



Ann Machado &lt;amachado@portlandmaine.gov&gt;

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**Re: Hartley Street / Dominos Pizza issue**

3 messages

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**Barbara Barhydt** <bab@portlandmaine.gov>

Tue, Apr 25, 2017 at 3:39 PM

To: Philip DiPierro <pd@portlandmaine.gov>, Mike Murray <msm@portlandmaine.gov>, Ann Machado <amachado@portlandmaine.gov>, Katherine Earley <kas@portlandmaine.gov>, Rhonda Zazzara <rjz@portlandmaine.gov>, "Thomas, Kevin" <kthomas@portlandmaine.gov>, Victoria Morales <vmorales@portlandmaine.gov>, "Russell, Michael" <mar@portlandmaine.gov>, "O'Brien, Stuart" <sgo@portlandmaine.gov>

Good afternoon:

We discussed this complaint at DPW this afternoon. In scaling the expansion of pavement, the area is less than the 1,000 SF of new impervious area, so it did not trigger a Level I: Site Alteration Application. It is unclear if they should have sought a site plan review simply because they added parking spaces.

In discussing this issue at today's meeting, I checked the B-2 zoning and the maximum impervious surface ratio is 80%. I wonder if the expanded area makes this site non-conforming or potentially more non-conforming under the zoning code. I added Ann Machado to this e-mail, so that she could consider this question.

I will let Kathi or someone else from DPW discuss what they are considering regarding this site.

Barbara

Barbara Barhydt  
Development Review Services Manager  
Planning Division  
389 Congress Street 4th Floor  
Portland, ME 04101  
(207) 874-8699  
Fax: (207) 756-8256  
[bab@portlandmaine.gov](mailto:bab@portlandmaine.gov)

On Tue, Apr 25, 2017 at 12:20 PM, Philip DiPierro <[pd@portlandmaine.gov](mailto:pd@portlandmaine.gov)> wrote:

This is the one we talked about yesterday. How shall we respond?

Philip DiPierro  
Development Review Coordinator  
City of Portland Planning Division  
389 Congress Street  
Portland, Maine 04101

Phone [207 874-8632](tel:2078748632)  
Fax [207 756-8258](tel:2077568258)

----- Forwarded message -----

From: **Michael Russell** <[mar@portlandmaine.gov](mailto:mar@portlandmaine.gov)>  
Date: Tue, Apr 25, 2017 at 12:12 PM  
Subject: Re: Hartley Street / Dominos Pizza issue  
To: Mike Murray <[msm@portlandmaine.gov](mailto:msm@portlandmaine.gov)>  
Cc: Douglas Morin <[drm@portlandmaine.gov](mailto:drm@portlandmaine.gov)>, Jonathan Rioux <[jrioux@portlandmaine.gov](mailto:jrioux@portlandmaine.gov)>, Christopher Branch <[Cbranch@portlandmaine.gov](mailto:Cbranch@portlandmaine.gov)>, Stuart O'Brien <[sgo@portlandmaine.gov](mailto:sgo@portlandmaine.gov)>, Philip DiPierro <[pd@portlandmaine.gov](mailto:pd@portlandmaine.gov)>

Just emailed you an update from Doug. Sounds like Phil is connecting with Public Works.

Michael A. Russell, MS

Director  
Permitting and Inspections Department  
389 Congress St.  
Portland, ME 04101  
[\(207\) 756-8008](tel:(207)756-8008) Phone  
[\(207\) 874-8716](tel:(207)874-8716) Fax

On Tue, Apr 25, 2017 at 11:47 AM, Mike Murray <[msm@portlandmaine.gov](mailto:msm@portlandmaine.gov)> wrote:  
Is there any update on this situation? Encroachment onto city property? Notice of violation?

Michael Murray  
Assistant to the City Manager  
City of Portland  
389 Congress Street  
Portland, ME 04101  
[207.756.8288](tel:207.756.8288)

On Tue, Apr 18, 2017 at 1:04 PM, Mike Murray <[msm@portlandmaine.gov](mailto:msm@portlandmaine.gov)> wrote:  
Thanks; just to be clear what is shown in the photo is a defined sidewalk; what one sees today is a continuous stretch of blacktop from the building to the esplanade and is being used by motor vehicle traffic.

Michael Murray  
Assistant to the City Manager  
City of Portland  
389 Congress Street  
Portland, ME 04101  
[207.756.8288](tel:207.756.8288)

On Tue, Apr 18, 2017 at 1:01 PM, Michael Russell <[mar@portlandmaine.gov](mailto:mar@portlandmaine.gov)> wrote:  
I hope you got a pizza while you were there!

Doug will check out light issue. I've copied Doug and Jon.

Public works checked out the sidewalk issue before and I don't recall the outcome. I've copied Chris.

Requiring the addition of sidewalks or curbs sounds like Planning. I've copied Tuck.

Mike

Michael A. Russell, MS  
Director  
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On Tue, Apr 18, 2017 at 12:46 PM, Mike Murray <[msm@portlandmaine.gov](mailto:msm@portlandmaine.gov)> wrote:  
Mike,

Can you have someone take a look at this? I went by today, and Domino's has paved the entire parking lot, including the area where the dumpster is shown, over to the esplanade, eliminating the presence of a sidewalk.

Also, there is a question about lighting and whether there is any infraction.

Michael Murray  
Assistant to the City Manager

City of Portland  
389 Congress Street  
Portland, ME 04101  
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----- Forwarded message -----

From: **Justin Costa** <[jcosta@portlandmaine.gov](mailto:jcosta@portlandmaine.gov)>  
Date: Mon, Apr 17, 2017 at 4:51 PM  
Subject: Fwd: Hartley Street / Dominos Pizza issue  
To: Jon Jennings <[jpj@portlandmaine.gov](mailto:jpj@portlandmaine.gov)>  
Cc: "Murray, Mike" <[msm@portlandmaine.gov](mailto:msm@portlandmaine.gov)>

Jon, Mike,

I received a call from this gentleman earlier this afternoon about an ongoing issue at the intersection of Hartley St. and Forest Ave. I believe there are 3 issues that he is requesting information about. I'd appreciate if you could follow up with him as soon as you can, even just to let him know that you've received my request and will get back to him.

First, it seems like Domino's installed some flood lights in the back of the building that are disturbing him as an abutter. Can we see if these are permissible and if any permits or anything else are required?  
Second, he indicated to me that Domino's essentially eliminated a portion of City sidewalk adjacent to their store and now delivery drivers are utilizing the area behind the store and driving too fast for the area. Again, can we please see if any work was done and if it was all properly permitted?  
Third, he indicated to me that another business (I believe Maine Motor Sales across the street) was required to add sidewalks or curbs to their property. Can we find out if this is true? He apparently knows the owner who is upset about having to do the sidewalk work and feels he's being treated unfairly in comparison to Domino's.

I believe that police have been at this location before, and we may have had inspectors out there as well, maybe six months ago.

Thanks for your help.

~ Justin

----- Forwarded message -----

From: **Todd Peterson** <[sparkplugmedia@gmail.com](mailto:sparkplugmedia@gmail.com)>  
Date: Mon, Apr 17, 2017 at 3:34 PM  
Subject: Hartley Street / Dominos Pizza issue  
To: [jcosta@portlandmaine.gov](mailto:jcosta@portlandmaine.gov)

Good afternoon Justin.

I appreciate your help in this matter.

It is clear that there was a city sidewalk in what is now a completely paved area. You can see this area between the Hartley side of Dominos and Hartley Street. What used to be a sidewalk with grass in-between the building has now been paved completely over and is being used as parking spaces and a thoroughfare between the front and back lots causing employees and customers to drive over what was/is the sidewalk. City officials nor Dominos have provided any official documentation showing permits or approval for the repurposing of this sidewalk. As we agree this was brought to your attention approx. 6 months ago, when it appeared city officials inspected the scene it seems to have not been resolved in a manner constant with other code and permit violations in the area. No action has been taken to remedy the unlawful construction on city owned property.

Also the owner of Dominos was contacted approx. 1 year ago about the installation of flood lights believed to be against code and done without permit and has refused to provide any documents proving the lights are installed legally and with permit.

Again thank you for you attention to this matter,

Hartley Street Resident Todd





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Justin Costa  
Portland City Council, Dist. 4  
[jcosta@portlandmaine.gov](mailto:jcosta@portlandmaine.gov)  
(207) 522-2004

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**Katherine Earley** <[kas@portlandmaine.gov](mailto:kas@portlandmaine.gov)>

Wed, Apr 26, 2017 at 8:40 AM

To: Ann Machado <[amachado@portlandmaine.gov](mailto:amachado@portlandmaine.gov)>, "Thomas, Kevin" <[kthomas@portlandmaine.gov](mailto:kthomas@portlandmaine.gov)>, Mike Murray <[mism@portlandmaine.gov](mailto:mism@portlandmaine.gov)>, "Russell, Michael" <[mar@portlandmaine.gov](mailto:mar@portlandmaine.gov)>

Cc: Philip DiPierro <[pd@portlandmaine.gov](mailto:pd@portlandmaine.gov)>, Rhonda Zazzara <[rjz@portlandmaine.gov](mailto:rjz@portlandmaine.gov)>, Victoria Morales <[vmorales@portlandmaine.gov](mailto:vmorales@portlandmaine.gov)>, "O'Brien, Stuart" <[sgo@portlandmaine.gov](mailto:sgo@portlandmaine.gov)>, Barbara Barhydt <[bab@portlandmaine.gov](mailto:bab@portlandmaine.gov)>

Thanks Barbara -

Staff discussion on April 25, 2017 acknowledged that there is a pedestrian safety problem caused by unpermitted actions taken by the owner of the Domino's site. As Barbara noted there may be an infraction of the Zoning Code that can be enforced.

While that avenue is being researched; DPW suggests that we take action to re-establish the edge of public ROW and sidewalk. To that end our Traffic crews will place delineators\* along a line five (5) feet back from the current edge of sidewalk. (\* these are the 'sticks' that visually and physically cue motor vehicles to go around an area; we often use them to initiate changes in the street.) This should restrict vehicular travel over the sidewalk area.

This action has to wait until weather cooperates, ie the site dries out enough for the delineator bases to stick to asphalt. Soonest could be this Friday, more likely early next week. It is only a temporary action while Zoning pursues the ability to enforce a more permanent action upon the site owner.

Kathi

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**Michael Russell** <mar@portlandmaine.gov>

Wed, Apr 26, 2017 at 11:32 AM

To: Katherine Earley <kas@portlandmaine.gov>

Cc: Ann Machado <amachado@portlandmaine.gov>, "Thomas, Kevin" <kthomas@portlandmaine.gov>, Mike Murray <msm@portlandmaine.gov>, Philip DiPierro <pd@portlandmaine.gov>, Rhonda Zazzara <rjz@portlandmaine.gov>, Victoria Morales <vmorales@portlandmaine.gov>, "O'Brien, Stuart" <sgo@portlandmaine.gov>, Barbara Barhydt <bab@portlandmaine.gov>

Thank you, Kathi and Barbara. Ann - can you please let me know if there's a zoning enforcement option?

-Mike

Michael A. Russell, MS  
Director  
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