

**MINUTES OF
JOINT WORK SESSION
PLANNING BOARD AND HISTORIC DISTRICT COMMISSION
PORTSMOUTH, NEW HAMPSHIRE**

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

6:30 P.M.

MAY 2, 2013

MEMBERS PRESENT: Planning Board: John Ricci, Chairman; Anthony Blenkinsop, Vice Chairman; Nancy Novelline Clayburgh, City Council Representative; David Allen, Deputy City Manager; William Gladhill; Karina Quintans; and Alternate Elizabeth Moreau
Historic District Commission: Joseph Almeida, Chairman; Tracy Kozak, Vice Chairman; Esther Kennedy, City Council Representative; John Wyckoff; George Melchior; Alternates Dan Rawling; Reagan Ruedig

MEMBERS EXCUSED: John Rice; Richard Hopley, Building Inspector; Richard Katz

ALSO PRESENT: Rick Taintor, Planning Director; Nick Cracknell, Principal Planner; Juliet H.T. Walker, Transportation Planner, Mayor Eric Spear, Assistant Mayor Robert Lister

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I. WORK SESSION

A. Downtown Form-Based Code project

Planning Director, Rick Taintor pointed out a signup sheet for information, along with handouts in the back of the room listing the June meetings for the Form Based Zoning project. Mr. Taintor also announced an updated website for Planning Department information at www.planportsmouth.com, and walked the group through the page set up, highlighting the Land Use Application, Regulations, Ordinances, Amendments, Forms and Fees links. At the lower left there is also a box linking Twitter feeds for Plan Portsmouth and Form Based Code (FBC) Portsmouth. There is also a Planning Board section with links to all land use boards, to meeting calendars, agendas, procedures applications and plans, noting that electronic submissions will be required for significant projects.

Brian Wright, Principal of Town Planning and Urban Design Collaborative (TPUDC) was invited to assist the Historic District Commission (HDC) with some of the planning and zoning issues in the downtown area. Mr. Wright lives in Franklin Tennessee, which shares some characteristics of Portsmouth, and what he calls his living laboratory. Mr. Wright introduced his colleague, Kara Wilbur from Gardner, Maine.

Mr. Wright showed a map of the study area outlined in red, and said he likes to look holistically at what is going on when looking at a planning process. Society, technology, economy, and the environment, are all intertwined and interconnected, and impact one another. He said it is important that any model they use is within the context of the community they are working with, and they look at a city's assets and what is already working well when they start a project and are considering creative solutions to problems. As an outsider coming into town they looked at the picture postcard moments, a great skyline, amazing streetscapes, hidden gems of activated alleys, and iconic buildings that face the working waterfront, which many cities haven't figured out that the water is a resource, art, shops, many restaurants, and a farmers' market.

As a planner, they look at the history and layout of a city, and said Portsmouth is one of the coolest places they have worked as it is much like the kinds of places they use as models for study. The photos Mr. Wright showed were taken by local photographer, Phil Cohen. Right now they are in the early stages of learning about the City and interviewing people about some of the architectural issues like massing, scale, historic preservation.

They have been asked to walk through the basics of form-based zoning, which looks at form and character as the key components instead of looking at a City in the conventional format, separating areas by use. They look at the character, feeling and look you get when you walk down the street. They also look at existing zoning. Many municipalities have numerous zones for business, commercial, residential, and the differences are very slight and perhaps unnecessary, for instance distinguishing different kinds of bakery goods. Portsmouth only has two zones in the downtown area, so there may not be much need for consolidation, but there may be a need for some subzones for some of the unique variations.

Mr. Wright said they don't want to arbitrarily apply what they've done in other towns to this city so they go through a synoptic survey, looking at the setbacks, street widths, sidewalk widths, etc. The Portsmouth Planning Department has helped them with this process in an amazingly detailed way that no other place has done. Formal coding tends to homogenize an area, but a form-based approach is more graphical. They look at thoroughfares, building types, roof lines, civic spaces, open spaces, streetscapes, frontage, and find for instance that different setbacks add variation and character. The synoptic survey provides a reference for character zones such as a *natural zone* of untouched wilderness and preserves, *rural zone* which is agricultural, farmhouses, etc., *sub-urban zone* with single family, detached houses on larger lots, *general urban zone* with some commercial uses, corner stores, some with people living above, row houses, but still some detached single family houses, *urban center*, which is more intensely commercial, and the *urban core zone* which may not be applicable to Portsmouth.

After an on the ground analysis, TPUDC goes through a week long process open to the public for a week called the Charette Process, asking everyone, including citizens what they want. First they host a kick off presentation open to the public for discussion. They then break into smaller groups of 6-9 per table for those that don't feel comfortable speaking in a large group. While all this is going on, the team is listening, helping people to listen to one another, as well as working and designing from people's ideas. Then they close the Charette presentation to show all of the work that has been done before they go on to work on the final plans. Mr. Wright noted that

economic development is an important part of form-based zoning improvements, but enhancing community involvement will also happen as a result of planning with a real place in mind.

Councilor Novelline Clayburgh asked how many zones would be in the red area of the map, and Mr. said he did not know, but it would be talked about and determined quickly as part of the process. However, there would not be too many zones to keep it from being cumbersome to develop or administer, but also not too few that the area becomes homogenous.

Ms. Moreau said form-based coding suggests similarities to her, and asked how form-based zoning is regulated? Mr. Wright said they will learn more when they come to the charrette, but basically form-based zoning is the opposite of static zoning whereas Use space zoning is viewed as flexible, but allows many things. Form-based zoning is the term that is most often used around the country, but another term is Character-Base which describes the intent better. Looking at Portsmouth, it is clear that much of the historic character grew organically, and the current zoning ordinances are doing a lot of things right, so they wouldn't want to throw away what works. However, you can see the differences between the way the City developed prior to WWII, and after, and they may change the hierarchy of things to bring about more unity. They will still have setbacks, uses, etc. but they will make sure to fix the things that are causing problems, while making sure it isn't static.

Mr. Gamester asked if any unintended, negative consequences have ever resulted from process. Mr. Wright said they have gone into some cities and towns and fixed some unintended consequences. For instance Burlington, VT, had a 50/50 rule, 50 percent commercial and 50% residential. The market tanked and then they had a lot of empty buildings. Mr. Wright said their company brought in form-based zoning and solved that problem. Burlington also had a problem with a 20% affordable housing requirement when doing a new development, so many developers built more expensive units to make up for the difference, and didn't build anything in the middle. As a result there was a housing gap for the people who didn't need affordable housing, but also couldn't afford the high end developments. Another example was in Standish, ME where they had another company do some form-based zoning that prohibited drive-thru's, but it didn't work for them, so TPUDC taught them how to do drive-thru's in a way that was compatible for them, and their property values increased as a result. Mr. Wright said these are examples to illustrate how communities do much of the planning beforehand, and all TPUDC has to do is listen to whatever issues have come up and help address them.

Councilor Kennedy asked Mr. Wright to explain what the expectation is for the Open Studio sessions on June 7-10. Mr. Wright said the opening presentation on Saturday, June 8 will be an informal question and answer presentation, with no need for advance preparation. The presentations and meetings that follow will be in a more formal setting, but they will still be open and approachable. Councilor Kennedy clarified that the opening presentation would be on Saturday, June 8, from 6-7:30 p.m., and the public could give input during the Open Studio sessions. Mr. Wright said people could drop in any time the lights are on during Open Studios on Friday, June 7, Saturday, June 8, and Sunday, June 9.

Mr. Gamester asked if they rezoned entire cities and towns or just sections on their other jobs, and if the public shows interest in areas that don't concern them directly. Mr. Wright said they

have done both, for instance Burlington is doing the downtown waterfront, which people are very interested in, but then people may not have as much interest in areas like a suburban strip highway.

Mr. Wyckoff asked what happens in their contract after the Charrette is over, is the plan an all or nothing or can they pick through the ideas before it goes to City Council for approval.

Mr. Wright said the first thing is a lot of work happens, they finish working on the master plan document, and the first draft ordinance, working in conjunction with the Planning Department. And then zoning changes have to go through the official process. But first TPUDC will create a client draft, submitted to the Planning Department who will study and comment on it. Then the comments will get incorporated into a discussion draft, which gets circulated to the public. Then there will be an informal presentation with more input, often confirming what was talked about, or finding a consensus on whatever was not decided upon. The third and final draft will incorporate any substantive changes, and that will be used for the official process.

Mr. Taintor said they are thinking the first draft will be ready by early July, the discussion draft might come out in August, and the final draft will go through the Planning Board process and then to the City Council in the early fall for approval like any zoning ordinance change. They hope to work out the timing so they don't want to wait till the end of the year to get it done at the last minute. If delayed they may want to go through the review process with the Planning Board, and wait until the new Council is in place at the beginning of year. At any point, the Planning Board can recommend amendments, and the City Council can recommend and adopt amendments even after it has been adopted like any zoning change if there's something wrong with it.

Mr. Wright said people often get enthused over the opportunity to make changes to existing zoning, but then they can get bogged down and even lose interest when they try to make everything perfect so they recommend they go forward with the process and see how it works, knowing they can make changes as necessary.

(George Melchior arrived at this point in the meeting.)

Councilor Novelline Clayburgh asked if the City would not be doing any new development until this new way of zoning is adopted. Mr. Wright said some communities do that, but most don't. It takes a lot of political will to do something that is such a big deal, and some developers rush to get their proposals through when they hear about rezoning, but they are talking about moving through this process quickly, and some developers decide to wait and see how the new zoning will benefit them instead.

Ms. Quintans wondered as a new board member what the back story was in the decision to move toward form-based Zoning, and how it would benefit the City. Mr. Taintor said they started talking about it during a comprehensive revision of the zoning ordinance in late 2009 and more recently in the late fall during the Master Plan process. They started out by looking at the Islington Street and Route 1 corridors. They knew the Planning Department didn't have the background and experience to do it, though they did a little bit when they adopted the Gateway District. The idea was also to focus on the historic core of downtown, refine zoning, and make

the rest of the city as special as the downtown area. Though zoning was already in place that allowed buildings up to 50 and 60 feet high, there had never been market pressure for that kind of development until recently beginning around 2006 with places like the PortWalk. They knew they would need help, and then last year they applied for and received a State administered Federal community planning grant that came out. It took a while to determine the scope of work and find the right consultant.

Ms. Quintans asked if the Islington corridor would be part of this first project, and Mr. Taintor said yes, they wanted to focus on the historic core of the downtown area. In 2009 they created transitional zoning so buildings abutting residential neighborhoods could only go up to 40 feet to avoid the kinds of substantial height in buildings like the one at 51 Islington Street.

Chairman Ricci asked Mr. Wright to walk them through the presentations from June 6 – 10, start to finish. Mr. Wright said the first opening presentation in the evening would be in the Councilor's Chambers, then the next morning they will go to the former Connie Bean Center for the Open Studio sessions with published meetings of various topics, inviting everyone to the discussions. Then each evening the team will download everyone's input. Halfway through there will be an interim presentation with a pinup of their progress for everyone to review and add more input from others who may not been able to contribute their thoughts earlier. Then the team adds that information for the final presentation which will be held at the Portsmouth Library.

Chairman Almeida thanked Mr. Wright for recognizing what a special place Portsmouth is, knowing that everyone in the room cares deeply for the city. Chairman Almeida also thanked those in the Planning Department who were instrumental in bringing Mr. Wright's firm to work with the City, noting that it is perfect timing since Portsmouth is a victim of its own success and under huge pressure from all the activities that go on in the City.

Councilor Kennedy asked why the final presentation will be held in Levenson Room, and not the City Council Chambers, and if it would be televised. Chairman Ricci said the Council Chambers were already booked, but Mr. Wright's final presentation will be broadcast.

Mr. Gamester asked Mr. Wright if they have ever been asked by a City to tackle one particular parcel or goal in an area. Mr. Wright said they will be hearing from people about certain areas, and they look at two areas, the planning, and the zoning. They often hear that a City is looking to keep their historical, and most loved places as they are, but sometimes they see an area that is missing, perhaps a park or civic space, and the team works together to look for opportunities, sometimes even tackling things that they have not asked to tackle to make recommendations.

Mr. Gladhill asked Mr. Taintor why the Northern tier, which is more of a blank canvas wasn't included to give some direction to developers. Mr. Taintor said at the time they were doing the Master Plan there was a specific plan for that area with the Sheraton or Westin, and they wanted to see how that would play out. And although it would be a great time to look at that area at this point, they have a limited amount of money, and they focused on the area where the funds would be best used.

Chairman Ricci asked for public comment.

Ms. Judy Miller of Hanover Street asked how this process will interface with the parking issue downtown. Mr. Wright said they will look at the map that shows all parking areas, study it from a form-based approach, looking to see what the issues are, and look at solutions. Mr. Wright gave an example of a parking issue that was raised in Burlington, Vermont where people couldn't find parking directly in front of the areas they wanted to go, but when TPUDC looked at the area they found there was a surplus of parking in nearby areas and parking garages were empty. So sometimes there's a perception issue, but even that is an issue if people think there's no parking and they stop coming into the City. Deputy City Manager Allen said this is not intended to be the answer to the parking issue. It is form-based zoning, not whether a garage should be built and where it should be built.

Mr. Dick Bagley of 213 Pleasant Street said there is a cataclysm going on in Portsmouth right now, and many people are concerned with the loss of the history in the community. Mr. Bagley said it strikes him that a parking committee is formed, but then it gets turned down; so although it has been said this isn't about parking, parking has been a major issue for some time, including if it's needed, where it should be located, and what type of parking. Islington Street was mentioned, but many are greatly concerned about trying to expand the downtown with small shops or restaurants. He thinks community input is great, but not sure how form-based zoning will help, or if this is about the City Manager taking over zoning. Portsmouth Listens is holding meetings, between now and the middle of June, as is Portsmouth Now and other groups are holding their own charrettes.

Councilor Kennedy thanked him, and acknowledged there are lots of meetings, and thinks it is great that citizens are finally getting involved. Councilor Kennedy said she is comfortable with this process, and would be uncomfortable if it was just the Planning Department, the Planning Board and the Historic District Commission. She said she was leery at first so she looked at what form-based zoning and made some calls to friends in other states to figure out how it would happen since she has also been concerned with scale and mass, and parking. She too is disappointed that the Northern tier and Islington Street is not being included, but understands only so much can be done with the funding, and still sees this as an opportunity for citizens to come together with suggestions, working together instead of so microcosm groups and citizens working against one another. Councilor Kennedy emphasized the importance of the community putting their best foot forward, attending the presentations, Open Studios and meetings to make their comments known during the month of June. And with only month invested in these presentations, groups can continue addressing their concerns if they are not satisfied, and want to achieve more.

Mr. Wright said communities that don't want the input don't hire us. Their process is open and transparent and no individual is telling TPUDC what to do, they are just listening to the input from the community – what works and what doesn't work. They are a neutral third party, and don't have a dog in the fight. Although they are good at helping people come to a consensus, every idea is not always unanimously agreed upon, so hopefully people will come to them with numerous ideas, and be pleased that some of them will move forward. It is important to keep in mind that they're interrelated, but the plan is one thing, and the zoning is another. They can dream big with the plan, but zoning is the law, and needs to be worked through carefully.

Mr. Wyckoff said there have been comments that we don't have enough money to include other parts of the City, and wanted to know if the calculated cost is done by square feet or acreage. He said he thought the lines were drawn awkwardly through Strawberry Banke, etc. Mr. Wyckoff said he agrees with Mr. Gladhill that the whole Northern tier and a section of Islington Street should be included, and thinks it would be awkward to rezone just one section of the City.

Ms. Martha Fuller Clark of 152 Middle Street asked what the relationship between form-based zoning, when looking at height and mass and scale, and to what degree does the consideration for detailing, materials, rooflines, and other subtle parts that go into the building fabric of the City because it's another issue that's important. Mr. Wright said most cities don't have much appetite for regulating architecture. They may have a group like the Historical District Commission that may have some guidelines that incorporates architectural standards as part of the approval process, but some cities don't have the staff to follow up, and some prefer to be more flexible. Regarding the budgetary constraints, having a complete pattern book would be impossible.

Mr. Taintor said the HDC does a great job, but they are operating in a zoning ordinance that is way too big for certain areas of the City. Most of the downtown has a 60 foot height limit, but because of the way many of the rules have been some buildings have inched up and gone beyond the limit. The thought was that form-based coding could help with appropriate scale and massing. For instance, is 60 feet right for Custom House Way? And in addition to looking to see if particular buildings have the appropriate mass and scale, they are looking at the individual streets and blocks, aiming at larger other issues like volume, and roof lines, and how buildings are laid out in lots, but not getting into the fine detail. Once HDC is no longer struggling with the existing zoning law, they can focus on the fine and subtle details that give individual buildings a lot of character in a community.

Chairman Almeida said the HDC has had work sessions over the past couple of years talking about improving their own process, and have looked enviously at examples of other cities and their visual guidelines for their historic districts. But there is a lot of time involved in producing those guidelines that none of the members would have available to do properly, and there is a big expense, probably tens of thousands of dollars to hire a consultant. It is long overdue and would be a great tool for their tool box if the city council could free up some funds for that. Mr. Wright said if they could make their guidelines the standard if they wanted them to be binding. Chairman Almeida said the guidelines that were produced in the 70's are still referenced, but it is time to renew them. Mr. Wright asked if he could get a copy, and Chairman Almeida said he could get a pdf file.

Ms. Kerry Lowtro of 96 Highland Street asked Mr. Wright what their marketing plan is to get citizens to the charette, and also what the qualifications of the team are to address the issues in historic Downtown. Mr. Wright said first they generate flyers, postcards webpage, and tweets and then the City distributes that information. But although they use technology and email blasts, and know word of mouth is important, especially in a place like Portsmouth, that isn't their main role even in their largest budget projects so it's up to the City to spread the word.

Ms. Walker from the Planning Department said they welcome suggestions, looking to get as many people as possible engaged. They also want to utilize social media, the web, and word of mouth.

Mr. Wright went on to say his team is comprised of planners, urban designers, architects, artists, and his father, a form-based zoning and land use attorney who will be working on the document language and interfacing with the attorneys in town. Mr. Wright said most of the things they do are based on precedence because they know that works. They do not have historic preservationists on the team, but they are passionate about historic places, and trust that the HDC will have a lot of input.

Mr. Bagley said after the charrette and the drafts, the final report will go before the zoning board and then on to the City Council for approval. Mr. Bagley asked if the rezoning would only include the chosen area within a five minute walk area from Market Square parking garage, which looks on the map like it expanded into the Elizabeth Langdon lot, also known as the Parrott lot, and part of Strawberry Banke, but not Islington Street or the Northern Tier.

Mr. Taintor said this is a pilot. They decided to look at character based zoning because the existing zoning was not giving us what we wanted, adding that they will look at other areas when time and money permits. He said Mr. Wright talked about planning and zoning as two separate but related things, and they are starting the process. Every ten years they are required to revise the Master Plan, which the City has been doing for decades. The last revision was in 2005, so they will start working on revising the Master Plan again this summer. This project will feed into the Master Plan, and when done, it will be adopted by the Planning Board in 2015, and then zoning needs to be updated. The last time they revised zoning was in 2009 and it takes a couple of years to do. That doesn't mean they stop working on zoning - lots of zoning is happening between the Planning Board and the City Council, but every ten years they have to evaluate the whole thing, and may decide at that point to focus on character based zoning in certain areas of the City.

Chairman Ricci said he would like to do more, but we have to start somewhere, and we have to do it right, and be accurate to build a strong foundation to build on rather than do too much and misstep along the way.

Mr. Wright said Burlington, Vermont started with the downtown waterfront area because it was the most loved and sensitive area, but also so they could start out slow, rather than go into a residential area without seeing how it worked first, and then they would gradually move into neighborhoods.

Ms. Barkley Jackson of 36 Marston Avenue said she was very excited by this even though it doesn't include her house or neighborhood. She's sorry it doesn't include Islington Street or the Northern tier, but she thinks it is an exciting prospect. Downtown is much beloved and part of how Portsmouth residents identify themselves even if they don't live in that area. She said she is grateful to the boards and city officials who put in countless hours to do this.

Chairman Ricci thanked everyone for coming out.

Councilor Kennedy said she would like to see dates published for the drafts and reports so they could have some time for discussion and plan accordingly. Mr. Gladhill said that Saturday is also Market Square Day.

Councilor Kennedy said she too would also like to see the Northern tier and Islington Street included.

Mr. Taintor said he would like to get the final draft at the end of the summer so they could get it to the City Council for the first meeting in September so they don't lose three months until the next Council meeting, and allow them to complete it by the end of the year.

Mr. Wright said their chief logistician, Emily keeps them on task and on schedule. They will provide a schedule with "ish" added if they need a couple of days of grace in case they need to make changes so everything will be just right.

Chairman Ricci thanked Mr. Wright and told him they're all excited to work with him and his team. The city boards don't do it for the pay, and the HDC, and the Planning Department does a great job for the City, so they have a great team to work with.

II. ADJOURNMENT

A motion to adjourn at 8:30 p.m. was made, seconded and passed unanimously.

Respectfully submitted,

Jane K. Kendall
Acting Secretary

These minutes were approved by the Planning Board on .