

Planning Dept Recommendations Change Request for Munjoy Hill Neighborhood Conservation Overlay District

Munjoy Hill Conservation Collaborative <munjoyhillconsvcoll@gmail.com>

Apr 27, 2018 8:27 AM

Posted in group: **Planning Board**

MUNJOY HILL CONSERVATION COLLABORATIVE
C/O 72 Waterville Street
Portland, Maine 04101

April 27, 2018

City of Portland
Planning & Urban Development Department
Attn: Planning Board
389 Congress Street
Portland, Maine 04101

Re: Planning Dept Recommendations Change Request for Munjoy Hill Neighborhood Conservation Overlay District

Dear Planning Department Director Jeff Levine and Planning Board Members:

We appreciate the work that the Planning Staff has done over the last several months to produce the package of changes constituting the Munjoy Hill Neighborhood Conservation Overlay District (MHNCOD) that is now before you. The Munjoy Hill Conservation Collaborative (MHCC) with 13 core team members and now over 300 supporters can support the Planning Department's recommendations if the following modifications are included:

1. Demolition Review/ Demolition Delay Ordinance

MHCC believes that there needs to be more parity so that the neighborhood is given a right to appeal a determination by the Planning Authority that a structure proposed for demolition is not "preferred for preservation." Just as the applicant for a demolition permit is allowed to appeal an adverse decision to the Historic Preservation Board, the neighbors should be allowed to appeal a non-delay determination by the Planning Authority to the Historic Preservation Board.

To give the neighbors a meaningful opportunity to be heard, we are proposing that the City post a sign at the property when it receives a demolition request, and also posts the information on that sign when the Planning Authority makes a determination as to whether the structure is or is not "preferred for preservation." Other towns in Maine provide this type of notice on the site itself, such as Biddeford and Saco. Postcard notice should be provided as well to those within a two-block radius of the structure.

This process should allow a public hearing process for the determination that a structure is or is not “preferred for preservation.” It is anticipated that there would be no need or basis for a hearing on those structures that are clearly within an exception (e.g. built after 1930, outbuildings less than 144 square feet, etc.). However where there is more of a judgment call, the neighbors should be able to appeal the Planning Authority’s determination to issue a demolition permit to the Historic Preservation Board within 30 days of the decision.

We also believe that there should be better definition of the terminology “preferred for preservation” (or whatever the operative terminology ultimately proves to be. It seems like it is in flux.) The text now only refers to architectural integrity. We believe the Planning Authority should consider its contribution to the predominant character-defining architectural features of the neighborhood, but should also recognize the provision of affordable or workforce housing as a valuable resource for the City. The criteria for that determination of “preferred for preservation” needs to be more fully articulated.

2. Historic District Designation for Portion of the Munjoy Hill Overlay District.

MHCC is in favor of the designation of two historic districts on Munjoy Hill, as recommended by Greater Portland Landmarks. Both the Eastern Promenade/Maritime Worker Housing District and the North Street District are important to preserving the essential character of Munjoy Hill, and are important tools for the Munjoy Hill Conservation District. We understand that work still needs to be done to determine the exact boundaries, but there seems to be general agreement on what constitutes the areas to be protected.

We request that the work plan accompanying the proposed Overlay Zone contain a specific plan and timeline for completing the reviewing and preparing the nominations for both Munjoy Hill Historic Districts. It is our understanding that Greater Portland Landmarks has already completed a lot of the initial inventory work in support of the designations. We believe it should be a goal for the Planning Department to complete the verification and analysis required for the initial district nominations by August 2018, so that the Historic Preservation Board, Planning Board and City Council review processes could be completed by the end of the year. These historic districts will give recognition to our architectural resources, which are equal to those which have long been protected in other parts of the City. In addition, designation will bring demolition protections and sensitive new construction review which are tailored for the historic context. It is important to proceed in a planful way, and not to delay adding these tools to the Munjoy Hill Neighborhood Conservation Overlay District.

3. R-6 Dimensional Zoning Standards Relationship with R-6 Infill Development Design Principle & Standards

Finally, MHCC is proposing that key design standards get incorporated into the R-6 zoning ordinance for the Munjoy Hill Overlay. The intent is that an applicant can only be approved for a building height if it can satisfy the design standards on scale and form, massing, and roof forms at that height. The zoning maximum heights will be just that – an absolute height above which no development may go. They will have to earn the right to build to that height by meeting the design standards, and can be restricted by the reviewing authority to only building to a lower height if that is the height which also allows the specific design standards to be met. We will leave it to the attorneys to draft the precise language, but strongly believe that the zoning ordinance dimensional maximums need to be tempered by these design standards; a proposed development needs to be able to meet both.

The Planning staff analysis found that the average structure on Munjoy Hill is 2.4 stories (roughly 25 feet). The zoning ordinance provides for 1- and 2-unit structures to have a maximum height of 35’, and 3-unit and more structures to build to 45’. That extreme

mismatch between the existing scale of development and the maximum height allowed by zoning creates a huge incentive for existing structures to be demolished and replaced by structures that are grossly out of scale with the existing neighborhood.

Throughout the review process, the neighborhood has been told that the design standards are what will save this vibrant community from being overwhelmed by out-of-scale development. The design standards require new construction to relate to the existing context. They say that new construction needs to respect the predominant character-defining architectural features of the neighborhood, defined as the structures within a 2-block radius. However, we have watched as pending applications resist having to conform to the design standards, claiming either that it is a “gray area” as to which controls or that the City has no right to impose limits more stringent than zoning maximums.

In the current MHNCO, the Planning Staff is proposing to clarify that there is a hierarchy where zoning provisions control over the design standards **UNLESS** the design standards are incorporated into the zoning provisions. Staff has proposed incorporating into zoning some concepts that are also addressed in the design standards. The MHCC believes it is critically important to also incorporate the three design standards addressing scale, form and mass into the zoning ordinance (Standards A-1, B-1 and B-2). The reason to do this is so that an owner can only build to maximum zoning dimensions if in doing so the owner is ALSO able to satisfy the critical design standards addressing scale, form and mass that ensure the building contributes to and is compatible with the immediate neighborhood. Incorporating these design standards into the zoning gives the reviewing authority the power to require something less than maximum height if the design standards cannot be satisfied at maximum height.

We hope the Planning Department and Planning Board accept the above proposed modifications which we believe are necessary to strike a healthy balance between development and existing Munjoy Hill residents in order to preserve what has made Munjoy Hill such a unique and vibrant neighborhood.

Respectfully,

Munjoy Hill Conservation Collaborative members

Karen Snyder-72 Waterville St.

Paula Agopian-98 Monument St.

Maggy Wolf-28 St. Lawrence St.

Tica Douglas-11 Munjoy St.

Berry Manter-46 E. Promenade

Nini McManamy-10 Willis St.

Jayne Hurley-11 St. Lawrence St.

Pamela Day-25 Waterville St.

Peter Murray-104 North St.

Mary Casale-39 Waterville St.

Wayne Valzania-27 Merrill St.

Enoch Wenstrom-88 Beckett St.

Erna Koch-81 Vesper St.

Attachment: [MHCCLetter2PlanningDeptRecommendationChangeRequest_20180427.pdf](#)

MUNJOY HILL CONSERVATION COLLABORATIVE

C/O 72 Waterville Street
Portland, Maine 04101

April 27, 2018

City of Portland
Planning & Urban Development Department
Attn: Planning Board
389 Congress Street
Portland, Maine 04101

Re: Planning Dept Recommendations Change Request for Munjoy Hill Neighborhood Conservation Overlay District

Dear Planning Department Director Jeff Levine and Planning Board Members:

We appreciate the work that the Planning Staff has done over the last several months to produce the package of changes constituting the Munjoy Hill Neighborhood Conservation Overlay District (MHNCOD) that is now before you. The Munjoy Hill Conservation Collaborative (MHCC) with 13 core team members and now over 300 supporters can support the Planning Department's recommendations if the following modifications are included:

1. Demolition Review/ Demolition Delay Ordinance

MHCC believes that there needs to be more parity so that the neighborhood is given a right to appeal a determination by the Planning Authority that a structure proposed for demolition is not "preferred for preservation." Just as the applicant for a demolition permit is allowed to appeal an adverse decision to the Historic Preservation Board, the neighbors should be allowed to appeal a non-delay determination by the Planning Authority to the Historic Preservation Board.

To give the neighbors a meaningful opportunity to be heard, we are proposing that the City post a sign at the property when it receives a demolition request, and also posts the information on that sign when the Planning Authority makes a determination as to whether the structure is or is not "preferred for preservation." Other towns in Maine provide this type of notice on the site itself, such as Biddeford and Saco. Postcard notice should be provided as well to those within a two-block radius of the structure.

This process should allow a public hearing process for the determination that a structure is or is not "preferred for preservation." It is anticipated that there would be no need or basis for a hearing on those structures that are clearly within an exception (e.g. built after 1930, outbuildings less than 144 square feet, etc.). However where there is more of a judgment call, the neighbors should be able to appeal the Planning Authority's determination to issue a demolition permit to the Historic Preservation Board within 30 days of the decision.

We also believe that there should be better definition of the terminology "preferred for preservation" (or whatever the operative terminology ultimately proves to be. It seems like it is in flux.) The text now only refers to architectural integrity. We believe the Planning Authority should consider its contribution to the predominant character-defining architectural features of the neighborhood, but should also recognize the provision of affordable or workforce housing as a valuable resource for the City. The criteria for that determination of "preferred for preservation" needs to be more fully articulated.

2. **Historic District Designation for Portion of the Munjoy Hill Overlay District.**

MHCC is in favor of the designation of two historic districts on Munjoy Hill, as recommended by Greater Portland Landmarks. Both the Eastern Promenade/Maritime Worker Housing District and the North Street District are important to preserving the essential character of Munjoy Hill, and are important tools for the Munjoy Hill Conservation District. We understand that work still needs to be done to determine the exact boundaries, but there seems to be general agreement on what constitutes the areas to be protected.

We request that the work plan accompanying the proposed Overlay Zone contain a specific plan and timeline for completing the reviewing and preparing the nominations for both Munjoy Hill Historic Districts. It is our understanding that Greater Portland Landmarks has already completed a lot of the initial inventory work in support of the designations. We believe it should be a goal for the Planning Department to complete the verification and analysis required for the initial district nominations by August 2018, so that the Historic Preservation Board, Planning Board and City Council review processes could be completed by the end of the year. These historic districts will give recognition to our architectural resources, which are equal to those which have long been protected in other parts of the City. In addition, designation will bring demolition protections and sensitive new construction review which are tailored for the historic context. It is important to proceed in a planful way, and not to delay adding these tools to the Munjoy Hill Neighborhood Conservation Overlay District.

3. **R-6 Dimensional Zoning Standards Relationship with R-6 Infill Development Design Principle & Standards**

Finally, MHCC is proposing that key design standards get incorporated into the R-6 zoning ordinance for the Munjoy Hill Overlay. The intent is that an applicant can only be approved for a building height if it can satisfy the design standards on scale and form, massing, and roof forms at that height. The zoning maximum heights will be just that – an absolute height above which no development may go. They will have to earn the right to build to that height by meeting the design standards, and can be restricted by the reviewing authority to only building to a lower height if that is the height which also allows the specific design standards to be met. We will leave it to the attorneys to draft the precise language, but strongly believe that the zoning ordinance dimensional maximums need to be tempered by these design standards; a proposed development needs to be able to meet both.

The Planning staff analysis found that the average structure on Munjoy Hill is 2.4 stories (roughly 25 feet). The zoning ordinance provides for 1- and 2-unit structures to have a maximum height of 35', and 3-unit and more structures to build to 45'. That extreme mismatch between the existing scale of development and the maximum height allowed by zoning creates a huge incentive for existing structures to be demolished and replaced by structures that are grossly out of scale with the existing neighborhood.

Throughout the review process, the neighborhood has been told that the design standards are what will save this vibrant community from being overwhelmed by out-of-scale development. The design standards require new construction to relate to the existing context. They say that new construction needs to respect the predominant character-defining architectural features of the neighborhood, defined as the structures within a 2-block radius. However, we have watched as pending applications resist having to conform to the design standards, claiming either that it is a "gray area" as to which controls or that the City has no right to impose limits more stringent than zoning maximums.

In the current MHNCO, the Planning Staff is proposing to clarify that there is a hierarchy where zoning provisions control over the design standards **UNLESS** the design standards are incorporated into the zoning provisions. Staff has proposed incorporating into zoning some concepts that are also addressed in the design standards. The MHCC believes it is critically important to also incorporate the three design standards addressing

Portland Planning Board

April 27, 2018

Page Three

scale, form and mass into the zoning ordinance (Standards A-1, B-1 and B-2). The reason to do this is so that an owner can only build to maximum zoning dimensions if in doing so the owner is ALSO able to satisfy the critical design standards addressing scale, form and mass that ensure the building contributes to and is compatible with the immediate neighborhood. Incorporating these design standards into the zoning gives the reviewing authority the power to require something less than maximum height if the design standards cannot be satisfied at maximum height.

We hope the Planning Department and Planning Board accept the above proposed modifications which we believe are necessary to strike a healthy balance between development and existing Munjoy Hill residents in order to preserve what has made Munjoy Hill such a unique and vibrant neighborhood.

Respectfully,

Munjoy Hill Conservation Collaborative members

Karen Snyder-72 Waterville St.

Paula Agopian-98 Monument St.

Maggy Wolf-28 St. Lawrence St.

Tica Douglas-11 Munjoy St.

Berry Manter-46 E. Promenade

Nini McManamy-10 Willis St.

Jayne Hurley-11 St. Lawrence St.

Pamela Day-25 Waterville St.

Peter Murray-104 North St.

Mary Casale-39 Waterville St.

Wayne Valzania-27 Merrill St.

Enoch Wenstrom-88 Beckett St.

Erna Koch-81 Vesper St.