good parallel. He's not in support of the zone change. Ours is an advisory role and they will advise the Council what they think. Ultimately the Council will decide on the change.

L. Boudreau asked, procedurally, if it is better for them to send a negative recommendation to the Council or if should they postpone pending the Housing Authority working on this.

K. Carr said the applicant has applied for zone change and there is a process for that. **T. Haeuser** said yes, several Board members gave an indication that they may be willing to consider it more favorably if it was pared down. Regardless of the process, they may want to know would the applicant consider a reduced number of units with more parking. He guesses it would be difficult for them to make financials work.

S. Puleo said he believes if the Board sends a negative recommendation the way it's been advertised and the Council, through workshop, believes 28 units is too many and it needs to come down to a certain number, they come back here for re-advertisement with a reduced number as recommended by Council. **T. Haeuser** added that any substantive change would have another Planning Board hearing.

The Board discussed different procedures.

M. Hulsey said they would like to relook at the numbers. Economy of scale is very important to them. He's not sure what they would come down to and isn't sure what would be supported. He's curious if 20 would be okay.

K. Carr said there's willingness by the applicant to relook at the numbers and perhaps work with the neighbors. It appears that they could postpone additional work pending due diligence by the applicant.

T. Haeuser said this is a case where the person who makes the motion decides if it's a recommendation or a postponement.

L. Boudreau hates to send a negative recommendation. She was surprised at how many multi-family units there were and thinks the Housing Authority needs to look at that. She can't be absolutely sure she will make the neighborhood happy with the number she finds, but that's not her job as a Planning Board member. She needs to be sure the streets can handle the traffic and fire and police feel confident. She doesn't know what's perfect for her but feels that they have come in good faith trying to put something forward to help residents. If she can help facilitate a positive recommendation that is what she'd like to do.

L. Boudreau motioned to postpone this item. K. Phillips seconded.

W. Laidley doesn't think the Board should be drawn into finding the magic number. They come up with a number and the Board looks at it. He can support postponing if it helps finding the magic number.

A. Dowling is not in favor of postponing. It's not a swipe at the Authority; he feels they've had time to work on it and with the neighborhood. He doesn't want to keep kicking it down the road.

K. Carr supports a postponement and agrees with Mr. Laidley. This Board's role is not to mediate or negotiate.

Micah Engber, 117 Sunset Ave., said that the Housing Authority has requested a zone change. That was placed before this Board, they've had two Public Hearings, a site walk, and before the first Public Hearing was a meeting at Landry Village. He believes there's a proposal to make a zone change and postponing it isn't appropriate. The appropriate thing to do is vote on the zone change based on what was given or for the proposal to be withdrawn and the applicant should reapply with changes. He doesn't believe postponement is a choice so that it gets kicked down the road and the residents need to continue to return to protest. He asked that the Board make a positive or negative recommendation.

T. Haeuser said Mr. Engber has a point; they've already discussed if there's a change there has to be a new Planning Board hearing with new notes. He discussed how this would work.

K. Carr asked if the Housing Authority would like to comment. **M. Hulsey** said they would withdraw if they do not postpone, and they would come back.

K. Carr said this would be stopping the clock completely on the application deliberated tonight. **T. Haeuser** said yes.

K. Carr said there is a procedural question as to whether or not a reduction in the number of units within the context of the application for a zoning change based on 28 would even be something that could be done.

T. Haeuser said no matter what it's a substantive change that requires a new Planning Board Public Hearing after re-noticing. It doesn't seem like the right procedure to send a recommendation that says it has to come back. He thinks the withdrawal and re-application is probably the correct way to do it.

L. Boudreau withdrew her motion.

T. Haeuser said it would be appropriate for Mr. Hulsey to state their intention for the record.

M. Hulsey said at this time, they would like to withdraw their application.

PUBLIC HEARING CLOSED

Item #4. PUBLIC HEARING – Floodplain Management Approval and Site Plan Review – Patio Addition – 271 Front Street – Centerboard Yacht Club – FINDINGS

Centerboard Yacht Club is requesting a Floodplain Management and Site Plan approval from the Planning Board to construct a patio connected to the existing yacht club building located at 271 Front Street. The proposed project includes the development of a patio along the shoreline side and the east side of the building. The proposed patio structure will be 1,218 SF in size. The location of the patio will include a portion of the existing gravel driveway, increasing the overall site's impervious conditions by 650 SF. Per Section 27-1322 C.1., a Planning Board approval is required due to the increase of the existing structure by more than 200 SF (the patio) and impervious surface of more than 500 SF. The proposed patio will include a small retaining wall to elevate the patio to the existing finished floor elevation. The proposed patio surface will consist of prefabricated wood deck panels in six or eight-foot squares. The site will be graded to keep an 18-inch reveal of the stonewall and the yacht club is proposing to landscape around the wall at a future date. The property is further identified as Assessor's Map 8, Lot 100, located within the Shipyard District (S) and Shoreland Overlay Districts.

Public hearing notices were mailed on June 5, 2017, to the 65 property owners within 500 feet of the proposed project, the applicant, Conservation Commission, Planning Board, and City Council.

T. Haeuser introduced the item and showed the location on a map. There is no increase in traffic. Stormwater has a waiver because there are not any impacts relative to existing amounts of stormwater runoff volumes and rates. He reviewed the waivers and conditions.

Kylie Mason, Sebago Technics, introduced herself and stated that there is not much visually to present. All permits are in place. There was an amendment to the previously approved Natural Resources Protection Act (NRPA) permit through the Maine Department of Environmental Protection (MDEP).

PUBLIC HEARING OPEN

Kathy Latendresse, 199 High St., would like to know more about what's going on and what they're proposing. She's not sure she's in favor.

T. Haeuser pulled up drawings.

K. Mason said they are adding an L-shaped patio. When the club expanded, they added doors that step into nothing so they'd like to wrap a patio around. It's a ten-foot wide patio.

K. Latendresse asked why they need to come here.

T. Haeuser said it's an overlay zone that has special rules that try to make sure they don't have erosion and pollution going into the river.

L. Boudreau said this is a small "home improvement" to her that is caught up in technical language of the zoning. This is nothing but an amenity to the building and it won't change

runoff. She can't say anything more than she supports it and doesn't see anything detrimental from a Planning Board perspective.

K. Phillips and **L. Dillon** have no objections.

Russ Lunt, Brigham St., thinks this is a wonderful plan.

PUBLIC HEARING CLOSED

L. Boudreau motioned to approve the waiver request of Section 27-1536 (h)(1) to waive the Basic Stormwater Management requirements due to no change in the stormwater management of the site;

Floodplain Management and SITE PLAN

to approve the Floodplain Management Approval and Site Plan Review application of Centerboard Yacht Club dated May 2, 2017, through June 6, 2017, and drawings dated May 2, 2017, through June 6, 2017, for the Patio Addition located at 271 Front Street as follows:

CONDITIONS

- 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 preconstruction meeting, the applicant shall pay all outstanding review escrow account fees, post the necessary performance guarantee(s) in such amount(s) as established by the City, post and sedimentation control inspection escrow, and pay all compensation and/or impact fees as determined by the Planning Board.**

K. Phillips seconded; (6-0) (At-Large vacant).

FINDINGS

W. Laidley asked if they have to specify a date for the landscaping portion in paragraph 6.

L. Boudreau asked if that is needed at all. **K. Carr** asked if it's standard. **T. Haeuser** said it's not.

S. Puleo said the applicant may have a day where the members get together and do plantings but they're not sure what or where. If they want to strike it, they can.

The Board agreed to strike it.

W. Laidley motioned to accept the findings with item #6 referencing landscaping removed.

L. Boudreau seconded; (6-0) (At-Large vacant).

Item #5. PUBLIC HEARING – Modified Site Plan for a Stationary Vending Unit – Mobile Vending Unit Area – 45 Huntress Ave – Fore River Brewing Company – FINDINGS

Fore River Brewing Company is requesting a modified site plan for a stationary vending unit approval to host mobile food vendors in association with their tasting room located at 45 Huntress Avenue. The applicant is a manufacturer and distributor of beer to local markets, including South Portland. Mobile food vendors will be contracted for specific events throughout the year. The tasting room seating is located in the front of the brewing building and is sectioned off from the parking area with ropes. The mobile food vendor space will be 25' x 25' in area and northwest of the tasting room area. The food vendor will only be accessed through the roped-off section of the tasting room. The stationary vending unit approval must address the relevant site plan impacts created by hosted mobile food vendors on private property. Pursuant to Section 14-104 (d), the applicant has hosted mobile food vendors on three occasions this calendar year. The applicant states they will obtain all necessary licenses found in Chapter 14 required to host mobile vending units. The applicant's proposal addresses any anticipated impacts generated by the additional use. The property is further identified as Assessor's Map 32, Lot 143, located within the Commercial District (C).

Public hearing notices were mailed on June 5, 2017, to the 98 property owners within 500 feet of the proposed project, the applicant, and were sent by email to the Conservation Commission, Planning Board, and City Council.

T. Hauser introduced the item and showed the location on the map. There's a recent change in policy to liberalize the rules to get more food trucks. In Chapter 14, licensing, there's a section regarding this. He read Section 14-104 (d): "If a privately owned property is to serve as host to one or more mobile vending units on more than three (3) occasions in any calendar year, such use shall be considered a stationary vending unit for purposes of this article, and the property owner shall seek and obtain site plan approval for the site consistent with subsection (c) above prior to hosting and mobile vending unit for the fourth occasion in the calendar year."

Mr. Williams from the Fire Department has concerns about fire issues and Board members got an email from Mr. Puleo with Mr. William's letter. This lays out the need to follow code requirements. There is no change in traffic generation. Events typically occur outside of AM and PM peak hour. There is no proposed land disturbance. The applicant will schedule vendors as noted.

He explained that the idea is that they recommend adding to the proposed conditions a condition to say the applicant would need to meet the different code requirements detailed in the Acting Deputy Chief's letter from June 9, 2017.

S. Puleo stated that this is included in the findings.

John Legasse, brewing partner at Fore River Brewing, introduced himself and said he can answer any questions.

L. Boudreau asked about the colored diagrams the Board received in their packets and for the areas to be explained.

J. Legasse reviewed his diagram, shown on the screen. Area 1 is the paved section of lot. Area 2 is the outside seating area. This was completed last May and is large and grassed with a fence around it and connects to the tasting room. This area is licensed by the City and approved by the state as an area to consume alcohol. Area 3 is a grassed area following Huntress. They've added trees here to add green to the corner and removed an entrance/exit during that upgrade. Area 4 is the outside seating, the same as section 2. It is in front of the brewery and roped off. Area 5 is the proposed vendor section, at the edge of the outside yard. That area would have the same roping to show it as vendor use, not parking. Area 6 is overflow parking. Area 1 is asphalt and Area 6 is gravel.

PUBLIC HEARING OPEN

Russ Lunt, Brigham St., thinks this is a prime example of a thriving business. He's glad to see them doing well.

Nick Boggs, 9 Gerry Ave., is glad to see this come forward. He thinks it's a great idea.

Acting Deputy Chief Mike Williams, South Portland Fire Department, explained that his letter consists of recommendations. He said he has met with Mr. Legasse and it looks like a clean operation but issues may come up off and on. The state does not require a hood system or fire suppression system when approving food vending trucks and any trucks operating in South Portland have to have that. It can be waived if they see alternative measures. He discussed safe distances; there is a 12 foot building code setback and he's asking for that. If there is a fire in the truck, he wants it to be far enough away from the structure. Food trucks need to be sure they aren't blocking access out of buildings, including access for fire and police to get to the scene. He's seen some trucks in cities that attract large crowds. He thinks this is taken into good account but needs to be reiterated. Wherever they put them, people need to get in and out. He spoke about "mobile vending units" vs "stationary vending units." In his world, mobile vending units need to have cooking equipment or a hood system, but they're mobile so they don't fall under building code. Once it becomes stationary, it falls under building code. He doesn't think it's a bad idea at all and his job is to point out life safety issues.

L. Boudreau is struggling with "stationary." This sounds like a pad that mobile vending units will operate on and it may be different for every event.

T. Haeuser said he hasn't been involved directly with the development of the amendments and he thinks she's correct. In terms of Chapter 14, this is a stationary vending unit only for purposes of having this type of "mini" site plan review. Nothing has changed the fact that it's a mobile vending unit. Relative to the review it will get, it should get the same review a stationary vending unit gets. This was Councilor Cohen's initiative and from various discussions it's clear that her intent is to try to allow mobile vending units. The way it happened, these get a site plan review "lite" from the Board because it won't be one unit per year but various mobile vending units will come in a spot on a site at various times throughout the year. He doesn't think the Council wants them to overregulate, but as long as they're clear these are still mobile vending, they should look

at appropriate site plan review kinds of concerns, including traffic and fire safety issues pertinent to a mobile food unit.

K. Carr said conceptually, if they look at it from 10,000 feet at various times, and they would see trucks in a location. They may be different but they're there. They are treating the overall site like it was a set of trucks to be there in a semi-permanent way. His question is do the units meet the majority of the codes.

M. Williams said yes they have to meet them. The problem is that they don't inspect them. They don't know whether they do.

K. Carr asked what the relationship between the brewery and vendors is and the obligations set forth in the findings. Is it contractual?

M. Williams isn't sure. If they're bringing trucks on property, he would imagine they will make sure they meet code definitions. Right now there's no process in place. To become stationary, they would have an inspection but the way this is written, stationary is the fourth time a truck shows up. If the fire department inspects the building, they would inspect a truck if it's there. The question is to how to ensure the vending trucks operate a safe practice.

L. Boudreau feels like this is an unintended consequence of a good effort. They've had mobile vending trucks that are certified by someone. The fact that you've triggered over three seems to make it something else, which is okay with her. She can see the pad and give it Planning Board review but she doesn't think it addresses the fire issues because the units change.

K. Carr said they have the ordinance; they're treating Fore River as the host for the stationary vending unit. The Board's action have articulated a series of requirements to be imposed on the food trucks. In essence, they're saying as a condition of approval of the mini site plan there would be conditions then imposed on the food trucks, which have a contract with Fore River Brewing. It sounds like Fore River would take on responsibility.

M. Williams would say yes but he's not 100% sure if it's totally their liability. If it's on their property, it probably is. The vendors themselves have to accept some. Maine licensed the vendors and they come here, and the state doesn't require a hood and fire suppression system. They leave it to the municipality to decide the issue. He's never inspected a food vending truck; it's only come to light because they're taking it and parking it and making it a restaurant for a short period of time. He imagines their job is to ensure the trucks meet their code. On the street, they're responsible for themselves.

L. Boudreau asked if these are customarily equipped with a hood. **M. Williams** said some do, some do not. If you ask the state, they would say it depends on the municipality.

K. Carr asked if there are three trucks that are inspected and one does not meet requirements. **M. Williams** said they would tell them to leave.

K. Phillips asked if there are multiple trucks at once.

J. Legasse said it's a 25' by 25' so it's tight with two trucks. They've done a private event with two and it was okay, but it seems to do better and the models they see in Portland is with one truck.

S. Puleo said the ordinance allows for three trucks at one time.

K. Carr said the fact that this is new is making it interesting. Their job is to determine whether this modified site plan fits the requirements of the ordinance and he thinks the broader question of whether or not the requirements imposed on Fore River and the food trucks is overly burdensome is not their issue to solve.

T. Haeuser agrees and thinks that covers the inspection issue. That is something to be worked out and not part of the approval tonight. More discussion is needed within the City. Based on that, instead of referencing the Chief's letter, a more general condition would be appropriate. It could be wrong to require mobile vending units to meet regular stationary vending codes; it could mean there would be no food trucks here. We don't know if food trucks could meet the same codes and they need more discussion.

L. Boudreau said looking at this, it isn't inferring with the parking lot. If there was a fire, the fire truck would come in and people would go out the door. She asked about doors on the building.

J. Legasse explained where other doors are on the building. He also showed where the hydrants are.

L. Boudreau said traffic into the site has no changes. This is unique and she hates sending the applicant away when they're not sure what codes he needs to follow. She assumes when they talk about Portland, it's Thompson's Point.

J. Legasse said he doesn't know about hoods in the trucks or their inspection process. In this part of the state, Portland is a great example for research. In the submission he said they see it within their duties to ensure they're scheduled and allowed on the property and their licenses are in place for the food service part. If in the process of figuring out what they need to do they're the guinea pig, figuring out what falls on whose shoulders.

L. Boudreau cannot see anything she would object to. She could approve this, but she would let the Council know they may need to do more work.

PUBLIC HEARING CLOSED

L. Boudreau motioned to approve the site plan application of Fore River Brewing Company from June 2, 2017, through June 8, 2017, for a Stationary Vending Unit Mobile Vending Unit Area located at 45 Huntress Avenue as follows:

CONDITIONS

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

2. Mobile vending units doing business on the applicant's property shall meet all applicable national, state, and South Portland fire prevention, safety, and food handling codes and regulations.

K. Phillips seconded.

L. Boudreau asked about listing the hours of operation. **K. Phillips** asked if they can say “during hours of operation.”

L. Boudreau proposed to amend the findings to say “within the hours of operation of the tasting room” instead of listing the hours in #8.

J. Legasse agreed.

Vote (6-0) (At-Large vacant).

FINDINGS

W. Laidley motioned to accept the findings with the hours of operation removed and replaced with “within the hours of operation of the tasting room” in item #8. **A. Dowling** seconded; **(6-0) (At-Large vacant).**

Item #6. Public Comment on Items Not on the Agenda

Russ Lunt, Brigham St., welcomed Ms. Dillon to the Planning Board. He thinks the public was right about the parallels between Knightville and Sunset. He heard today Bon-Ton in the mall is closing; he hates to see that.

Thea Sames, 40 Everett Ave., quoted an article from the Sentry about the popularity of infill development in the City. It is happening in her neighborhood; trees have been clear cut. Her mother moved to Coolidge Ave. 10 Coolidge Ave. is a small lot loaded with trees. The developer planned to clear cut before his application was approved. She's not sure what will happen with the lot but it's triggered something in her and her sons. They care about the trees in this area. She spoke about the big picture and problems of cutting down trees. She moved here wanting to raise her children here and she taught them about the importance of trees.

Jamie Howard, 18 Coolidge Ave., lives two doors down from 10 Coolidge Ave. She's looked through the application and has found two findings that could possibly disqualify it and asked what the best way is to communicate them to the Board.

T. Haeuser told her she could write a letter that could be put into the record and provided to the Planning Board as part of their packet and/or to go to the public hearing for this project. Unless you brought something completely crazy about the application to their attention, he doesn't think they have the ability to preempt.

J. Howard asked what an example would be. **T. Haeuser** said he can't speculate. The applicant has a right to bring their application forward and she has a right to provide testimony. She can do it ahead of time through written testimony and/or at the hearing itself.

J. Howard said it may not be a nonconforming lot under the standards at all. She's happy to write a letter and wants to ensure it is communicated. She said she's spent a significant amount of time researching the plot.

T. Haeuser said they cannot hear anymore at this time. This is an unadvertised and outside of the Public Hearing and needs to have notice and advertising. Up to this point they've spoken about process and now it's getting into specifics and it's not appropriate for the Board to hear.

K. Carr reiterated the ways Mr. Haeuser said to communicate about this application. There's concern and passion around the application. If it makes it through the review process it will come to the Board and he hopes she will come at that time.

Item #7. Comments from the Planning Board and Director of Planning & Development

T. Haeuser said in regard to a quote in the Sentry from him, he hasn't looked closely at the Sentry and Forecaster and does not recall saying anything about 500 properties in the City. He's indicated a number of times how difficult it is just knowing the number of non-conforming lots of record out there. He's not sure where that's come from.

K. Carr said this is not a legislative body. It is sometimes difficult to understand but concerns about the impact on the community of the infill ordinance is something the Council needs to hear. He recalls Mr. Laidley has consistent comments about this.

S. Puleo said there is no second meeting this month.

T. Haeuser said the Board and public may be interested in the land use and transportation study that Portland and South Portland are doing jointly. There is a transit workshop for the study this Thursday from 3-5 p.m. in Portland's City Hall. He also spoke about the Urban Land Institute meeting he attended in Boston today, projects on the Boston waterfront, and resiliency. Another project discussed was the new GE headquarters that has a solar veil over the top of the building. They have more bike parking than car. He spoke about sea level rise and revising the flood maps as required. He also heard that the first item on the City Council's wish list is a waterfront plan that works on resiliency and uses.

W. Laidley asked where the City stands in marijuana regulations.

T. Haeuser said it's in his court to work on draft #2 of zoning and on others to get licensing going. The zones involved are what has been discussed but the Council clarified their policy to

say that they don't want overly burdensome standards. They want standards no more or no less than they have for selling alcohol.

Item #8. Adjournment

10:00 p.m. L. Boudreau motioned to adjourn. W. Laidley seconded; (6-0) (At-Large vacant).

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.