

## CITY OF SOUTH PORTLAND

<b>Name of Body:</b>	<b>Planning Board</b>
<b>Results for Meeting of:</b>	<b>November 21, 2017</b>
<b>Meeting Begins:</b>	<b>7:00 p.m.</b>
<b>Meeting Location:</b>	<b>Council Chambers, City Hall</b>

### RESULTS

#### Members Present

Kevin Carr, Chairperson  
William Laidley  
Adrian Dowling  
Leslie Dillon  
Katherine Gatti  
Mary DeRose  
Linda Boudreau

#### Staff Present

Tex Haeuser, Planning & Develop. Director

#### Absent

Steve Puleo, Community Planner

#### 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 October 24, 2017, Planning Board minutes

**W. Laidley motioned to approve the October 24, 2017, Planning Board minutes. A. Dowling seconded; (7-0).**

#### Item #2. Consent Calendar

No items

#### Item #3. PUBLIC HEARING – Amended Site Plan Review — Addition of a Sound Wall — 74 Running Hill Road — Cameron General Contractors and RLC Portland Retirement Community, LLC – FINDINGS

Cameron General Contractors and RLC Portland Retirement Community, LLC are requesting an amended site plan approval to construct a sound wall at the Sable Lodge retirement community at 74 Running Hill Road. The amendment consists of the installation of a noise barrier along the common easterly property line of the site with the Maine Turnpike Authority to minimize the level of traffic noise at the facility. The barrier is proposed to be approximately 500 feet in length and will be 12 feet high. The parcel is further identified as Assessor's Tax Map 73, Lot 1B, located within the Suburban Commercial District (CS)

zoning district.

Public hearing notices were mailed on November 9, 2017, to the 18 property owners within 500 feet of the proposed project and the applicant, and were sent via email to the Conservation Commission, Planning Board, and City Council.

**L. Boudreau motioned to approve the amended site plan application of Cameron General Contractors dated August 18, 2017, and drawings August 11, 2017, through October 25, 2017, for a sound wall and installation of a third fire hydrant and associated six-inch water service located past the eastern edge of Parking Garage B located at 74 Running Hill Road 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 scheduling 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. The applicant is responsible for timely cleanup of the sound wall should graffiti happen.**

**W. Laidley seconded; (7-0).**

**FINDINGS**

**W. Laidley motioned to accept the findings. L. Boudreau seconded; (7-0).**

**Item #4. PUBLIC HEARING – Special Exception Request — Auction House and Associated Facilities — 312 Gannett Drive — Eastern Auction Partners, LLC – FINDINGS**

Eastern Auction Partners, LLC is requesting a special exception use approval to create an auction house/warehouse operation in a new building located at 312 Gannett Drive. The building is Unit #8 of the Windward Circle Business Park. The applicant is a fine art auction house that operates primarily online with a few onsite live auction events. The parcel is further identified as Assessor's Map 85, Lot 14 within the Light Industrial (IL) District.

Public hearing notices were mailed on November 9, 2017, to the 16 property owners within 500 feet of the proposed project, the applicant and were sent via email to the Conservation Commission, Planning Board, and City Council.

**A. Dowling motioned to approve the special exception application of Eastern Auction Partners, LLC dated September 21, 2017, for a fine arts auction house and associated facilities located at 312 Gannett Drive 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 scheduling 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.**

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

FINDINGS

**L. Boudreau motioned to accept the findings. W. Laidley seconded; (7-0).**

Item #5. PUBLIC HEARING – Special Exception Request—Accessory Dwelling Unit—142 Massachusetts Avenue— Jessica and Wayne Nason – FINDINGS

Julien Jalbert is requesting special exception approval for an accessory dwelling unit (ADU) that would be part of a single-family home at 142 Massachusetts Avenue that he is purchasing from Jessica and Wayne Nason. The ADU would be 419 sf in size, or 19.5% of the area of the home. The parcel is further identified as Assessor’s Tax Map 78, Lot 87 within the Residential A zoning district.

Public hearing notices were mailed on November 13, 2017, to the 71 property owners within 500 feet of the proposed project, the applicant, and were sent via email to the Conservation Commission, Planning Board, and City Council.

**A. Dowling motioned to approve the special exception ADU application of Julien Jalbert dated ~~September~~ **November 27, 2017**, for an accessory dwelling unit located at 142 Massachusetts 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. The Planning & Development Director shall provide a Certificate of Approval to the applicant. This Certificate of Approval must be recorded by the applicant in the Cumberland County Registry of Deeds. A copy of the Certificate of Approval, complete with the Registry’s stamp, must be returned within ninety (90) days to the Planning & Development Director. Upon receipt of the Certificate of Approval, the Planning & Development Department shall accept applicable permits for the creation of the accessory dwelling unit.**

**W. Laidley seconded. Vote (7-0).**

FINDINGS

**L. Dillon motioned to accept the findings. K. Gatti seconded; (7-0).**

Item #6. PUBLIC HEARING – Site Plan Review — Retail Building — 55 Maine Mall Road — KTJ307, LLC – FINDINGS

KTJ 307, LLC is requesting a site plan approval to construct new Retail Store located at 55 Maine Mall Road. The applicant is proposing to construct a 12,950 SF building with 69 parking spaces on the site. The property is further identified as Assessor’s Map 47, Lot 1, located within the Central and Regional Commercial (CCR) District.

Public hearing notices were mailed on November 9, 2017, to the 14 property owners within 500 feet of the proposed project, the applicant and were sent via email to the Conservation Commission, Planning Board, and City Council.

**K. Gatti motioned to approve the waiver requests of Section 27-1428 (a), Time Limitations, for the opportunity to have an 18-month extension to the approval period for the start of construction, expiring on November 21, 2019 and**

**Section 27-1526(e)(1), Freshwater Wetlands, to enable the payment of a compensation fee in lieu of maintaining a 25-foot buffer around a designated wetland;**  
to approve the site plan application of KTJ 307, LLC dated September 14, 2017, through November 14, 2017, with drawings September 15, 2017, through November 14, 2017, for a retail building located at 55 Maine Mall Road as follows:

**CONDITIONS**

- 1. 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 change 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.**
- 2. Prior to scheduling 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. The property is subject to a Stormwater Management System Maintenance Agreement that runs with the land and is binding upon the property owner and its successors and assigns as their interests may from time to time appear. Prior to the scheduling of a preconstruction meeting, said agreement shall be duly executed and recorded by the applicant at the Cumberland County Registry of Deeds, with a copy of the recorded instrument contemporaneously provided to the Director of Planning and Development. However, the stormwater maintenance agreement draft shall first be revised to reference the reporting requirements for projects subject to a Post Construction Stormwater Management Plan.**
- 4. Prior to the issuance of a Certificate of Occupancy for the project, the applicant must submit an inspection report to the Code Enforcement Officer documenting that the stormwater facilities have been installed and are functioning as designed and approved and are fully operational. This inspection report must be prepared by a qualified inspector as defined in Section 27-1536 (c)(3)(e) of the South Portland Code of Ordinances, as may be amended.**
- 5. On or by July 15th of each year, a completed and signed certification shall be provided by each property owner or applicant to the City's Director of Water Resource Protection in a form provided by that Department, certifying that a qualified 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.**

**In terms of the role the Long Creek Watershed Management District (LCWMD) may eventually play in the maintenance of the stormwater management system, the responsibility**

for maintenance and reporting shall remain with the applicant until such time as LCWMD assumes responsibility for maintenance, at which time the applicant may submit a de minimus amendment request to revise the drainage maintenance agreement once an agreement is in place.

6. 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.
7. This approval does not include improvements on the abutting lot owned by the City of Portland, otherwise described in the applicant's submissions as "Phase II." Any expansion of the project onto an abutting property will require an amended site plan approval from the Planning Board.
8. Prior to obtaining a building permit, the applicant shall submit a de minimis change application to the Planning & Development Director that includes adjustments to the north exit, for improved emergency vehicle access, satisfactory to the Fire Department's designated reviewer.
9. Any erosion of the unprotected slope immediately below the rip rap apron for the detention area outfall at the southwest corner of the site will be the responsibility of the applicant to address.
10. Prior to obtaining a building permit, the applicant shall submit to the Planning & Development Director the sum of \$14,136 in compensation for wetland and upland buffer impacts.
11. Prior to obtaining a building permit, the applicant shall provide evidence to the Planning & Development Director that the Director of Water Resource Protection has determined that the City's sanitary and stormwater systems have sufficient capacity to accommodate the proposed project.
12. The area between the Maine Mall Road water and sewer utility excavations shall be ~~milled~~ rebuilt so that pavement restoration is unified.

L. Boudreau seconded; (7-0).

## FINDINGS

A. Dowling motioned to accept the findings with the change to replace "milled" with "rebuilt" in Condition #12. L. Boudreau seconded; (7-0).

### Item #7. PUBLIC HEARING – Zoning Text Amendment-- Addition of Marijuana Uses to the Four Most Recently Created Zoning Districts

The Planning Board will make a recommendation to the City Council on proposed amendments to the Zoning Ordinance regarding adult marijuana establishments and controlled environment agriculture in the recently created West End Residential, West End Neighborhood Center, Western Avenue Commercial Corridor and Meetinghouse Hill Community Commercial zoning districts.

Notice of the Planning Board's November 21st hearing on these zoning amendments appeared in legal advertisements in the Portland Press Herald on November 8th and 14th, 2017. Notices were also posted on the City's website, at City Hall, and at the Public Libraries. In addition, notices were emailed to the

Conservation Commission, Planning Board, and City Council.

**A. Dowling** motioned that the Planning Board make a positive recommendation to the City Council that they adopt the proposed marijuana zoning amendments as contained in Ordinance #10-17/18. **W. Laidley** seconded; (6-1) (**L. Boudreau** opposed).

Item #8. Public Comment on Items Not on the Agenda

**Russ Lunt, Brigham St.**, thought there were two unique projects—the auction house and Duluth Trading. They find little spots and develop—he’s all for new businesses coming. He asked about progress on the old Griffin Club.

**T. Haeuser** said an application is being worked on; it’s a subdivision because there would be five condos over the restaurant/bar. They don’t have an application yet but it’s been discussed publically at the latest Comprehensive Plan Implementation Committee meeting. They will have to demolish the existing club as it’s in rough shape. Their problem, like other properties in the area, is the small size of the lot for parking. There is a proposal to make the distance within which public parking facilities can be counted towards non-residential off-street parking requirements the same as what exists for private leasing of spaces offsite. Private leasing spaces can be within 1500 feet and 500 feet for public. This would make the Griffin Club redevelopment able to count the Waterman Drive parking that the City built for their non-residential part.

Item #9. Comments from the Planning Board and Director of Planning & Development

**T. Haeuser** said that as part of the Cottage Road traffic and safety project, there will be installation of lane delineation sticks by the Bicycle Coalition of Maine. These will mimic bump outs to give people a feel for what the traffic calming solution would be like. They will take speed tests to see if there’s a difference. Curb extensions have been chosen by the group as the main improvement. Secondly, he has not had a chance to do any preparation for their mini-retreat on November 28<sup>th</sup>. They can either pull something together for next week or postpone, hopefully for when Mr. Dowling’s replacement is on board.

**K. Carr** said beyond having Mr. Dowling’s replacement, it’s also important to have Mr. Puleo in attendance. He would hate to add an additional burden on Mr. Haeuser. Unless they feel passionately, he would postpone.

The Board agreed to postpone the retreat.

**K. Carr** mentioned that he is encouraged by the work being done on Cottage Road’s traffic and safety and the level of engagement and involvement.

**T. Haeuser** said there is a website under the Planning Department page to get information and send him comments.

**L. Dillon** said the short term rental conversation workshopped by City Council last week is a big conversation that will be in front of the Board. There were 50 people and 32 comments. There’s a lot that the community has to say. She encourages everyone to listen to that broadcast.

**T. Haeuser** said as initially proposed, they’ve kept it out of the zoning ordinance. Ultimately, he doesn’t see how it can remain that way. He thinks it will be at least partially in zoning.

**W. Laidley** hoped most members saw the article in the *Press Herald* that looked at roundabouts versus rotaries. It would be great if Planning put out different topical analyses like that for the public to see pros and cons of various issues. He thinks there's a real mission for Planning to get information out to the public in ordinary language.

**L. Boudreau** said the City is criticized for being slow on moving and actions. Three weeks or so there was a Broadway corridor meeting and the biggest issue was pedestrians getting across Broadway. Within two weeks there were utility poles for electric flashers. It's coming quicker than she thought and she was overjoyed. She asks the City and police drive on streets and look for signs. If there's a tree covering them, they do no good. She encourages the public to see if they have trees infringing on the sidewalks. People need to clear obstacles.

**K. Carr** formally congratulated Mr. Dowling on his election to the City Council and thanked him for his service on the Board. **A. Dowling** thanked everyone on the Board separately.

Item #10. Adjournment

**9:15 pm L. Boudreau motioned to adjourn. A. Dowling seconded; (7-0).**

Respectfully submitted,  
Dana Bettez 11/22/2017

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**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.