

South Portland City Council
Position Paper of the City Manager

Subject:

ORDINANCE #7-17/18. Possible reconsideration of Ordinance #7-17/18 (amending Chapter 27, “Zoning Ordinance,” regarding Meetinghouse Hill Community Center text and map) and action on Substitute Ordinance #7-17/18 to correct code book numbering/formatting discrepancies. Passage of Substitute Ordinance #7-17/18 requires at least five votes and a roll call vote.

POSITION:

On October 2, 2017, the City Council adopted Ordinance #7-17/18 to amend the Zoning Ordinance text and map to add the Meetinghouse Hill Community Center zoning district as a mixed use/commercial zoning district. Following adoption, as City staff started to update the Code of Ordinances to incorporate these changes into Chapter 27, it was discovered that there were minor formatting discrepancies and some section numbering overlap between the Zoning Ordinance text changes adopted as part of Ordinance #6-17/18 and the text changes adopted as part of Ordinance #7-17/18 (the two ordinances were adopted on the same night). In order to rectify this situation, staff is requesting that the City Council (i) reconsider Ordinance #7-17/18, (ii) vote to substitute the attached Substitute Ordinance #7-17/18 for Ordinance #7-17/18, and then (iii) vote to adopt Substitute Ordinance #7-17/18 by a roll call vote. Because these formatting and renumbering issues are not substantive, the Corporation Counsel has advised that the City Council does not need to start over at first reading or to have another Planning Board public hearing. She has also advised that the process outlined in this position paper is the neatest, cleanest way to correct these discrepancies.

In order to take action on a reconsideration request, only a City Councilor who voted on the “prevailing side” may make the motion to reconsider “at the same [meeting as the original vote] or not later than the next succeeding regular meeting, but not afterward” [Council Standing Rule No. 18]. A motion to reconsider Ordinance #7-17/18 is in order at the October 16, 2017 City Council meeting, as it is the next regular meeting after the October 2nd meeting. Each of the seven Councilors has “standing” to make such a motion, as each one voted on the prevailing side. Any Councilor may second and vote on the motion. A motion to reconsider should be something along the lines of the following: “I move to reconsider Ordinance #7-17/18.”

If a majority of the City Council should vote to reconsider, Ordinance #7-17/18 is taken back to where it was just before the October 2nd vote occurred. At that point, a motion should be made to substitute “Substitute Ordinance #7-17/18” for Ordinance #7-17/18 to

correct code book numbering/formatting discrepancies. After that, Council action to adopt Substitute Ordinance #7-17/18 will be in order.

REQUESTED ACTION:

At the start of the agenda item, Council action to reconsider ORDINANCE #7-17/18 and, if the ordinance is reconsidered, then Council action to substitute, and then adopt, Substitute Ordinance #7-17/18.



City Manager



CITY OF SOUTH PORTLAND

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Mayor

SCOTT T. MORELLI
City Manager

EMILY F. SCULLY
City Clerk

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District Four
LINDA C. COHEN

District Five
BRAD FOX

At Large
MAXINE R. BEECHER

At Large
SUSAN J. HENDERSON

IN CITY COUNCIL

SUBSTITUTE ORDINANCE #7-17/18

THE COUNCIL of the City of South Portland hereby ordains that Chapter 27, "ZONING," of the "Code of Ordinances of the City of South Portland, Maine" be and hereby is amended as follows (additions are underlined; deletions are ~~struck-out~~); and

THE COUNCIL of the City of South Portland hereby ordains that the Official Zoning Map of the City of South Portland dated September 8, 2010, which map is a part of Chapter 27, "Zoning," of the "Code of Ordinances of the City of South Portland, Maine," be and hereby is amended to rezone a portion of Assessor's Tax Map 10, Lots 206, 207, 208, 209, 209A, 210 and 211 located within the Transitional Residential (RD) District and Limited Business (LB) District to Meetinghouse Hill Community Commercial (MHCC) District. (The attached sketch map is for general reference purposes only. The Official Zoning Map of the City of South Portland as amended is available for review and inspection at the Planning and Development Office and the City Clerk's Office.)

CHAPTER 27

ZONING

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Sec. 27-401. Establishment of zoning districts.

To implement the provisions of this Chapter, the City of South Portland is hereby divided into the following classes of districts:

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Mixed Use/Commercial Districts:

Limited Business District LB.

Village Commercial District VC.
Village Commercial – Willard District VCW.
Spring Point District SP.
Suburban Commercial District CS.
General Commercial District CG.
Professional Office District PO.
Transitional Central and Regional Commercial District CCRT.
Central and Regional Commercial District CCR.
Commercial District C.
Main Street Community Commercial District MSCC.
Village Extension District VE.
Broadway Corridor District BC.
Mill Creek Core District MCC.
West End Neighborhood Center WNC.
Western Avenue Commercial Corridor WACC.
Meetinghouse Hill Community Commercial MHCC.

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ARTICLE VI. ~~RESERVED~~ RESIDENTIAL DISTRICTS (CONT.)

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Secs. 27-787 – 27-7899. Reserved.

ARTICLE VIII. MIXED USE/COMMERCIAL DISTRICTS

MAIN STREET COMMUNITY COMMERCIAL MSCC

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~~ARTICLE VIII. RESERVED~~

Sec. 27-840. Reserved.

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MEETINGHOUSE HILL COMMUNITY COMMERCIAL MHCC

Sec. 27-861. Purpose (MHCC).

To provide a higher density, mixed residential and commercial hub within the Meetinghouse Hill neighborhood of South Portland. This is a destination business district that effectively balances pedestrian accessibility and safety with the need to

maintain vehicular mobility. It is a mixed-use center providing services to the surrounding neighborhood as well as to Cottage Road motorists.

Sec. 27-862. Permitted Uses (MHCC).

(a) Residential:

1. Single-family detached dwellings, exclusive of mobile homes, in existence as of April 1, 2017. 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. Live/Work units, including, but not limited, to artist residences with studio space.
5. Congregate housing individual unit ownership facilities.
6. Community homes.

(b) Hotels, motels, or other accommodation services

1. 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, gasoline filling stations, junkyards, salvage operations, warehouse discount stores, pawn shops, and alternative financial establishments.
3. Drive-through facilities are not permitted for any type of use in the Meetinghouse Hill Community Commercial zoning district.
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 12:00 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.
6. Charitable and philanthropic organizations.

(e) Utility and related facilities:

1. Municipal uses, including pumping stations.

(f) Other:

1. Accessory uses, including but not limited to accessory energy generation facilities.
2. Multiple/Mixed uses.
3. Studios for artists and craftspeople.

Sec. 27-863. Special Exceptions (MHCC).

(a) Residential:

1. Accessory dwelling units subject to the provisions of Sec. 27-1576 et seq.

(b) Commercial:

1. 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.

2. 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.

3. Farmers' markets subject to the provisions of Sec. 27-1580 et seq.

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

1. Recreational or community activity facilities, whether operated on a for-profit or not-for-profit basis.

2. Theaters not exceeding 12,000 square feet in total building floor area.

(d) Transportation-related facilities:

1. Surface parking lots.

2. Multi-storied parking structures.

(e) Utility and related facilities:

1. Public utility facilities, including substations.

2. Radio, television, or wireless antennas, provided that telecommunication towers are not permitted.

Sec. 27-864. Space and bulk regulations (MHCC).

Minimum lot area: 3,500 sq. ft.

Maximum residential density: Twenty-four (24) dwelling units per net residential acre.

Minimum building height for buildings constructed after April 1, 2017: Twenty-four (24) feet.

Maximum building height: Thirty-five (35) feet.

Maximum number of stories: Three (3).

Minimum front yard setback: Five (5) feet, provided that for construction of new structures after April 1, 2017, and further limited to front yards defined by Cottage Road, the area between a front wall of the structure and the front property line may not be used for parking or vehicular access, except for driveways.

Maximum front yard setback: Fifteen (15) feet.

Minimum side and rear yard setbacks: Side setback = none; rear setback = 20 feet; provided, however, (i) where the side or rear yard abuts a residential zoning district, the buffering requirements of this Chapter shall be met; and (ii) where the side or rear yard abuts a residential zoning district and the principal or accessory building height exceeds thirty (30) feet, the applicable setback shall be a minimum of fifty (50) percent of the building height. Detached accessory buildings side & rear setback = 6 feet.

Minimum street frontage: Twenty-five (25) feet.

Maximum lot coverage: Eighty (80) percent.

Sec. 27-865. Off-street parking (MHCC).

- (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. 27-866. Buffering (MHCC).

Sec. 5-58(5)(a) and other sections of the Code notwithstanding, any use in the Meetinghouse Hill Community 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. 27-867. Signs (MHCC).

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

Sec. 27-868. Site plan review (MHCC).

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. 27-869. Design standards (MHCC).

All building construction or remodeling projects within the Meetinghouse Hill Community Commercial zoning district must comply with the Design Standards for Neighborhood Activity Centers in Sec. 27-1572 et seq.

Sec. 27-8670 – 27-900. Reserved.

Fiscal Note: Less than \$1,000

Dated: October 16, 2017

