

Meeting of November 20, 2017

South Portland City Council  
***Position Paper of the City Manager***

***Subject:***

**Reconsideration of ORDER #81-17/18 – Appealing the denial of the Public Works’ Director for a new curb cut at 851 Main Street for Rolando’s Redemption Center. Passage requires majority vote.**

***Position:***

This item is on Monday’s agenda to reconsider ORDER #81-17/18 passed by the City Council at the November 6, 2017 meeting. This Order denied the applicant’s appeal of the Public Works Director’s denial of a curb cut in front of his property at 851 Main St. The applicant, Donald Cook, was not notified by staff of the meeting date and would like to present his case to the Council allowing him a variance for a new curb cut.

***Requested Action:***

Council passage of reconsideration and passage of ORDER #81-17/18.



City Manager

**South Portland City Council**  
***Position Paper of the City Manager***

***Subject:***

**ORDER #81-17/18 – Appealing the denial of the Public Works’ Director for a new curb cut at 851 Main Street for Rolando’s Redemption Center. Passage requires majority vote.**

***Position:***

This item is brought forward at the request of Donald Cook to appeal the denial by the Public Works Director for a curb cut on his property located at 851 Main Street. As part of the road work completed on Main Street/US Route 1, the State of Maine installed sidewalks at various locations in front of Mr. Cook’s property. As a result, Mr. Cook believes his business is losing some of its accessibility for box trucks, school buses, and pick-up trucks with trailers.

The Public Works Director denied the permit based on Chapter 23, Section 23-37(2)(b) of the Code of Ordinances, which states:

“(b) No such driveway or curb cut shall be located within two hundred (200) feet of any intersection in the city or within a like distance, as measured along a public way from any playground, school, church, hospital or places of public assembly;”

The proposed curb cuts are located less than the two hundred feet from the intersection of New York Avenue. For your reference, attached is a photo showing the street frontage prior to the road work and one that was taken this week illustrating the sidewalk and roadwork once completed.

Although, by ordinance, the permit must be denied, Public Works Director Doug Howard is also of the opinion that the property owner will not experience any adversity leaving the recent curb cuts as they are.

Police Chief Ed Googins offers the following concerns on the curb cut waiver request:

*“I have looked at this and the new curbing and defined openings will be safer for all involved. When an area is wide open, vehicles can enter the roadway at any point between other parked vehicles and passing motorists can be confronted with a vehicle haphazardly entering the roadway. The new driveways make it clear where vehicles will enter and exit from.”*

A denial may be appealed to the City Council, who may, in its sole discretion, grant such an appeal if they find the ordinance standard has caused a “hardship” for the applicant.

Attached is a memo from Public Works Director Doug Howard. Mr. Howard will be attending Monday's meeting to answer any questions.

***Requested Action:***

Based on safety and mobility of vehicular traffic, I recommend denial of the waiver.



City Manager



Doug Howard  
*Director of Public Works*  
Phone: 207-767-7635  
Fax: 207-767-7636

To: Scott Morelli, City Manager  
From: Doug Howard, Director of Public Works  
CC:  
Subject: Rolando's Redemption Curb Cut  
Date: October 31, 2017

Dear City Manager,

The City has been closing curb cuts to meet the City's ordinance during recent projects. The City collaborated with the DOT to do the sidewalks on Main St. as part of the DOT project. Because of the sidewalk work, the curb cut in front of Rolando's Redemption Center was closed to meet the requirements of the ordinance. The redemption center still has two curb cuts to access the property. My recommendation is the widening of the curb cut is not necessary and does not cause any hardships to the redemption center.

Respectfully,

A handwritten signature in black ink that reads "Doug Howard".

Doug Howard  
Director of Public Works

City of South Portland  
Office of City Manager

Dear Sir,

I would like to request a variance of the curb opening and sidewalk ordinance at 851 Main Street.

The area is marked off at the present time. Since it has been marked off, I have noticed several safety concerns. A customer had to back into Main Street because there is no longer enough room to turn around. I have school busses, box trucks and pickups with trailers bringing in recyclables.

After reading the ordinance, I noticed parking lot depth is not taken into consideration. Witnessing the effects of the planned curb cuts and sidewalk has shown depth should be a factor in placing the curb cuts and sidewalks.

Sincerely;

Donald Cook



Ican Inc dba Rolando's Redemption Center

851 Main Street

772-9225

**Curb Cut PRIOR to road construction**



**Curb Cut AFTER road construction**





CITY OF SOUTH PORTLAND

PATRICIA A. SMITH  
Mayor

SCOTT T. MORELLI  
City Manager

EMILY F. SCULLY  
City Clerk

SALLY J. DAGGETT  
Jensen Baird Gardner & Henry

**IN CITY COUNCIL  
ORDER #81-17/18**

District One  
CLAUDE V. Z. MORGAN

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District Two  
PATRICIA A. SMITH

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District Three  
EBEN C. ROSE

\_\_\_\_\_

District Four  
LINDA C. COHEN

\_\_\_\_\_

District Five  
BRAD FOX

\_\_\_\_\_

At Large  
MAXINE R. BEECHER

\_\_\_\_\_

At Large  
SUSAN J. HENDERSON

**WHEREAS**, The State of Maine recently completed work on Main Street that added sidewalks in various locations in front of Rolando’s Redemption Center, which is located at 851 Main Street; and

**WHEREAS**, The area in front of Rolando’s Redemption Center was wide-open prior to the aforementioned Main Street project; and

**WHEREAS**, Pursuant to the South Portland Code of Ordinances Sec. 23-35, Donald Cook, on behalf of Rolando’s Redemption Center, applied to the Public Works Director for a curb cut to remove these recently installed sidewalks and return the area in front of 851 Main Street to the same, wide-open configuration it had prior to the Main Street project; and

**WHEREAS**, The Public Works Director denied Mr. Cook’s curb cut request as it is located within two hundred feet of an existing street intersection, which is prohibited under the South Portland Code of Ordinances Sec. 23-37(2)(b); and

**WHEREAS**, Mr. Cook has appealed the decision of the Public Works Director to deny his request for a curb cut and indicated that this limitation would result in a hardship pertaining to vehicle access to Rolando’s Redemption Center on Main Street; and

**WHEREAS**, The City Council may, at its sole discretion, grant such an appeal if they find that the ordinance standard has caused a “hardship” for the applicant; and

**WHEREAS**, The Public Works Director does not believe that the property owner will experience any adversity by leaving the sidewalks in place; and

**WHEREAS**, The Police Chief believes that the new configuration with sidewalks is safer for vehicular and pedestrian traffic;

**NOW, THEREFORE**, pursuant to Code of Ordinances Sec. 23-39, the City Council upholds the decision of the Public Works Director and denies Mr. Cook's request for a curb cut.

Fiscal Note: Less than \$1,000

November 6, 2017