



P R O J E C T
PLAN
PROMOTING LIVELIHOODS AND NEIGHBORHOODS

FINAL REPORT AND RECOMMENDATIONS

PROJECT PLAN COMMITTEE

NOVEMBER 1999

PROJECT PLAN REPORT

November 12, 1999

This report is the culmination of nine months of work by a diverse group of individuals who care very deeply about making South Portland an excellent place to live for residents and a nurturing place to prosper for businesses. The group was formed by Mayor Linda Boudreau in her inaugural speech on December 7, 1998, when she announced the creation of Project PLAN (Promoting Livelihoods and Neighborhoods). Project PLAN brought together leaders of the business community, representatives from residential neighborhoods and officials from City government to collaborate on developing strategies to deal with the growing demands for competing land uses throughout the City of South Portland. The group is dedicated to the belief that meaningful change in the City can be achieved that will improve the quality of life for residents without compromising the strong economic base created by existing and future businesses which provide services and jobs and pay taxes.

The City of South Portland has been confronted with a number of challenging and controversial land use proposals in recent years that have left citizens, businesses and developers alike frustrated with the review process. It is clear that a need exists to rethink the City's approach to solving land use problems. This includes dealing with new challenges that surface whenever competing interests seek to maintain perceived and vested existing property rights and privileges. New attitudes are needed to build trust in the City and to create a collaborative atmosphere where issues can be discussed, debated and resolved in a constructive manner. The City has made great strides in moving toward a more inclusive process with the creation of a number of committees designed to deal with localized land use issues, such as the Shipyard Zoning Committee and Broadway Traffic Committee. Both of these initiatives dealt specifically with the eastern end of the City. Project PLAN is an attempt to broaden the dialogue to engage citizens and businesses who live and work in all parts of the City. This comprehensive approach ensured that the City's diverse groups were well represented in Project PLAN and had an opportunity to share ideas, concerns and recommendations to influence, in a positive way, the future growth of the City. To this end, the committee believes Project PLAN was a successful community collaboration that demonstrated how citizens, civic leaders and

businesses can work together to achieve common goals to solve complex problems.

The report identifies recommended actions that the City should undertake to improve the quality of life for residents while allowing the business community to prosper. The recommended actions cover six broad areas of concern discussed in the committee as a means to focus meeting discussions and to categorize proposed actions. The six areas are outlined as follows:

- A. Traffic
- B. Future Growth
- C. Open Space
- D. Zoning
- E. Performance Standards
- F. Working Together

Within each area, a number of proposed actions, along with brief explanations describing each action, are identified. While the actions are not listed in any particular order, the committee did identify six actions that it feels merit the City's more immediate attention. These are listed at the end of the report. The committee realizes that the report is not a means to an end, but rather the first step in providing guidance to the City that can be applied to dealing with evolving land use issues. The committee sincerely hopes that the City embraces and seriously considers allocating resources to implement these actions.

Letter of Appreciation

The Project PLAN Committee would like to thank Mayor Linda Boudreau for hearing the concerns of South Portland citizens and business people. By forming the Project PLAN Committee, she created the opportunity for us to work together to envision a brighter future for the City.

Staff members of the City of South Portland provided invaluable assistance, particularly City Manager Jeff Jordan, City Planner “Tex” Haeuser and Code Enforcement Officer Pat Doucette.

We would also like to express our gratitude to Art Gingold, of Barton & Gingold, whose skilled facilitation of our meetings made this report possible.

Signed,

The Project PLAN Committee

Project Plan Committee

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PROJECT PLAN MISSION STATEMENT

The Project PLAN (Preserving Livelihoods and Neighborhoods) Committee's mission is to provide the City with a list of recommendations which will enhance the quality of life and enjoyment of South Portland's residential community and foster the continued success and viability of its business community.

AREAS OF CONCERN
AND RECOMMENDED ACTIONS

A. TRAFFIC

1. **Coordinate and maintain the timing of traffic signals throughout the City.**

Traffic mobility is improved when signals are coordinated and timed to achieve the greatest possible through movement. Many of the traffic signals in South Portland do not have the hardware necessary for coordination, and the City has only a limited ability at present to adjust and maintain signals. Developing this capability in-house is required given increasing traffic volumes and the limited ability and general reluctance to widen roadways.

2. **Work to improve bus routing and increase bus ridership within South Portland and surrounding communities.**

The bus service will be better served by investments in additional routes, decreased wait times, better connections to Portland Metro and other public transportation, improved marketing and other promotional measures. The shift from private to public modes of transportation will mitigate congestion on South Portland streets.

3. **Have all traffic studies and projects address non-motorized traffic.**

To date most of the transportation planning and construction emphasis has been on motor vehicles. In order to meet the increasing demand for bicycle and pedestrian alternatives, all traffic studies done as part of the City review and approval process, as well as studies commissioned by the City, should address the needs of non-motorized traffic. In addition, road projects and other efforts with pedestrian and/or bicycle implications need to make appropriate provisions for non-motorized traffic.

4. **Promote the East-West Connector roads.**

A strong need exists to build a road that would connect Highland Avenue with the western part of the city. If Broadway between Evans Street and Lincoln Street were blocked, there would be no street connection within the City between the eastern and western parts of the City. This has serious emergency service as well as traffic implications. In addition, increased development in the Highland Avenue area of South Portland and also in Cape Elizabeth and Scarborough is putting unacceptable traffic pressure on sections of Highland Ave., Evans St., Anthoine St., and Broadway. Other reasons for a cross town connection include:

- Address unacceptable fire/emergency response times to growing Highland Ave. neighborhoods.
- Provide access from west side of the City and highways to the new athletic fields.

- Enable intermodal industrial/rail yard land to be developed without putting truck traffic through neighboring towns or on residential streets in South Portland.

A roadway that would connect Sawyer Street in Cape Elizabeth with Main Street at the Turnpike’s Exit 7 spur, would be the ideal regional solution for meeting South Portland’s needs for an east-west connector and for providing the growing number of Cape Elizabeth motorists – who would otherwise be exacerbating congestion on South Portland streets – with a more or less direct access to Rt. 1, I-295, and the Maine Turnpike. While existing development presents significant hurdles, this possibility should be studied now before further building closes the door completely (see “B. Future Growth”; #1).

5. Endorse I-295 ramp proposals and explore vehicle weight issues.

A PACTS study of the I-295 ramps in Portland, South Portland, and Scarborough includes recommendations for the ramps at Main Street Rt. 1 (Lincoln Street) and at Westbrook Street and southbound access to the Scarborough connector. It is vitally necessary to create full highway interchanges – all north and south entrances and exits – at both Lincoln and Westbrook Streets. Adding the missing ramps will allow commercial traffic direct access to I-295 and will thus reduce truck traffic on City streets as well as reducing accidents, traffic noise, and some congestion at the Westbrook Street location caused by the current unacceptable configuration.

Truck traffic on local roadways would also be reduced if the State could get the low federal weight limits on the interstate highways in Maine increased to match State requirements.

B. FUTURE GROWTH

1. Strengthen relationships with Cape Elizabeth and Scarborough.

City officials and decision-makers should increase their efforts to formally meet periodically with their counterparts in adjoining cities and towns to see what opportunities exist to coordinate improvements and plans through cooperation. Common interests that could be discussed include: the linking of South Portland, Cape Elizabeth, and Scarborough in a regional transportation network; residential and commercial developments that border the municipal boundaries; and the need to unite open space and trail plans.

2. Develop some mechanism to have developers assist in funding infrastructure – formalize it.

New development projects, whether residential, commercial, or industrial, increase the need for city services – schools, emergency services, public works, sewage treatment, roadways, etc. To the extent that the need for capital improvements is directly attributable to a development project, an argument can be made that the improvements should be borne at least in part by the developers, not the taxpayers. In addition, the cost should be shared equally by all developers creating the improvement needs and not just by the last builder whose project is the one that finally goes beyond a threshold.

One way to accomplish this objective is through incentives, like tax increment financing; another is through exactions and impact fees. In terms of the former, the City has made moderate use of tax increment financing – the National Semiconductor TIFs, for example, have funded a number of important road and sewer projects. As for the latter, the City currently has impact fees for its sewage treatment system, and it has mechanisms in its development review and approval processes for requiring improvements or fees for such items as stormwater drainage systems; streets, intersections, and sidewalks; and parks and open space areas (although this last item is almost never imposed). There is no impact fee system for schools. Therefore, improving the City’s mechanisms, both incentive and regulatory, for having developers assist in funding infrastructure would help to shift more of the responsibility for funding new capital projects to those who are creating the need for the improvements.

- 3. Create a zoning mechanism to allow for traditional neighborhoods.**

Over the last two decades an extensive body of professional planning research, that is now being acted upon by developers and communities across the country, has demonstrated the need to return to a more traditional style of building residential developments. Traditional neighborhoods – which are increasingly valued for their attractiveness and livability (see Appendix A) -do not conform to such post-WWII zoning standards as those for street width, location of sidewalks (if provided at all), building lot size, and setbacks. In addition, these time-tested neighborhood designs incorporate elements such as civic spaces and local services that frequently are absent from their modern descendants. There is a need, therefore, for developing neighborhood plans (see “B. Future Growth” #6) and creating zoning regulations that could be used by the residents of existing neighborhoods who may want to preserve or restore traditional elements as well as by developers building for the hitherto largely ignored market of new home buyers who are looking for projects similar to the attractive and functional neighborhoods of the past.

4. Focus on infrastructure and community welfare – leave market forces to market.

The Project PLAN recommendation to the City Council in matters pertaining to future growth deliberations is focused on the benefits of any project's contribution to the welfare of the citizens and the long term improvement of the City's infrastructure. Council deliberations which seek to direct economic value or establish affordability, such as affordable housing districts, should be minimized and be left primarily to market forces, such as supply and demand.

5. Encourage business groups and neighborhood groups to work together.

Business groups and neighborhood groups could form coalitions to advocate for their shared neighborhoods. Good public relations efforts and cooperation can result in critical support by the neighborhood for future expansion or remodeling by a local business. Effective organizing of the City government/business owners/residents alliance can accomplish major improvements in any of South Portland's neighborhoods. All groups benefit by partnering.

A good example is the partnership of the Knightville Neighborhood Association and the Waterfront Market Association when joining with the Planning Office to initiate actions in the Waterfront Market Revitalization Committee.

6. Amend Comprehensive Plan to include neighborhood plans especially in regard to the relationship between business and residential uses; strive for opportunities to achieve elements of traditional neighborhood design where appropriate.

The creation of neighborhood plans will give a specific picture of each of South Portland's diverse neighborhoods. The plans would detail specific features such as neighborhood character, open space, public facilities and utilities, circulation, and land use. Neighborhood plans (see Appendix B as an example of a neighborhood plan) should be incorporated into the Comprehensive Plan and should be implemented through capital improvement budgeting, land use regulations, and other strategies. The cooperation between business owners and residents should be nurtured in order to promote mutual understanding and prosperity. Pedestrian-friendly, "traditional" neighborhoods that incorporate modern urban planning theory should be encouraged where appropriate. Involvement in neighborhood assessment and planning decisions by the people who live and do business in a neighborhood increases participation in City government and improves community decision-making.

C. OPEN SPACE

- 1. Develop a long-range strategy for the acquisition of open space/green space land; pursue Conservation Commission report recommendations.**
Project PLAN committee members recognize the importance of open/green space as contributing to the quality of life and the aesthetics of the cityscape as well as providing habitat for wildlife and serving as an effective buffer or transition zone between neighborhoods and potentially incompatible adjacent uses. Those values are minimally outlined within the Comprehensive Plan and a coordinated and systematic plan for acquiring valuable and appropriate open space or green areas should be developed and implemented.

The City's Conservation Commission has developed a list of seven projects critical to open space. A number of those projects dovetail with other recommendations included herein. For example, the third project in the Conservation Commission report- an inventory of open space- could be instrumental in developing use guidelines and regulations for existing areas and for setting priorities for new acquisitions (See Appendix C. Conservation Commission Report) .

- 2. Evaluate specific uses of open space/green space (including animal control regulations).**
Appropriate use of the City's publicly accessible open or green space areas must be assessed with a goal of accommodating the City's diverse interests. Consistent regulations must be developed to provide open/green space access for as wide a range of uses as possible and must be accompanied by appropriate limitations and restrictions as necessary to guarantee public health and safety and compatible uses in each area.

- 3. Provide and use the "Open Space Fund" established for acquiring new open space from sales of city-owned property.**
Since the City has limited funds for acquisition of open space, a portion of the net proceeds from the sale of any City-owned property should be dedicated to the established land fund. Operating within the guidelines of the long range plan already recommended, the City should acquire new open space as aggressively as the fund allows. This plan should not be inconsistent with the City's policy of not displacing residents from tax acquired property.

- 4. Encourage cooperation between City, residents and business for the stewardship of green space.**

The successful partnership between the City and private interests in acquiring, developing and maintaining Bug Light Park is a fine example of

cooperative stewardship of valuable resources. Similar relationships should be encouraged in order to set aside and manage green/open space.

5. Encourage innovative solutions between City, residents and business for problems with infrastructure (like storm water management).

Whenever possible, a necessary solution should be assessed in a way that might serve more than one goal, e.g. wetland mitigation acreage as potential green space or neighborhood “commons.” Another example is storm water management combined with a fitness trail at the Shops at Clark’s Pond. Other neighborhood and City-wide organizations should be solicited for input i.e. South Portland Land Trust.

6. Explore tax incentives that don’t penalize landowners for open space.

Encourage the state legislature to support an amendment to the state constitution to allow municipalities to establish additional property tax incentives to better enable the preservation of open land. Utilize existing tax relief tools such as tree growth, open space and conservation easements where appropriate and explore the “Scenic Vista” tax relief measure.

7. Review and update open space requirements in Comprehensive Plan and Land Use Ordinance.

The City’s regulations governing land development contain such open space requirements as those for building coverage, landscaping, and buffering in the Zoning Ordinance and open space set-aside options in the Subdivision Ordinance. In addition to reviewing the current adequacy of these regulations, the City needs to examine the open space sections of the Comprehensive Plan in the light of the emerging community vision that increasingly values open space as an important element of South Portland’s quality of life.

D. ZONING

1. Incorporate individual neighborhood plans from the Comprehensive Plan into the zoning ordinance. (See also “B. Future Growth” #6)

The Zoning Ordinance, which is Chapter 27 of the South Portland Code of Ordinances, implements land use regulations recommended by the Comprehensive Plan. Whereas the Comprehensive Plan ensures that local land use regulations fit together as a sensible whole, the Zoning Ordinance establishes the specific requirements for types of uses and development standards in the various zoning districts. As neighborhood plans are adopted (see Appendix B) as part of the Comprehensive Plan, the zoning ordinance should be amended to include these policy directives.

2. Reformat the zoning ordinance so it is more user friendly.

In addition to other changes recommended by staff (see #4 below), there is a need to reformat the Zoning Ordinance so that, among other things, all uses are clearly identified in each zoning district's list of permitted and special exception uses. The ordinance currently uses a pyramid structure called "Euclidean zoning" (in reference to the 1926 *Euclid, Ohio vs. Ambler Realty* Supreme Court decision that validated the constitutionality of zoning) in which zoning districts at the top of the pyramid contain, **by reference only**, the uses permitted in the lower zones. To get a complete list of what is allowed in the Industrial I zone, for example, one not only has to look up the I zone but also the C, LB, G, and A zones. For the person who just wants to know what uses are allowed in a particular zone, it would be more convenient for all the uses to be listed in that zoning section without having to root around the rest of the ordinance.

3. Analyze zoning changes as they relate to neighborhood plans/common good, to ensure they do not unfairly diminish property rights.

Zoning, in a sense, stems from the part of property rights that is public – the part that says that, at some point, activity on a piece of property can be restricted or regulated if it would cause a nuisance to other property owners. Long ago, English law stipulated the public right to clear trees and bushes from the sides of roadways in order to limit predation of travelers by highwaymen; in our era, in the *Euclid/ Ambler* case, the Supreme Court permitted a City to protect a residential neighborhood from an industrial development. However, while the existence of limited public property rights in private land ownership is well established, the balance of public land use regulation with private property rights needs to be carefully weighed in every instance. That the City is attuned to this issue may be seen in the Comprehensive Plan policy, and in actual municipal practice over the last ten years, that strongly discourages zoning changes that would result in any property becoming, or becoming more, nonconforming. Therefore, the City needs to continue and augment the analysis of zone changes from the point of view of protecting both private and public property rights.

4. Address staff recommendations for zoning amendments.

The Planning and Code Enforcement staff developed a list last spring of suggested changes to the Zoning and Subdivision Ordinances. (See Appendix D). These include fairly small changes not requiring much in the way of policy discussions, such as repeating the site plan review threshold criteria in each of the zoning district regulation sections, as well as more involved changes like eliminating fast food and outdoor sales and display

from the Limited Business zoning district, developing a noise ordinance, and creating modern sign regulations. The City should address these

recommendations, therefore, and give priority to those that are supported by the Project PLAN findings. In addition, given the fact that the ordinance has not had a major “overhaul” in at least 15 years, it is possible that staff (or a consultant working with staff) will find other parts of the Zoning Ordinance that need work and that will result in similar recommendations for changes to be forwarded to the Planning Board and City Council.

5. Make sure review criteria are legally defensible.

When the Planning Board reviews a development project, it is acting in a quasi-judicial manner; its decisions are highly legal in nature and are strictly governed by applicable state statutes and case law. As such, the Board is required, in making its subdivision, site plan, and special exception determinations, to base its decisions on a limited set of review criteria. The problem is that our current review criteria are worded in a somewhat subjective, imprecise way, and the courts have become increasingly insistent that the criteria be exact – even quantifiable in some cases. This has contributed in recent years to the loss by the City of at least one important court case involving an appeal of a Planning Board decision (in this instance, a denial of a telecommunications tower located in the middle of a residential neighborhood). Providing a thorough planning and legal review of the Planning Board’s review criteria is necessary to ensure the legal defensibility of the City’s land use regulations.

E. PERFORMANCE STANDARDS

1. Modernize and update Performance Standards relating to noise, light and toxic waste to current industry recommended guidelines. Make sure that standards are:

- **Time sensitive**
- **Relate to different zoning districts including zoned edges**
- **Recognize proximity to adjoining districts**
- **Take advantage of benchmarking where appropriate**
- **Are easy to monitor**
- **Set relevant criteria**
- **Consider all negative impacts**
- **Provide for public involvement**
- **Include means for enforcement**

Where appropriate, the use of consultants with relevant expertise should be considered.

At present many of South Portland's performance standards either are out of date, unenforceable, or do not take into account currently available technology to mitigate potentially incompatible uses. Many of the conflicts are centered around the way a new use will affect the current property users. Clear, effective, modern and enforceable performance standards provide the community with a template for appropriate development and operation of uses in a way that all property owners are protected. By updating the current performance standards, starting with those for noise and light, conflicts between dissimilar users can be minimized without unduly burdening appropriate development and other changes in the use of property.

2. Modernize existing Buffering Standards relative to open space.

Adequate and modern buffering standards that are appropriate to the individual zones provide a critical separation between property uses. These standards reduce the impact of potentially incompatible uses. It is inherently reasonable for the applicant for a new use or change in use to provide the necessary relief provided by appropriate buffering. In addition to a new commercial or industrial development providing buffering or noise/light mitigation as a condition of development, standards should be developed to require new residential uses to provide buffering and noise/light mitigation technologies when locating next to established commercial or industrial use. The city should develop modern and up-to-date buffering standards to insure current use property owners, whether residential, commercial or industrial, are not subject to unreasonable intrusion in the operation or use of their property.

3. Develop a set of Visual Performance Standards with regard to:

- **Signs**
- **Facades**
- **Streetscapes**
- **Landscapes**

The lack of visual performance standards has led to a haphazard collection of signs, facades, streetscapes, and landscaping. Establishing strong visions for the unique neighborhoods and business design districts of South Portland is the only way we will get the visual South Portland we desire and deserve. While understanding that one size does not fit all, the City of South Portland should encourage appropriate and unique design standards in interested residential neighborhoods (e.g., Knightville project). Similarly, the City should develop appropriate visual design standards for commercial and industrial areas with participation by all potentially affected interests. Such improvements will provide a clear vision for the proper development or modification of current design to preserve or upgrade existing residential and business districts.

4. Investigate Jetport noise mitigation.

Noise mitigation and the altering of flight paths as associated with current uses should be vigorously pursued. Where appropriate and possible the city should use all available mechanisms, such as inter-municipal agreements, to reduce noise related to the Jetport operation. The City should require that any use of land in South Portland by the Jetport Authority or related business have, as a condition of use, an agreement by the Jetport for the reasonable mitigation of related noise (See appendix E for letter referring to airport noise).

5. Educate public as to existing performance standards.

In addition to modernizing the City's performance standards, there is an opportunity to educate South Portland citizens regarding performance standards and other municipal land use regulations. This process should be accomplished by utilizing the Planning Department web page and other appropriate media.

F. WORKING TOGETHER

1. A process for resolving issues through mediation should be put into place.

In all cases, it needs to be clearly stated that mediation is voluntary, and in order for it to proceed both parties have to be willing to participate.

ACTION PRIORITIES

Project PLAN Action Priorities

The Project PLAN Committee met over nine months and represented a diversity of interests which included large industry, small business, residents and City government. In many ways, the Project PLAN Committee modeled what we hope to see happen among the various interest groups in the City when addressing growth and development and land use issues. Through regular meetings and lengthy discussion, the participants in the Project PLAN committee came to know and trust each other. Compromise was reached on issues large and small. We became friends who don't always agree but can treat each other with respect. We developed a shared vision of the future of South Portland and understand the importance of working together to realize that vision.

In their early meetings, the committee identified many issues and appropriate actions that have an effect on South Portland vis-à-vis growth, land use and development. A full list is available in the appendix (Appendix F). This report has explicated twenty-eight of those actions which were selected by the vote of the committee (Appendix G).

At their final meeting and after careful consideration of the actions explored in the report, the Project PLAN Committee further prioritized by voting for the following list of six actions that they feel should be addressed by the City Council as soon as possible.

1. Modernize and update Performance Standards relating to noise, light and toxic waste to current industry recommended guidelines. Make sure that standards are:
 - Time sensitive
 - Relate to different zoning districts including zoned edges
 - Recognize proximity to adjoining districts
 - Take advantage of benchmarking where appropriate
 - Easy to monitor
 - Set relevant criteria
 - Consider all negative impacts
 - Provide for public involvement
 - Include means for enforcement

Where appropriate, the use of consultants with relevant expertise should be considered.

(See Project PLAN Report, "Performance Standards")

2. Promote the East-West Connector roads.
(See Project PLAN Report, "Traffic")

3. Amend Comprehensive Plan to include neighborhood plans especially in regard to the relationship between business and residential uses; strive for opportunities to achieve elements of traditional neighborhood design where appropriate.
(See Project PLAN Report, "Future Growth")
4. (Tie) Develop a long-range strategy for the acquisition of open space/green space land; pursue Conservation Commission report recommendations.
(See Project PLAN Report, "Open Space")
4. (Tie) Develop a set of Visual Performance Standards with regard to:
 - Signs
 - Facades
 - Streetscapes
 - Landscapes
(See Project PLAN Report, "Performance Standards")
5. Address staff recommendations for zoning amendments.
(See Project PLAN Report, "Zoning")

APPENDICES