

Councilor Dwyer had a long list of topics and she understood that some items would be taken up in other places. She would like to look at the CBA to review for height and a more complex interplay of dimensions. Other general topics that she noted from looking at the Master Plan were other ways to address affordability and the notion of historic buildings rather than historic districts. Mr. Taintor felt that was interesting and should be pursued at the October meeting. Councilor Dwyer mentioned the value of public space, not only open space, where the public has access as this was evident as a theme in the Master Plan. She also mentioned economic viability of more office research space. She sees that being encroached upon, for understandable reasons. They need to weigh whether they want more low paying retail jobs vs. high wage office research professional jobs.

Deputy City Manager Hayden asked if Councilor Dwyer was referring to public space being required in, for instance, a new mall, with some sort of incentive for the public to gather? Councilor Dwyer felt that would be one example. Deputy City Manager Hayden asked exactly what was she referring to when she mentioned the CBA district and said it was more than a height issue? Councilor Dwyer indicated the relationship of buildings to each other. It's difficult to talk about these items without discussing form based zoning.

Councilor Dwyer felt that the waterfront access was mentioned in the Master Plan as a top priority. Also, interest in using corridors more for mixed income, multi family, as well as transit and open space. The whole bike and pedestrian issue is also very important in the Master Plan.

Mr. Taintor asked about reactions to Chapter 5, relating to restructuring and Exhibit B. Mr. Taintor would like to put definitions in the back but they are traditionally in the front. Mr. Coviello felt they should definitely be in the front. Mr. Will felt that off site impacts are very similar to Site Review criteria. Electromagnetic interference has been added, which wasn't probably a big concern in 1982, but other objectionable features should be included to allow the Planning Board some flexibility and help protect adjoining properties.

Councilor Dwyer asked why the last article was the PUD? Mr. Taintor pointed out that was the existing ordinance.

Mr. Taintor referred to the definition sections again and noted that they need to make sure they consolidate them and there are no conflicting definitions.

Mr. Hopley referred to the new Appendix B concept of grouping the special and overlay sections together but he asked if they get lost because they are after the performance and development standards? Mr. Taintor felt he was probably right and they should go before and maybe be Article IV.

Councilor Dwyer asked if they could follow Special Districts with the Alternative Development section?

Mr. Holden referred to the Standards on page 8. They did have some discussion about adding stormwater. They need a reference in the Zoning Ordinance that stormwater flow cannot affect the flow on adjacent property. Mr. Holden indicated he would like to keep an eye on that one as it often only gets triggered by a violation.

Mr. Coviello asked if glare is also light pollution on an abutters property. Also is storage also snow storage? Mr. Holden mentioned that the snow storage came up from the Planning Board as part of Site Review. That would be something to look at.

Mr. Taintor asked if there was anything further about Sustainable Development and Smart Growth (Page 9 & 10) He felt they need to determine how much of the environmental issues go to the Zoning Ordinance vs. Site Review.

Council Dwyer asked Mr. Taintor to articulate what belongs in Zoning and what belongs in Site Review?

Mr. Taintor felt zoning relates to uses and intensity uses and more permanent things on a large scale. Site Review is a more micro-scale and makes sure Zoning regulations are addressed and also interprets the quantitative requirements of the Zoning Ordinance. (ie, required number of parking spaces). Mr. Holden added that zoning and site review regulations have to work together. Attorney Sullivan stated they could lower the threshold on Site Review. A third source of municipal authority is police power which, in general, regulates things to make people be good neighbors to each other. An example is noise. The major disadvantage to zoning is that it gets to remain in existence and is grandfathered. That does not apply to police power. There are tradeoffs for each scenario. Mr. Holden felt that the Zoning Ordinance has been relatively easy to amend so sometimes it's hard to recognize why some elements are there.

Mr. Will referred to the definition of "household pets". There was a reason for the old definition. Also "roof appurtenance" should stay as it is not a common term. He felt they should step back and find out why these ordinances are there so that they don't have the same problem as they did before.

Councilor Dwyer felt there are terms associated with affordability that should be added.

Mr. Holden indicated that the term "contiguous" became a problem with a PUD and that should be clarified. Also "depth of lot" can be confusing. He felt the Board should give them some direction on this. Also, "mobile home & modular buildings" should possibly be separated.

Mr. Taintor moved on to Page 18, District and Use regulations. These are questions that they need to pursue regarding affordable housing, live/work issues, the broad issue regarding historic neighborhoods that they want to preserve, office research districts, incentives for higher wage industries. Mr. Holden stated that MRO and MRB were a combination of an old district. They now need more life and they would be a viable tool.

Deputy City Manager Hayden stated that tent sales are a recurring issue for the City. Attorney Sullivan felt that could be regulated in another way. Mr. Will felt they should consider which they can consider putting under police powers. Mr. Taintor felt it may seem like they are expanding their scope. Mr. Hopley added it would then be a question of who would enforce them. Chairman Ricci asked if they were still zoning items then? Mr. Taintor indicated that was a good question.

Mr. Taintor went on to the Dimensional Requirement Section. They looked at the lot size in different districts. There is hesitation to reduce lot sizes. They are looking at a special grandfathering approach for some lots however they would have to be very careful with it. They hope to get a lot of issues out of the BOA.

Deputy City Manager Hayden stated the Northern Tier is an area they need to look at. Mr. Holden felt they could add mass to the regulations. Chairman Ricci felt that mass would have to be clearly defined. Mr. Will felt that would be an appropriate place to address building heights.

Mr. Holden asked if they should add a spot regarding different types of open spaces? Deputy City Manager Hayden asked if there was a better terminology than open space such as greenery open space vs. people open space.

Deputy City Manager Hayden felt that downtown sculptured rooftops need to be better defined. Ms. Roberts mentioned that solar dishes are appearing on downtown rooftops.

Mr. Taintor went on to Supplementary Regulations. Drive through uses are an issue and need to be identified. Other uses are non-conforming uses, accessory buildings, uninspected vehicles being stored

on a lot and day care uses. Deputy City Manager Hayden felt that they have already done a lot of work on the drive throughs.

Mr. Taintor continued on to Performance Standards which would address landscaping, noise, lighting, stormwater management design and sustainability. Deputy City Manager Hayden asked if landscaping needs closer review for better maintenance. Maybe using native species that require less water and maintenance.

Mr. Coviello asked when a white roof has actually come in on an application? Mr. Taintor indicated it was raised at one of the hearings. Deputy City Manager Hayden remembered Chairman Smith bringing that up at a hearing but she felt it has to be accepted by the City and they weren't there yet. It could be encouraged.

Councilor Dwyer had a question of building materials as she felt that interacts with dimensions and mass. Mr. Taintor doesn't feel it would be in zoning. They will later look at design standards. Deputy City Manager Hayden stated they can look at incentives for applicants to use sustainable products. Mr. Coviello mentioned they could encourage LEED certification.

Mr. Will mentioned landscaping. There was a case where trees were cut down and never replaced and he asked who enforces that? Mr. Holden stated it quite often depends on the land owners respecting their obligations and honoring their responsibility.

Mr. Taintor moved on to the next sections dealing with environmental impacts and protection of the inland wetlands. Mr. Britz explained that the Rockingham County Planning Commission did some research on regional habitat movement and they have done a lot of mapping. One thing that they don't really have is a clear definition of all of the good upland wildlife habitat areas and habitat movement through corridors. They will be looking to see what the municipalities could incorporate by way of ordinance to protect some of those important corridors. Most of Portsmouth's open space is wetland so we are in pretty good space. They will be looking at stormwater management in their new Phase II Regulations to better control the Clean Water Act. Stormwater is the #1 pollutant now.

Mr. Coviello referred to the Flood Plain Development. A lot of people don't know the requirements so houses are built where they shouldn't be. Mr. Hopley stated that the City is mandated to include that section in the Zoning Ordinance by the federal government.

Mr. Taintor stated that signs are a huge issue. Chairman Ricci felt there was a problem with signs that look like flags. Mr. Holden felt that one issue is the enforcement issue. He asked whether the City wants to continue to have a very restrictive sign ordinance or do they view that they are not strict enough? Deputy City Manager Hayden did not feel that they were restrictive enough, especially in the commercial areas outside of downtown. Mr. Taintor asked whether they should change their zoning to match enforcement or change their enforcement to match zoning? Ms. Tillman stated that the BOA has been very strict against signage. The new signs are easy to deal with but there are properties which are grandfathered which can be problematic. Mr. Taintor asked if there were strong reasons to keep signs in zoning? Mr. Will felt there should be a distinction between signs and banners. The real complaints come with the temporary items and maybe there should be a special permit for a temporary sign. Chairman Ricci's two issues are temporary signage and the bigger issue is enforcement.

Attorney Sullivan indicated that he fights signage every day. Temporary signs are illegal and quite frequently are in the City right of way. The only exceptions are real estate signs and election signs. A person could work full time enforcing the problem. There is also the burgeoning complex issue of the First Amendment, which will be problematic.

Mr. Hopley felt that the issue of moving and flashing signs can be a big issue. The reality is that technology has advanced and they need to take a good look at it. There was general consensus that

moving and flashing signs needed to be highly regulated. Mr. Taintor stated they can limit the frequency in which they can change a message.

The discussion skipped over Article X and XI and continued with Off Street Parking and Loading. They need to figure out how to address downtown parking and the impact on the small business tenant. Also, the existing regulations have some conflicting information which needs to be addressed.

Mr. Savramis mentioned function halls and felt they should consider valet parking rather than using occupancy to determine parking spaces. They should also consider shared parking as with the recent Knights of Columbus building. He did not feel that the City should be building more and more parking lots. Mr. Holden added that the zoning and building codes also need to work together which can complicate things.

Mr. Will mentioned the parking impact fee and intermodal credit which has recently gone from \$500 to \$1,200 per space. This is quite an impact on the smaller operations. They need to look at what works and what doesn't and step back and look at what works as a whole. Chairman Ricci felt they could do something that dovetails towards the smaller business owner. Mr. Will could see problems with that also because there are so many small businesses in downtown that it might create a huge parking deficit.

Mr. Taintor indicated that the section entitled Administration deals with grandfathering questions, non-conforming uses, issues regarding the inspection process for large projects, and details in the approval process are spelled out more clearly. He also mentioned that they would like to try to get some of the unnecessary things out of the BOA.

Mr. Coviello brought up abutter notification. He indicated that renters don't get notified. Deputy City Manager Hayden stated there were administrative challenges regarding that and Attorney Sullivan added that City Hall only has records for property owners. Mr. Coviello pointed out that the BOA posts a sign but the Planning Board doesn't. Mr. Taintor stated that other areas out of New England quite commonly post signs for public hearings. Of course, you would not have as many renters in some districts. Mr. Holden stated that the more people you notify, the more chance there is to be challenged and it starts to create problems. It would be easy to have applicants post signs. Chairman Ricci added that groups and associations that have an interest in particular things should be encouraged to check the City website for applications.

Mr. Taintor felt that Advisory Referrals to the Planning Board could be removed from the Zoning Ordinance and Innovative Zoning is something to look at. Infrastructure Issues Not Adequately Addressed in the Current Ordinance should be looked at and should probably go somewhere else.

The last section was Nonconforming Uses and Lots. They identified areas that may have some conflicts which they should look at more closely.

Deputy City Manager Hayden confirmed that the remaining sections would be discussed at the next regular meeting on October 19, 2006 at 6:00 pm – 7:30 pm.

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Chairman Ricci indicated that they would move on to a discussion regarding the Re-Write of the PUD. New materials were handed out which were identified as "9/28/06 Working Draft"

Also present were Bryan Wyatt, Executive Director of The Housing Partnership and Sharon Somers, Esq., council for The Housing Partnership.

Mr. Taintor reviewed the changes. At the bottom of Page 1 they changed the minimum lot area required.

On Page 2 it was staff recommendation to exclude Day Care and Home Occupational II uses due to density.

Item F was changed back to what they had before, back to a minimum lot area for base density.

Item G., Residential Density Incentive Computation. They discussed whether it was necessary to differentiate between affordable units. This gives the developer more freedom. This also complies with the Master Plan. Mr. Will asked what are they thinking regarding creating rental property? How does it affect the marketability or buildability of these units? Would it be more or less attractive? Mr. Taintor felt the City would place rental and re-sale restrictions on the deeds and that would be defined in the rental agreements. Deputy City Manager Hayden indicated they have a Multi Family Rehab Program where they have those restrictions.

Item H., "Maximum" has been inserted.

Mr. Taintor referred to the maps which were handed out. They show all parcels in GRA & GRB districts and are identified as pink and blue. All lots over one acre are identified in yellow. The northern part of the map in Atlantic Heights has 3 large lots. 24 lots would qualify now for the density bonus.

The table which was handed out shows what the impact is of any type of theoretical lot adopting the density requirement. There is one table for GRA and one table for GRB. GRA would allow 5 units on 1 acre going up to 60 units on a 10 acre lot. Also included in a second table are environmental constraints which effects the number of units allowed. A 1 acre lot with no restraints would allow 8 units. If 10% of the lot is restrained, then 7 units would be allowed, and so on. The third table shows the net impact with a maximum bonus density.

Based on the numbers for The Housing Partnership lot, using the density bonus, the maximum they could get on their lot would be 34 units.

Mr. Will indicated that he enthusiastically supports this proposal. He would like to see this brought to a public hearing. Councilor Dwyer agrees but asked about expanding to more districts and how will they proceed with that? Mr. Holden indicated that other districts are larger so those need to be reviewed separately. Mr. Will felt they need this template first and then they can add other districts to the affordable housing consideration.

Chairman Ricci asked if there was consensus of the Board to bring this to a public hearing next month and the Board was in agreement. Mr. Holden confirmed that they could have a public hearing at next month's meeting however he recommended one change, on page 3, line 19, they have had problems with building a fire wall so they should add a free standing building so that buildings couldn't be separated by just a fire wall. The intent it to add six units that are free standing rather than six units separated by a fire wall. Also, in the GRA and GRB it's no more than four so this is what allows for the additional bonus to happen.

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II. NEW BUSINESS

- A. Report back from Conservation Commission Representative on Prime Wetland Study.

Mr. Britz advised the Board that the City has hired Mark West, of West Environmental Services. Mr. West attended a Conservation Commission and Planning Board work session and gave an update. The Board members requested more information and wanted to take a closer look at some of the wetlands so they are coming back with a substantial plan and they will have another joint meeting at which time they will look for a recommendation. They got a lot of really good information and they are still working on it.

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III. ADJOURNMENT

A motion to adjourn at 8:10 pm was made and seconded and passed unanimously.

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Respectfully submitted,

Jane M. Shouse
Acting Secretary for the Planning Board

These minutes were approved by the Planning Board on October 19, 2006.