

City Council Workshop

Agenda Item #2

December 8, 2014

THC Zoning District

In May of this year, the City Council was presented with an ordinance amendment creating a Thornton Heights Commercial Zoning District. This ordinance failed on 5/19/14 and was reconsidered, amended and referred to the Planning Board on June 2, 2014. The crux of the issue with the first draft of the THC zone was staff proposed the zone for the City owned parcel at the corner of Main and Westbrook Streets. The City parcel was under discussion with the City Council as an alternative site for a new Dunkin Donuts building (instead of St. John Church property). The attached THC zone no longer includes the City owned parcel.

There were several substantive changes made that required the Planning Board to conduct a new public hearing. The amendments are to Chapter 27, Zoning, of the South Portland Code of Ordinances, and to the Zoning Map.

SUBSTANTIVE CHANGES

Staff's redrafting of the THC Ordinance removes the City owned parcel at the intersection of Westbrook and Main Streets out of the proposed zoning district.

After the July 8th Planning Board meeting, the Planning & Development Director contacted the property owners of Memory Lane Condominiums, two single-family properties located on Memory Lane, and the Kingswood Park Association to discuss concerns they had over their properties being included in the proposed Thornton Heights Commercial (THC) zoning district. After meeting with the property owners, it was agreed to remove the residential properties along Memory Lane from the proposed THC zoning designation and to keep them in the existing Residential District G zoning district. The Kingswood Park Association members expressed their concern that the driveway entrance of their property would be included in a commercial zone. It was agreed that extending the adjacent Residential Transitional (RT) district would be an acceptable alternative to the proposed THC zoning.

One other change is to the wording of the side and rear yard setback standards. Staff were concerned that while the normal THC rear yard setback is 30 feet, an applicant adjacent to a residential zone could be allowed less than a 30 foot rear setback by constructing a building between 31' and 59' in height (because the requirement had been half the height of the building). This potential loophole normally is covered by Section 27-113, which states that the "more restrictive provision applies." In this case, however, additional wording to be explicit about the more restrictive setback applying was felt to be appropriate.

The Planning Board held a public hearing on August 12, 2014. By a vote of 4–2 (Veneziano, Laidley; Giles absent), the Planning Board recommends to approve the revised Thornton Heights Commercial (THC) Zoning District and to extend the Transitional Residential (RT) District to include the Kingswood Park entrance driveway, all dated July 21, 2014, by amending Chapter 27 Zoning and the City’s Zoning District Map. This recommendation is based on consistency with the City of South Portland’s Comprehensive plan.

Attached is a copy of the Planning Board report. Tex Haeuser will be at Monday’s meeting to answer any questions.


City Manager

MEMORANDUM

To: City Council

From: Planning Board

Date: September 18, 2014

Subject: Zone Text Amendments and Zoning Map Change – Thornton Heights Commercial (THC) District and Extension of the Transitional Residential (RT) District – City of South Portland – Meeting of August 12, 2014

INTRODUCTION

As part of implementing the City's Comprehensive Plan, the City of South Portland is requesting to rezone an area along Main Street to a proposed Thornton Heights Commercial (THC) district. Several substantive changes have been made to the proposed zoning amendments, thus requiring the new public hearing. The amendments are to Chapter 27, Zoning, of the South Portland Code of Ordinances, and to the Zoning Map.

Legal advertisements regarding this request appeared in the Portland Press Herald on July 29th and August 4th, 2014. A public notice regarding the proposed zone text amendments and zoning map change was posted at the City Hall on July 29, 2014 and mailed on July 29, 2014 to 280 property owners within 500' of the area under consideration and via email to the Conservation Commission, Planning Board, and City Council.

The submission is reviewed under Chapter 27 Article II Zoning and the Comprehensive Plan.

ZONING RECOMMENDATION FROM THE PLANNING BOARD

By a vote of 4–2 (Veneziano, Laidley; Giles absent), the Planning Board recommends to approve the revised Thornton Heights Commercial (THC) Zoning District and to extend the Transitional Residential (RT) district to include the Kingswood Park entrance driveway, all dated July 21, 2014, by amending Chapter 27 Zoning and the City's Zoning District Map. This recommendation is based on consistency with the City of South Portland's Comprehensive plan.

SUBSTANTIVE CHANGES

After the July 8th Planning Board meeting, the Planning & Development Director contacted the property owners of Memory Lane Condominiums, two single-family properties located on Memory Lane, and the Kingswood Park Association to discuss concerns they had over their properties being included in the proposed Thornton Heights Commercial (THC) zoning district. After meeting with the property owners, it was agreed to remove the residential properties

along Memory Lane from the proposed THC zoning designation and to keep them in the existing Residential District G zoning district. The Kingswood Park Association members expressed their concern that the driveway entrance of their property would be included in a commercial zone. It was agreed that extending the adjacent Residential Transitional (RT) district would be an acceptable alternative to the proposed THC zoning.

One other change is to the wording of the side and rear yard setback standards. Staff were concerned that while the normal THC rear yard setback is 30 feet, an applicant adjacent to a residential zone could be allowed less than a 30 feet rear setback by constructing a building between 31' and 59' in height (because the requirement had been half the height of the building). This potential loophole normally is covered by Section 27-113, which states that the "more restrictive provision applies." In this case, however, additional wording to be explicit about the more restrictive setback applying was felt to be appropriate.

PLANNING BOARD AND CITY COUNCIL REVIEW TIMELINE

First Planning Board Workshop: February 11, 2014

First Planning Board Public Hearing: February 25, 2014

- 436 Notices Mailed and Posted at City Hall: February 7, 2014
- Planning Board Legal Advertisements: February 11 and 17, 2014

Vote: The Planning Board by a vote of 5-1 (Laidley; Hagan absent) recommended to approve the two zone text amendments and zoning map changes with two revisions: 1) The addition of Extended Stay as a Special Exception request for both new zones; and, 2) The 24-hour business use was eliminated in the MSCC zoning district.

City Council Workshop Date: March 10, 2014

Second Planning Board Public Hearing: April 22, 2014

- 436 Public Notices Mailed and Posted at Hall: April 9, 2014
- Planning Board Legal Advertisements: April 9 and 14, 2014

Vote: The Planning Board by a vote of 4-1 (Hagan; Laidley absent; District At-Large vacant) recommended to approve the revised the two zone text amendments and zoning map changes as follows:

- To remove the length of stay requirements from the definitions of hotel and motel.
- To remove the special exception use in the MSCC zone for retail and restaurants open 24 hours per day.
- T reduce the maximum height limit in the MSCC from four (4) stories to three (3) stories (left the 50' height in place in case someone wants to do a pitched roof for example).
- To reduce the maximum height limit in the THC from 8 stories to 6 stories and from 96' to 70'.

- To bring the MSCC zone boundary back to the existing LB zone line for the St. John's Church property. If someone is interested in a proposal that requires all or more of the lot to be included in the MSCC, they can bring forward a request for rezoning at a later date.
- To remove the option of approving 1.25 off-street parking spaces per person for multi-family residential as opposed to the regular standard of 1.5 required spaces.

City Council Workshop Date: April 28, 2014

The City Council supported the two (2) zoning amendments and zoning map changes to be placed on a City Council meeting agenda.

City Council First Reading Date: May 5, 2014

Vote: Councilor Beecher moved for passage. Councilor Cohen seconded. The ordinance passed first reading 5-2 (Blake, Smith).

City Council Second Reading Date: May 19, 2014

Vote: A motion passed 7-0 for the approval the Main Street Community Commercial (MSCC) zoning. Councilor Beecher moved for final passage of the Thornton Heights Commercial (THC) zoning district. Councilor Cohen seconded. Needing five affirmative votes the ordinance failed by a vote of 4-3 (Pock, Smith, Blake).

City Council Meeting Date: June 2, 2014

Vote: Councilor Pock moved to reconsider the May 19, 2014 voted on the Thornton Heights Commercial (THC) zoning district. The motion carried 4-1 (Smith; Blake and Jalbert absent). Pock made a second motion to move Ordinance #13-13/14 to a Council workshop on June 9, 2014 and to schedule a City Council vote on the Ordinance on the June 16, 2014 regular meeting. This motion passed 5-0 (Blake and Jalbert absent).

City Council Workshop Date: June 9, 2014

The City Council discussed the following issues and concerns regarding the City owned parcel to be included in the new THC zone.

- Allowing the THC zone would occupy the entire (City) parcel;
- To reduce development area/lease area on the City parcel;
- To allow the lease area to be extended up Westbrook Street in order to push the entrance/exit further from the intersection for safety reasons (MDOT Traffic Movement Permit would be required);
- Requiring a large green space to be retained having pedestrian access off from Westbrook Street, providing a greater buffer to Bet'Ha'am;
- Requiring the green space to be designed with a small playscape, picnic shelter, trees, and other buffering material;
- To imposed lease restrictions and deed restrictions on height per City Council's direction; and,

- To modify the provision within THC zoning ‘space and bulk’ to allow parking and travel aisles along the frontage of the THC zone.

City Council Meeting Date: June 16, 2014

Vote: Councilor Beecher moved to amend the ordinance to remove the THC designation from the City owned property on the corner of Main and Westbrook Streets and to revise the front yard setback currently proposed within the THC space and bulk requirements to 5 feet; referring this change to the 07/08/14 Planning Board Meeting, have first reading of the revised ordinance on 07/21/14 and possible final passage on 08/04/14. Mayor Jalbert seconded the amendment. The motion passed 7-0.

Third Planning Board Public Hearing Date: July 8, 2014

- 260 Public Notices Mailed and Posted at City Hall: June 24, 2014
- Planning Board Legal Advertisements: June 24 and 30, 2014

Vote: The Planning Board voted 4-1 (K. Phillips opposed; E. Giles, L. Boudreau Absent) to recommend that the City Council approve the revised Thornton Heights Commercial (THC) Zoning District dated June 16, 2014. The Board requested that the Council members consider paying special attention to the Memory Lane Condominium and Kingswood Park Condominium issues. This recommendation is based on consistency with the City of South Portland’s Comprehensive plan and the positive land use implications of the proposed zoning.

The Planning & Development Director met with members of the Kingswood Park Condominium Association to discuss changing the zoning designation of their driveway entrance from LB to RT (instead of to THC): July 18, 2014

The Planning & Development Director met with several Memory Lane condominium owners and (separately) with two nearby single-family property owners to discuss removing them from the proposed THC zoning district and keeping their Residential G District designation: July 21, 2014

Fourth Planning Board Public Hearing Date: August 12, 2014

- 280 Public Notices Mailed and Posted at City Hall: July 29, 2014
- Planning Board Legal Advertisements: July 29 and August 4, 2014

Minutes from the Planning Board Meeting August 12, 2014

Agenda Item #6 Zoning Text Amendments – Thornton Heights Commercial (THC) District and the Extension of the Transitional Residential (RT) District – City of South Portland

The City of South Portland is requesting to rezone an area along Main Street to a proposed Thornton Heights Commercial (THC) district. Several substantive changes have been made to the proposed zoning amendments, thus requiring this new public hearing. The amendments are to Chapter 27, Zoning, of the South Portland Code of Ordinances, and to the Zoning Map.

T. Haeuser; Reviewed information on the zoning text amendments and zoning map change. Discussed the public notices and why notices did not get to some condominium owners and wanted to thank Steve Puleo and Adin Wolfram for their efforts in fixing that problem. Let the Board members know about meeting with Memory Lane owners and members of the Kingswood Park Association. He reviewed with the Board the proposed zoning text changes. He discussed taking Memory Lane and the Kingswood driveway out of the THC Zone. He handed out a Thornton Heights Zoning Comparison Table and explained the tables on the handout. Passed out Ordinance Sec 27-1572 to 27-1575 Design Standards for neighborhood activity centers. Gave a handout on “Why bring the proposed THC Zone down to the RR Tracks”. It is used to explain to owners who would like abutting property to stay G why it should be changed to THC Zone.

PUBLIC SESSION OPEN

Tom King, 67 Memory Lane; Had concerns about THC Zone abutting Memory Lane. He is concerned about an access driveway from Lafayette’s property being used on Memory Lane and the vehicle traffic. He would like to see open space preserved. There is wildlife and it is a nice area.

Rodney Boucher, 34 Memory Lane; He is concerned about access from the hotel through Memory Lane. He would like the area to be preserved.

Lisa Bussiere, 38 Memory Lane; Speaking for herself and Marie Moustrophis 45 Memory Lane; asked the Board please do not accept zone. They are afraid access will come down on their dead-end street.

Paul Farren, 49 Memory Lane Unit 1; Would like to keep Memory Lane a dead end street.

Diane Farren, 49 Memory Lane Unit 1; Does not want it to become a through way street. Didn’t realize there is access from hotel to Memory Lane. Believes the area is wet in the back.

Luke Magnusson; 49 Memory Lane Unit 3; Appreciated Board listening and taking Memory Lane out of zone change.

Taylor Hamlin, 15 Thirlmere Ave; Concerned by the size of the Zone. It is a large parcel of green space that should be preserved.

Tom King, 67 Memory Lane; Discussed Comprehensive plan and preserving green space and residential traffic.

Eric Hamlin, 15 Thirlmere Ave; Appreciated Board’s work on this zone. Does not think that it is perfect but does think it is well thought out.

PUBLIC SESSION CLOSED

T. Haeuser; Addressed the Memory Lane traffic issue. The access from the hotel property that they are concerned about exists today, and residents would probably have a better shot at limiting any future hotel redevelopment by it being in a THC Zone. He addressed their green space concern. Slopes and wetlands ensure that much of the land will never be developed.

The Board discussed paper streets, traffic concerns, and why some parcels were chosen to be in THC zone. They also discussed the time frame of the zoning process.

T. Haeuser; stated he looks at it as a long term project but there is no way to tell when things might start in terms of any owners putting new investment into their properties.

W. Laidley; Discussed his opinion on where the push for the THC Zone is coming from. He is not sure that he agrees with this zoning.

C.Hendry and L.Boudreau; Believed it is the Board's responsibility to find potential growth locations in the city, where appropriate, per the Comprehensive Plan. There are not many left.

L. Boudreau moved to recommend to the City Council to approve the revised Thornton Heights Commercial (THC) Zoning District and to extend the Transitional Residential (RT) district to include the Kingswood Park entrance driveway, all dated July 21, 2014, by amending Chapter 27 Zoning and the City's Zoning District Map. This recommendation is based on consistency with the City of South Portland's Comprehensive plan. C.Hendry seconded;(4-2)(S. Veneziano, W. Laidley; Opposed) (E.Giles absent)

Attachments

1. Thornton Heights Commercial (THC) Proposed Zoning Text Amendments to Chapter 27 dated July 21, 2014.
2. Thornton Height Commercial and Residential Transitional Zoning Map Changes dated July 21, 2014.
3. Comparison Table: LB – G – THC.
4. Why Bring the Proposed THC Zone Down to the RR Tracks.

Article II. Definitions

Sec. 27-201. Definitions

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Alternative financial establishment. A car title loan business, check cashing business, or money transfer business. An alternative financial establishment does not include state or federally chartered banks, savings and loan associations, or credit unions. An alternative financial establishment does not include an establishment that provides financial services that are accessory to another main use.

...

Assisted living facility. Residences for the frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation.

...

Bed & breakfast inn. A private residence that offers sleeping accommodations to lodgers in 12 or fewer rooms for rent, in the innkeeper's (owner or operator) principal residence while renting rooms to lodgers, and serves breakfasts at no extra cost to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed & breakfast establishment for fewer than 30 consecutive days.

...

Energy generation facility, accessory. An electric power production facility that is accessory to the primary use of the property and whose energy is chiefly used by the primary use. Accessory energy generation facilities may use renewable and/or nonrenewable energy sources, but, except in cases of emergency back-up power production and back-up power maintenance and testing, they shall not emit smoke or odors detectable at the property boundary.

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Lot coverage. The portion of a site that is impervious (i.e., does not absorb water). This includes but is not limited to all areas covered by buildings and structures and, except for those areas with pervious paving, parking lots, driveways, and roads.

...

Pawn shop. Any business that loans money on deposit of personal property or deals in the purchase of possession of personal property on condition of selling the same back again to the pledger or depositor, or loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property.

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Setback. The minimum distance by which any building or structure must be separated from a street right-of-way or lot line.

...

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that

portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such as usable or unused under-floor space shall be considered as a story.

...

Warehouse discount store. Off-price or wholesale retail/warehouse establishment exceeding 30,000 square feet of gross floor area and offering general merchandise for sale to the public.

...

Secs. 27-786 – 27-800789. Reserved.

...

THORNTON HEIGHTS COMMERCIAL THC

Sec. 27-790. Purpose (THC).

To provide a higher density residential and commercial services zone that allows a broad range of retail, commercial, service, entertainment, and hospitality uses in an auto-oriented environment. Mid-rise buildings conforming to design and dimensional standards are allowed given the ability of the district to accommodate job and housing growth in a manner compatible with surrounding areas.

Sec. 27-791. Permitted Uses (THC).

(a) Residential:

- 1. Single-family detached dwellings, exclusive of mobile homes, in existence as of April 1, 2014. After this date, new single-family detached dwellings are not permitted.**
- 2. Attached single-family, two-family, and multi-family dwellings, exclusive of mobile homes.**
- 3. Congregate care facilities, assisted living facilities, and nursing homes.**
- 4. Combined living/working spaces, including, but not limited to, artist residences with studio space.**
- 5. Community homes.**

(b) Hotels, motels, or other accommodation services:

1. Hotels, motels, tourist lodging, not including trailers or mobile homes, but including a maximum of two (2) dwelling units for resident operators of tourist accommodations. Effective April 1, 2014, the conversion of any of these structures to dwellings is only permitted if both of the following standards are met:

(a) Each dwelling unit is at least 600 sq. ft. in floor area and provides complete housekeeping facilities for one family; and

(b) The building containing the dwelling units meets the design standards and all other standards applicable to new buildings in the Thornton Heights Commercial zoning district.

2. Bed & breakfast inns.

(c) Commercial:

1. Medical, business, and professional offices.

2. Retail stores and service establishments, provided that such facilities may not be open to the public between the hours of 12:00 a.m. and 6:00 a.m. This provision does not include outdoor sales and service, junkyards, salvage operations, pawn shops, and alternative financial establishments.

3. Drive-through facilities for stores, shops, banks, restaurants, and offices. Any microphone, speaker, or other device used for oral communication between customers in vehicles and service providers shall be a minimum of 25 feet from the property line and shall be situated and designed so as to minimize off-site aural impacts.

4. Personal and business services.

5. Restaurants and other places for the serving of food or beverages, provided that such facilities may not be open between the hours of 1:00 a.m. and 6:00 a.m.

(d) Public assembly, institutional, or community facilities:

1. Churches and parish houses.

2. Museums and art galleries.
3. Funeral homes, not including cemeteries.
4. Public and private educational facilities, including child, adult, or combined day care centers.
5. Municipal buildings and uses, including pumping stations.
6. Charitable and philanthropic organizations.
7. Places of assembly, recreation, amusement, or culture, including but not limited to movie theaters; indoor and outdoor water parks; indoor games facilities; grounds for games or sports; arcades; fitness, recreational sports, gyms, or athletic clubs; bowling, billiards, or pool facilities; skating rinks; meeting and convention halls; planetariums; and aquariums.

(e) Transportation-related facilities:

1. Surface parking lots.
2. Multi-storied parking structures.
3. Train stations, bus stations, and intermodal transportation facilities.

(f) Utility and related facilities:

1. Public utility facilities, including substations.
2. Radio, television, or wireless antennas and telecommunication towers.

(g) Agriculture:

1. Commercial greenhouses.

(h) Other:

1. Accessory uses, including but not limited to accessory energy generation facilities.
2. Multiple/Mixed uses.

3. Studios for artists and craftspeople.

Sec. 27-792 **Special Exceptions (THC).**

(a) Commercial:

1. Retail stores and service establishments open twenty-four (24) hours per day, including associated warehousing or wholesale distribution. This provision does not include outdoor sales and service, junkyards, salvage operations, pawn shops, and alternative financial establishments.
2. Restaurants and other places for the serving of food or beverages open twenty-four (24) hours per day.
3. Outdoor sales, display and services, other than accessory uses as defined in Sec. 27-201, subject, in addition to other ordinance requirements, to the following terms and conditions:
 - (i) The Planning Board may limit the percentage of area coverage;
 - (ii) The Planning Board may restrict the outdoor sales, display, and services to a specific portion of the lot in question;
 - (iii) The Planning Board may limit the time and/or number of units involved in such outdoor sales, display or service.
4. Motor vehicle repair shops provided that no unlicensed vehicles, or junked or wrecked vehicles will be permitted to be parked or stored on the premises, and no trucks, trailers, or buses will be permitted to remain parked upon the premises unless being worked upon or being serviced by employees of the shop.
5. Farmers' markets subject to the provisions of Sec. 27-1580 et seq.

Sec. 27-793. **Space and bulk regulations (THC).**

Minimum lot area: 5,000 sq. ft.

<u>Maximum residential density:</u>	<u>Thirty-six (36) dwelling units per net residential acre.</u>
<u>Minimum building height for buildings constructed after April 1, 2014:</u>	<u>Twenty-four (24) feet.</u>
<u>Maximum building height:</u>	<u>Seventy (70) feet.</u>
<u>Maximum number of stories:</u>	<u>Six (6).</u>
<u>Minimum front yard setback:</u>	<u>Five (5) feet.</u>
<u>Maximum front yard setback:</u>	<u>None.</u>
<u>Minimum side and rear yard setbacks:</u>	<u>Side setback = none; rear setback = thirty (30) feet; provided, however, (i) where the side or rear yard abuts a residential zoning district, the buffering requirements of this Chapter shall be met; (ii) where the side yard abuts a residential zoning district and the principal or accessory building height exceeds thirty (30) feet, the applicable setback shall be fifty (50) percent of the building height; and (iii) where the rear yard abuts a residential zoning district and the principal or accessory building height exceeds thirty (30) feet, the rear setback shall be fifty (50) percent of the building height or thirty (30) feet, whichever is greater.</u>
<u>Minimum street frontage:</u>	<u>Forty (40) feet.</u>
<u>Maximum lot coverage:</u>	<u>Eighty (80) percent.</u>

Sec. 27-794. Off-street parking (THC)

- (a) Off-street vehicle parking shall be provided in accordance with the requirements of Sec. 27-1556 of this Chapter.

- (b) A minimum of 1.0 bicycle spaces per 30 required non-residential off-street parking spaces, or 3.0 bicycle spaces, whichever is greater, and 0.5 bicycle spaces per residential dwelling unit must be provided. Bicycle spaces shall be supplied through bicycle racks or other facilities providing secure storage for individual bicycles. Bicycle spaces shall be at least 2 feet 6 inches in width and 6 feet in length, with a minimum overhead vertical clearance of 7 feet. Racks and other fixtures must be securely affixed to the ground and allow for the bicycle to be locked and chained. The spaces may be indoors or outdoors and shall be located within 50 feet of the primary entrance. The spaces shall not be located behind any wall, shrubbery, or other visual obstruction lying between the principal building and the bicycle spaces. If required bicycle spaces are not visible from the street, signs must be posted indicating their location. Areas used for required bicycle parking shall be paved, drained, and well lighted. Spaces within offices and commercial facilities, located on balconies, or within residential dwelling units shall not be counted toward required parking.

Sec. 27-795. Buffering (THC)

Sec. 5-58(5)(a) and other sections of the Code notwithstanding, any use in the Thornton Heights Commercial zoning district that requires Site Plan approval from the Planning Board and that abuts a residential property in another zone must provide a buffer strip to physically separate and screen the use from abutting residential properties in a manner acceptable to the Planning Board. The buffer shall consist of trees, shrubs, fences, walls, berms, or any combination thereof. It must be a minimum of six (6) feet wide and extend along the entire length of any property line that is in or adjacent to the other zone. The screening from the buffer must be sufficient to ameliorate commercial or other non-residential views that otherwise would be detrimental to the quality of life of the abutting residential occupants and/or to their property values. Uses with driveways or other access ways at least ten (10) feet wide adjacent to a residential zoning district may satisfy the buffer width requirement by providing a fence or other screening between the drive/access way and the abutting lot without a width requirement for the fence or screening. In all cases the Planning Board shall determine the adequacy of the quality, function, height, and other characteristics of any proposed fencing, landscaping, or other buffering.

Sec. 27-796. Signs (THC)

Signs shall be regulated in accordance with the requirements of Sec. 27-1561 et seq. of this Chapter.

Sec. 27-797. Site plan review (THC)

Any use allowed in this District, involving new construction which, when added to new construction within the preceding two (2) years, exceeds one thousand (1,000) square feet of floor area, shall be subject to the site plan review requirements of Article XIV; provided, that this section shall not apply to single-family detached dwellings or their accessory buildings. For purposes of this section, “new construction” means (a) the construction of a new structure, (b) an addition to an existing structure, or (c) any interior construction for the purpose of converting an existing building from one use to another use if the conversion will significantly increase off-site impacts. A “use” shall be any use listed in the zoning district in which the site is located. The impacts to be considered include, but are not limited to, increases in: traffic generation; parking area; utilization of City services; stormwater runoff; or noise, odors, or other annoying or dangerous emissions detectable at lot boundaries.

In determining the relative degree of impact of a proposed use, the comparison shall be to either (i) the most recent lawful use of the building or (ii) any lawful use of the building within the last two (2) years (but, in the latter case, only if such use was evidenced by a certificate of occupancy on file in the Code Enforcement Officer’s office), whether such use was as a permitted use, special exception use, or a nonconforming use.

Sec. 27-798. Design standards (THC)

All building construction or remodeling projects within the Thornton Heights Commercial zoning district must comply with the Design Standards for Neighborhood Activity Centers in Sec. 27-1572 et seq. The following additional standards shall apply to mid-rise buildings, which for purposes of this zoning district are buildings 4 or more stories in height:

- (a) Mid-rise buildings tend to read more solid than transparent due to structural requirements, cost factors, and the need for privacy in certain zones of the building. The massing and elevations should strike a balance between solid and transparent treatment. The material and detailing choices shall support the overall style being proposed. Highly reflective or very dark glass curtain wall systems or fenestration are not permitted.

- (b) The massing and design of mid-rise buildings should be sensitive to adjacent scales and carefully address the transition to lower height structures that may exist or be anticipated on the same block.
- (c) Mixed-use mid-rise buildings should differentiate architecturally between their ground-floor activities and the uses up above. For example, fenestration and exterior materials could be different at ground-floor retail, than for hotel, residential or office uses above.
- (d) Mid-rise building projects shall integrate transit amenities such as bus shelters and seating as appropriate.
- (e) Mid-rise buildings shall incorporate a base, middle, and cap described as follows:
 - (1) The base shall include an entryway with transparent windows and a molding or reveal placed between the first and second stories or over the second story. The molding or reveal shall have a depth of at least 2 inches and a height of at least 4 inches.
 - (2) The middle may include windows and/or balconies. Balconies shall be transparent and composed of either metal railing or glass guardrail systems.
 - (3) The cap shall include the area from the top floor to the roof of the building and shall include a cornice or roof overhang.
- (f) Sec. 27-1575(d)(3) notwithstanding, acceptable materials include architectural concrete or precast concrete panels, stone, curtain wall and heavy gauge metal panel, and brick. Concrete masonry units shall have a ground face and be burnished and honed.
- (g) All street-level retail uses with sidewalk frontage shall be furnished with an individual entrance and direct access to the sidewalk in addition to any other access that may be provided.

Sec. 27-799. Applicability date (THC)

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, the applicability date of Ordinance #13-13/14 adopting this zoning district is March 10, 2014, the date it first appeared on a City Council agenda.

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PERFORMANCE STANDARDS – GENERAL

Sec. 27-1521. Accessory energy generation facilities.

- (a) Ground-mounted solar photovoltaic installations may not exceed a maximum rated output of electrical power production in direct current (DC) of 250 kW.

- (b) Wind energy systems may be roof-mounted or, under certain conditions, free-standing. Free-standing wind energy systems are only allowed on lots greater than 0.5 acre in size and may not exceed the height of the zone or 45 feet, whichever is less. Other space and bulk standards notwithstanding, the setback from any property line for a free-standing wind energy system shall be a minimum of 110% of the height of the system. In all cases, the noise standards set out in Chapter 30, Control of Noise from New Development, shall be met.

...

OFF-STREET PARKING AND LOADING STANDARDS

Sec. 27-1556. Off-street parking regulations.

...

- (b) The Planning Board may reduce the number of off-street parking spaces required to be provided for any use by up to twenty-five percent (25%) as part of a Post-Construction Stormwater Management Plan if the applicant demonstrates that the parking proposed to be provided is adequate for the use based upon national parking demand studies such as Parking Demand published by the Institute of Traffic Engineers or by data on actual parking demand for similar uses in similar situations and/or consideration of the availability of transit service or other alternative transportation that reduces the demand for on-site parking. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations and changes of use; except that, in the District One/Knightville Design Review District section of the VC zoning district, the minimum number of required off-street parking spaces for office retail, service, and restaurant uses — Sec. 27-1556(b)(4)a., b., and c., Sec. 27-1556(b)(5) and Sec. 27-1556(b)(6) — shall be 50% of the amount otherwise indicated:
 - (1) For residential structures:
 - a. Single-family detached: Two (2) parking spaces.

- b. Single-family attached: One and one-half (1 1/2) parking spaces.
 - c. Multifamily (non-elderly): One and one-half (1 1/2) parking spaces per dwelling unit.
 - d. Multifamily (elderly): ~~One-third~~ one-half parking spaces per dwelling unit.
- ...
- (12) For hospitals, sanitariums, assisted living facilities, and nursing or convalescent homes, one parking space for each four (4) patient beds (excluding bassinets) plus one space for each staff or visiting doctor and one space for each three employees including nurses. Loading and unloading space for hospital ambulances and similar vehicles shall not be included in the spaces required herein.

...

DESIGN STANDARDS FOR NEIGHBORHOOD ACTIVITY CENTERS

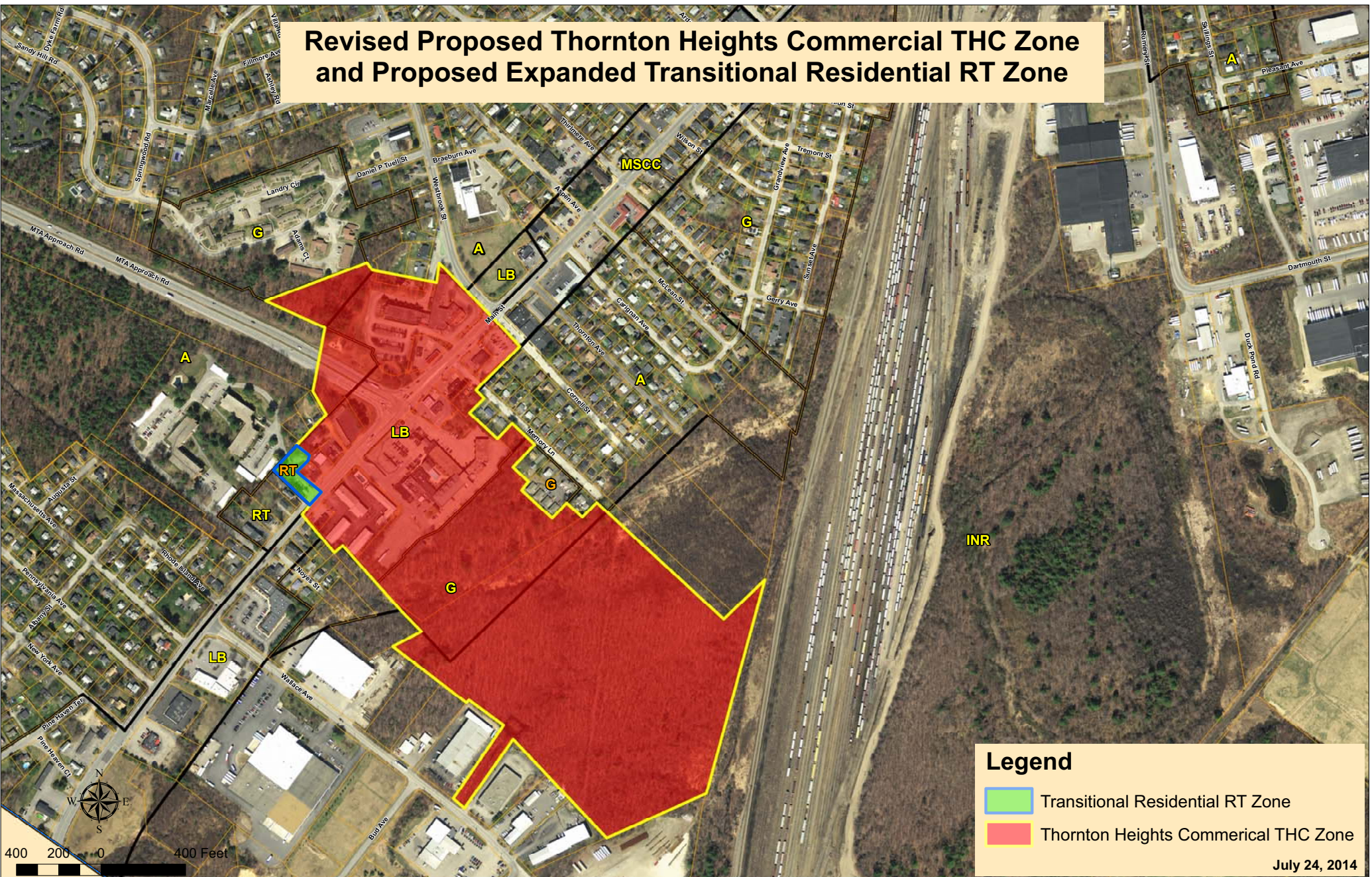
Sec. 27-1573. Applicability.

These design standards apply to all building construction or remodeling projects affecting the exterior of buildings within the following zoning districts that require a special exception, site plan, or subdivision approval and/or a non-single family dwelling unit building permit:



- The Village Commercial–Willard VCW Zoning District
- The Thornton Heights Commercial THC Zoning District

Where such a project is associated with an existing building, such as an addition or partial remodeling, these design standards apply only to the new construction or the part of the building being remodeled.

Revised Proposed Thornton Heights Commercial THC Zone and Proposed Expanded Transitional Residential RT Zone



Legend

-  Transitional Residential RT Zone
-  Thornton Heights Commercial THC Zone

July 24, 2014

THORNTON HEIGHTS ZONING COMPARISON TABLE

Feature	G Zone	LB Zone	THC Zone	Notes
Organization	Euclidean	Euclidean	Non-Euclidean	
Hotels, motels	Not allowed	Allowed	Conversions restricted	
Drive-throughs	Allowed but unlikely	All allowed	All allowed	
Sidewalk seats	Not allowed	Not allowed	Allowed	
Theaters, for example	Not allowed	Not allowed	Allowed	
Parking lots and structures	Not allowed as stand-alone facilities	Not allowed as stand-alone facilities	Allowed	
Min. lot area	7,500 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	
Max. res. density	10 DUs/acre	Least restricted abutting zone (generally 10 DUs/acre)	36 DUs/acre	
Min. bldg. height	None	None	24'	
Max. bldg. height	40'	35' except setbacks affected if higher than 30'*	70'	*Side & rear setbacks ≥ 50% of bldg height
Max. # of stories	None	None	6	
Min. front yard setback	20'	15'	5'	
Max. front yard setback	None	None	None	
Min. side & rear yard setbacks	15', except 6' for SF dwellings < 30' tall, and except 50% of building height for buildings taller than 30'.	None unless abutting a residential zone*	Side = none; Rear = 30'. Except 50% of bldg height if bldg > 30' and abutting res. zone, whichever is more.	* 15' or 50% of bldg height whichever is more.
Min. street frontage	75'	25'	40'	
Max. lot coverage	None*	None	80%	*Max. building coverage of 33%.
Off-street parking	Regular standards, except MF = 2.5 spaces/DU.	Regular standards	Regular standards; bike parking required	
Buffering	Regular standard (minimal)	Regular standard (minimal)	Along abutting residential zone = minimum of 6' + screening, or 10'+ driveway + fence. PB must determine adequacy.	
Design standards	None	None	Site and building design standards for Neighborhood Activity Centers plus mid-rise bldg design standards	

Why Bring the Proposed THC Zone Down to the RR Tracks?

- Lafayette, owner of the Best Western, owns the land behind the hotel, and we want to encourage them to put more investment into the area in order to help combat some negative neighborhood trends. They are a key property owner.
- The land going down to the RR tracks can be directly accessible from the Rt. 703 Turnpike Spur and so is appropriate to be included in this highway services zoning district, per the Comprehensive Plan.
- Bringing the zone to the tracks creates the possibility of having an AMTRAK or interurban train station with good access to the highway system. This could provide a convenient transportation option to South Portland residents, and it would enhance the potential for economic investment in the area.
- If the land abutting the Memory Lane properties is in the G zone, a 40' building (max. height allowed) would be required to have a 20' side yard setback, minimal buffering with no Planning Board discretion, no limits on the amount of parking lot pavement, and no design standards to govern building location, scale, materials, etc., or the location of access drives, etc.
- If the land abutting the Memory Lane properties is in the THC zone, a 70' building (max. height allowed) would be required to have a 35' side yard setback, substantial buffering with Planning Board discretion, an 80% limit on impervious lot coverage, and a substantial set of design standards that would control the location of the building, its scale, design, the location of the parking and access drives, and so on.
- In sum, including the land south of the Best Western in the proposed THC zone has substantial potential benefits to the residents and businesses of Thornton Heights in particular and to the South Portland community as a whole while providing adequate protection from impacts to abutting property owners that in some cases exceed those of the existing G zone.