

**MINUTES OF
WORK SESSION**

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

**EILEEN DONDERO FOLEY COUNCIL CHAMBERS
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

7:00 P.M.

APRIL 5, 2007

MEMBERS PRESENT: John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Richard A. Hopley, Building Inspector; Raymond Will; Donald Coker; Anthony Coviello; Paige Roberts, and Timothy Fortier, Alternate;

MEMBERS EXCUSED: Jerry Hejtmanek, Vice-Chairman and Cindy Hayden, Deputy City Manager;

ALSO PRESENT: David M. Holden, Planning Director
Rick Taintor, Taintor & Associates

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I. ZONING ORDINANCE REVISION PROJECT:

- Building and site design considerations;
- Form-based Zoning;

Chairman Ricci turned the meeting over to Chris Eaton and Rick Taintor, from Taintor & Associates. One month ago they handed out some materials, entitled "Uses", and this work session was to help the Board see what a form based ordinance would look like.

He asked for questions and responses to the "Uses" material from last meeting. Councilor Dwyer liked the overall concept but in practice, she felt it was problematic for people to get hung up on the diagrams and photos because they misinterpret the flexibility. Mr. Taintor understood that one photo is not representative and therefore the plan view and diagramic views must be very clear and he would like to see multiple diagrams. Ms. Eaton felt that as they work through the memo today and get input, they will better answer that. Some things are regulations such as the building location, windows, etc. They realized they had to have this step before they brought in any ordinance language. There are diagrams and table list regulations that are prescriptive. Councilor Dwyer asked how will people incorporate the HDC items or do they not try to get that into this form based format? Mr. Taintor stated they were not thinking of using this in an HDC district. It is an alternative to the HDC.

Mr. Coker asked how does this differ from their existing zoning? They have front set backs, building height, parking requirements, etc., or does this replace what we have? Mr. Taintor indicated that the concept is to replace what they have. This would be an overlay district. One way it really differs is it is prescriptive. Height has a minimum and a maximum and it is less attentive to uses. More attention will be given to how the building relates to the street and less conservative about what goes inside the building. Mr. Coker asked if it is more lenient? Mr. Taintor responded that it was not but it is more flexible to use but more restrictive to the shape of the building. Mr. Coker asked if it gives the process

more leniency on what goes into a particular place than the present zoning ordinance? Mr. Taintor confirmed that was correct.

Ms. Eaton indicated that she structured this as four big picture items for their comments and there were four questions on first page of the memo:

1. What are the primary types of form-based districts and what do they look like?
2. Should the form-based standards be optional or mandatory?
Will mixed-use buildings be required or permitted:
3. What uses are appropriate for each type of form-based zoning district?
Should the existing table of use regulations apply, or can use categories be simplified for the form-based option:
4. Should the form-based approach be implemented as an overlay district or a separate “base” zoning district?

Moving to page two & three of the memo, she reviewed the primary types and where they might be. Commercial corridors to talk about are the Islington & Lafayette (Route One) corridors. They can also talk about residential. Are they going to be linear or nodal, which means they are centered around a center of activity or an intersection or a neighborhood. A corridor is a larger scale area, with wider rights-of-ways, higher travel speeds and a different type of commercial activity. She broke them down into the characteristics and examples of locations for each of these types.

An example of a neighborhood district is Islington Street, downtown, or the Northern Tier. These are areas with relatively slow vehicle speeds and narrow streets. They listed vehicle volume and vehicle speeds, on street parking, and commercial activity. Woodbury Avenue is also a potential corridor as a shopping center area, to be called northern Woodbury Avenue. Before they get to the recommendation of where to apply these, she asked if these are the correct locations to apply these?

Mr. Coker felt that Islington Street has been called a corridor but she labeled it as a neighborhood. Ms. Eaton indicated the names can be changed if they are confusing.

Mr. Coviello asked what limits are they talking about? Islington Street starts at Congress but goes how far? Mr. Taintor responded it goes to the by-pass. But, that’s a good question, how far would they cover? Mr. Coviello added he would add from the same intersection on Woodbury to the by-pass.

Mr. Will stated that City Attorney Sullivan alluded that they could not mix two types of zoning and they might want to look at overlays. Islington Street and downtown have a lot of historic buildings. Builders are more likely to tear a building down and rebuild so that might be the best places to start their overlay districts to see how it works. Councilor Dwyer felt that was an interesting point but she doesn’t agree with it. Looking forward, changes that are coming to downtown, Islington Street becomes a different corridor and a different set of nodes. Islington has nodial things as well as corridor things. Ms. Eaton stated that is what the neighborhood is meant to reflect. It will come down to whether this is required or applicant driven. They will discuss this further in the meeting.

Mr. Coviello asked if the forum can change in a linear path? Ms. Eaton responded that yes, they could add corner standards for example. They haven’t done a full list of the standards. Mr. Coviello felt that Islington to Bartlett would be a different form than Bartlett to the by pass. Mr. Holden indicated that, taking the table, what he sees distinguishing the corridors that is not addressed adequately is the width of the corridors. Also, speeds are normally higher than the posted speeds. Ms. Eaton agreed width of rights of way should be added.

Ms. Roberts asked about the philosophy behind the form based zoning. Is it design vs. use and is there an assumption that mixed uses will happen within the various districts and is that a goal? Ms. Eaton

responded there is a range of things they can regulate and mixed uses is one of them. They are trying to remove any obstacles. Item 3 talks about simplifying the use table.

Ms. Eaton stated they do have two different goals with these two locations. Islington Street is to protect and enhance but Lafayette Road is to change and enhance.

Councilor Dwyer noted there isn't anything about landscaping and positioning of the buildings. They like that on Islington and that might be an entry they should consider. Ms. Eaton indicated that is included elsewhere.

Ms. Eaton felt they will have to look at Maplewood. Mr. Holden added that a good part is in the Northern Tier and it is one of the primary corridors.

Moving to the second question on page 4 of the handout, whether form based standards should be optional, meaning at the applicant's option or they could default to the base district they are in, or should they be mandatory? Secondly, should the form based districts overlay be mapped and the requirements in them be applied to all properties? Chairman Ricci asked what are the pros and cons? Ms. Eaton felt this is part of a balance. It is balancing the desire to protect or change the character as a goal and how much they would like to see that goal attained. The risk of having the applicant option is that you may not see that goal achieved. You would risk less of a higher success rate. Mr. Taintor reminded them that the Zoning Ordinance has been restrictive in the past. Mr. Coviello asked Mr. Holden if he thought Attorney Sullivan will have heartburn over the form based? Mr. Holden felt they will find the right balance. Mr. Will thought by making it encouraging rather than optional, they will have to have a base of what is required. He felt they should give people a chance to do their thing. Chairman Ricci indicated that is what they did with the Northern Tier. He likes to have the base along with the flexibility.

Ms. Eaton directed their attention to Table 2A & 2B, showing types of standards they are contemplating and what the standards might be, breaking down a neighborhood vs. a corridor. They list out incentives which are optional.

Ms. Eaton discussed Table 2A. One standard is Build-to line, or maximum set back line. That is measured by a percentage of the building frontage or the façade at that line. 75% of a building has to come up to that line in a neighborhood and 50% in the corridor. She stated that 75 – 80% is typical for a main street development. This is completely different from current set back requirements. Ms. Eaton stated that this was illustrated in the standards from South Weymouth. Mr. Holden asked if 75% of building frontage is the maximum, why would they then set up a line where they would have 50%? Ms. Eaton explained that they would have an option that was less strict and this was basically for discussion. She doesn't want to debate the numbers but rather wants to discuss the standards.

Mr. Coviello always assumed parking was in front of a building for security concerns. Ms. Eaton had not heard that. She had heard retailers do not like to have two doors, with one in behind. Mr. Holden stated there was no real issue there. Ms. Eaton felt, for the corridor, location of parking is extremely important to change the characteristic of the corridor.

Councilor Dwyer was interested in whether any of these work with traffic calming? Such as transparent windows or certain kinds of landscaping. Are there any standards they can consider? Ms. Eaton indicated that a lot of this was oriented towards pedestrian traffic. Councilor Dwyer felt that traffic is always going to be a big issue for the City.

Ms. Eaton stated that a minimum building height is completely new. This is to maintain the feel along Islington Street. 22' is a standard height she has used in the past for mainstreet shopping areas. It is important for the neighborhood but not for the corridor. Mr. Coviello felt that a single story building at 22' is rather ugly and stark. Ms. Eaton referred to Page 9 which illustrated a one story building with a

2nd story façade in the front so that it has the appearance of a second story. Mr. Will asked if form based zoning would allow for more so it wouldn't look stark. Ms. Eaton felt the reason to do this in the neighborhood, thinking of Islington Street, there is a cornice line that already exists. Mr. Holden stated that it probably isn't an issue because no one wants to build a one story building. Mr. Taintor referred to Newmarket that has some incredible buildings and they put in a one story post office and it looks like a huge gap. This is meant for someone who wants to put in a retail store, i.e. Blockbuster. Mr. Holden added that this is just a starting point and they have a long time to change them. On a corner lot, they might want to encourage pedestrian space. Chairman Ricci felt they may want more pedestrian space at an intersection lot or a corner lot. Ms. Eaton mentioned that she has pedestrian amenities required in both districts. Ms. Roberts asked about outdoor space. The Board has talked about this in other contexts and about not encouraging open space that is a "dead zone" but rather outdoor open space that is enclosed with a fence seems to be more successful. Ms. Eaton felt one thing for the Board to think about is that the form based and prescriptive approach assume you are allowing some things outright and not with a discretionary review. These standards will try to generalize what they are trying to do. If they want to add discretionary design review, that's another subject. They could include outdoor space but it's difficult to quantify that.

Ms. Eaton moved on to incentives. She asked if they are they leaving anything out? They have listed residential density, maximum building height, lot area, lot width, structure coverage on lot, continuous street frontage and yard dimensions. Mr. Coviello asked about allowing less parking? One goal of the community is to make it a walking community. An incentive would be to give up a parking space. Mr. Will felt that form based zoning allows them to do user friendly things. They need to give them an incentive. Mr. Holden felt that parking for residential units was very valuable and those two things are not going to go together.

Mr. Coker asked if they could step back. He was concerned about the unintended consequences as developers now look to see how they can make the most money. He asked, in terms of direction, does this make sense? He's having problems visualizing the conceptual concept of this. Now it's more like "Let's make a deal". Ms. Eaton felt that the basic question is can they opt in or is it required of everyone. Once you opt in you must do all of the standards plus you have access to the incentives. Mr. Taintor felt that maybe if this is mandatory, they need to eliminate the incentives. The question comes when they talk about the optional side. Mr. Coviello liked the optional. Maybe they could devote an incentive for less parking for a business and an incentive for more parking for residential. Ms. Eaton noted that Lafayette Road builds more parking than they need.

Councilor Dwyer liked the idea of mandatory concepts within the corridor and the based plus incentive for the neighborhood. They have to consider how this will affect other sections of the community. She would like another incentive item related to parking which would be building parking garages instead of taking up open space in the corridors. Mr. Holden felt that she draws a very good distinction. The corridor has had years of the one acre zoning so now they could try a change.

Mr. Coker likes optional with incentives and then leave the optionals up to the applicant. Mr. Taintor stated that in Acton, Massachusetts, they did re-zoning of residential areas and they doubled the minimum lot size of all undeveloped area so it was an incentive for clusters. In 8 years they protected 400 acres of open space.

Ms. Eaton summed up that she had heard parking as an incentive with the caveat about distinction of residential and commercial and attention to former lots and pedestrian oriented amenities. They are recommending that they have a mandatory corridor but optional Islington neighborhood corridor. Mr. Holden added that she is assuming a redevelopment so Islington Street will be a very slow process. Mr. Taintor also added except the area around Bartlett and the railroad tracks. Councilor Dwyer felt that the development downtown will change the value to property dramatically. Ms. Eaton felt that another way to look at this is like the Downtown Overlay District. One important thing in form based is to look at how that is applied. It applies to everyone. Councilor Dwyer felt that is why the baseline

concept is so important. The Master Plan stressed bicycle and pedestrian access down Islington so those cannot be made optional. Ms. Eaton asked if in the list of standards, what would be the base? Councilor Dwyer confirmed pedestrian amenities and a build to line item. Mr. Will added building orientation. Councilor Dwyer disagreed. Some, by their age, are not set to the street. She would not include that. Mr. Will stated they can have regulations that allow variations to building orientation. Mr. Coviello suggested a different list for different areas. Mr. Will felt that if they were talking about overlays, then it would be site specific. Mr. Holden disagrees and felt that would increase development on Islington Street however Islington Street has been doing quite well for 200 years.

Chairman Ricci thought it may be better to have specific work sessions for each area. They are trying to discuss different areas which require different standards. They should do Islington Street separately.

Mr. Taintor asked where density was on the RFP for the corridor study Islington Street study? Mr. Holden stated they were working on it. He believes the Board all sees some good in this approach and it's going to be in the details. Ms. Eaton confirmed they will be holding meetings with the property owners and the public. Mr. Coker asked if they will they do something like Portsmouth Listens? Mr. Taintor confirmed that was correct. Mr. Will stated that they deal with the Zoning Ordinance every day. Some people are unfamiliar with it. Maybe they could meet with people in different areas about the area that will affect them, without having to talk about the history of zoning.

Councilor Dwyer indicated that their discussion has convinced her that they cannot deal with different neighborhoods the same way.

Ms. Eaton asked the Board to move on to Item #3, on pages 6 & 7, dealing with what is appropriate for each type of form based zoning district. Also, should the existing table of use regulations apply, or can use categories be simplified for the form based option?

This gets to the basic way of regulating zoning. They are proposing in the form based approach to blend those two. The building forms are linked to the districts that are present in the Islington and Lafayette Road corridor. These are, in addition to design standards and site standards, the uses that should be simplified and apply the building form in the way of the table in her handout. Ms. Eaton walked them through an example regarding the Lafayette corridor. A property owner wants to build an office supply store with a big red and white sign. He also wants to put in a Starbucks and a spa and a hair salon. He says his use will be retail. If this is in the formed base district and it is required, with no choice, he must bring the building up to the street, parking has to be located behind or to the side, the anchor retail is the primary use and is permitted in GB, OR or B. He then has to go back to the standards. There might be incentives such as height so that he could build residential on top. The basic location would have to be different and would have to have 50% up to the building line, he would have to provide pedestrian amenities, he would have to have the primary entrance oriented to the street or a corner, he would have to have a minimum of 50% transparency on the windows. Mr. Coker asked what transparencies were? Ms. Eaton explained they were windows.

Ms. Eaton referred them to a second example, on the next page of the handout. This Use Table is very different as the current Zoning Ordinance Use Table is over 50 pages. Uses are not as important.

Mr. Taintor stated that this does show how it does complicate the Zoning Ordinance. This is an overlay option. Within the constraints they have, they want to make it as simple as possible so that it is not so different from the rest of the ordinance. Many uses will be defined in the revised ordinance. Ms. Eaton believed that the simplified uses are an incentive to development because it is not caring so much about whether it fits or not. It could be a Starbucks or it could be a Spa.

Mr. Coviello was trying to "wrap his head around this" and asked about an example. There is a vacant lot at the corner of Dennett and Woodbury, currently zoned residential and the property owner was trying to put a museum in. Does this mean they are not as concerned about what the use is? Ms. Eaton

indicated they have not outlined the form standards for the residential districts. Using the same example on Islington Street, regarding an apartment and, lets say for the sake or argument that museums are not allowed. The concerns would be the building type or building form and what they care about is that they match the district. They care about the uses but less. Mr. Coviello has concern about the buffers where they changed it from office use to residential. Ms. Eaton felt that is why this is doable for specific areas they are discussing, but not residential.

Councilor Dwyer asked if going in this direction would have effect on the overall way they look at uses? Would it help them with non-overlay district uses? Ms. Eaton felt if they go in the direction of simplifying the overall use table, it will not be this simple but they will correlate the meanings. Mr. Taintor stated that in the current ordinance the use regulations are defined so they include hours of operation and dimensional requirements. He is trying to separate those things out to simplify the use table. The actual process of creating the building forum replicates the idea of limiting occupancy in restaurants and bars, having certain size thresholds may have an analogy there. They are working to merge the two together.

Mr. Will indicated he would like to see them include some of the items that they added over the years to protect the City.

Mr. Coviello asked what is an apartment podium? Ms. Eaton indicated that is not a distinction that they need in Portsmouth. It is a different construction type.

Ms. Eaton referred them to the bottom of Table 3, Assisted Living. This is an example of how this is permitted. In all of the base districts there are no form cuts for it, either principal or secondary use. Therefore the design standard defaults to the underlying district but it is put in clearly as a permitted use. There are a variety of items they can handle like this.

Ms. Eaton asked for comments about whether this makes sense? Ms. Roberts felt it made sense although there are things they should add and change. Museums need to be addressed. Mr. Will felt the conversation might have gone smoother if they addressed whether this was an overlay or form based zoning. A lot of form based zoning is very site specific. They need to have a specific work session for Islington Street so that they are all on the same subject.

Ms. Eaton felt it was important to have this introductory discussion. Each discussion is going to become more and more detailed. She referred the Board to Pages 8 & 9, which asks whether the form based approach should be implemented as an overlay district or a separate "base" zoning district. They wanted to come to the Board with these open ended ideas. Ms. Roberts felt that because this was #4 rather than #1 they have been led, every so gently, to one take on this. Chairman Ricci indicated that he would like to get through this and wrap up with a consensus. They will need to get public comment but they need to get on one track.

Ms. Eaton referred the Board to pages 10, 11, 12, which covers streetscape standards and the importance of design of right of ways. These are things where there are different approaches. This is an instance where form based districts are linked to how a right of way is designed. She included illustrations.

Page 12 was a photo illustration of corridor improvements. They may not do bike lanes or a median but it does make a difference on how the actual right of way is designed.

Chairman Ricci wrapped up the meeting. He felt the next thing was to have a separate work session to narrow things down and Islington Street should have a separate meeting. They need to defend what they have worked with so far. Councilor Dwyer felt it was important to have good visual support for

the next stage so they can refer to it. Maybe a powerpoint presentation? They need to have ideas of how to break it up for discussion purposes. Chairman Ricci suggested a site walk some night.

Chairman Ricci added that he would like to see a separate striped bike lane in Portsmouth. Mr. Coker agreed.

Mr. Holden asked if they are emphasizing an overlay? The Board consensus was that it was still under discussion.

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II. ADJOURNMENT

A motion to adjourn at 9:00 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 May 17, 2007.