

MINUTES

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

7:00 P.M.

OCTOBER 10, 2013

MEMBERS PRESENT: John Ricci, Chairman; David Allen, Deputy City Manager; Richard Hopley, Building Inspector; William Gladhill; Nancy Novelline Clayburgh, City Council Representative; Elizabeth Moreau, Alternate Jay Leduc

MEMBERS EXCUSED: John Rice and Colby Gamester;

ALSO PRESENT: Rick Taintor, Planning Director and Nicholas Cracknell, Principal Planner

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Chairman Ricci called the Work Session to Order and turned the meeting over to Rick Taintor, Planning Director.

I. WORK SESSION

A. Work Session on Proposed Form-Based Zoning Ordinance

Mr. Taintor stated they have been working on this since early 2013 and the “leg work” is going out and measuring the entire study area, looking at street width, building heights, set backs, and a real technical description of what is in the downtown. They had the Charette in June where there was a lot of discussion and that resulted in the initial draft of the Form Based Zoning (FBZ) Ordinance. The Planning Department Staff and the consultant worked together to draft that document and came back with the discussion draft a few weeks ago and something very close to that draft will be going to the City Council on October 21st for a first reading and back to the Planning Board for a Public Hearing on October 24th. This has been a very aggressive time table and there is the possibility of getting it through the approval process by the end of the year if all goes smoothly but that may not happen and they may have to start over at the first of the year.

Mr. Taintor gave some background on why they did this. It was very evident that many people are dissatisfied with the current zoning regulations as they affect the downtown. The height and setback regulations in the CBA and CBB have been in place since the early ‘80’s. The HDC is the first body to review mass and scale but it was felt that development was getting out of control. Therefore, they looked to FBZ as a way to help them get a better handle on managing and shaping development in the downtown.

Nick Cracknell, Principal Planner, indicated they applied for this grant back in 2012, contracted with the consultant in January, and collected data for 3-4 months on 400 properties. He will refer to Form Based Coding frequently in the discussion although they have called it a Character Based District (they

are the same thing). The Planning Department is responding to the growing concern of residents and local officials that a good number of new buildings and projects do not always fit in with other surrounding buildings and context. The two main elements that are potentially problematic are how the new buildings fit the context in scale and style and how it interacts with the street. Both aspects are equally important to a successful project. A lot of comments from the Charrette were that volume, height and bulk of buildings tends to be a bigger problem than the stylistic one. A lot of examples were presented and a lot of people thought the Popovers building was a successful infill development, people generally felt the same about the former Me & Olie's building on Pleasant Street, and the Jardinaire building on Deer Street. Some of the newer buildings causing concerns are the Portwalk phases and 51 Islington Street. FBZ allows them to promote the kinds of buildings that people love in downtown Portsmouth. They have a lot of data and good examples which they drew on to look at the 80 acres. They collected over 100 attributes on every building within the target area and they used over 85 attributes which were characterized for each of the buildings so that the matrix that they looked at with the consultants had over 30,000 cells. This code is trying to be reflective of the places that people in Portsmouth like. FBZ is not the "be all, end all" and it will not be perfect. It is intended to be a pilot and it will work off of the existing Zoning Ordinance. Mr. Cracknell stated he will walk them through the proposed code and the graphics which were provided to them.

Mr. Cracknell reiterated that they had a very large matrix of data on the 361 buildings with about 15 main attributes where the drive was to characterize good and not so good places. Things like building placement, setbacks, how much of the frontage of the yard was built out, yard types, what the coverage numbers look like, open space differences, overall building height and height of the ground floor, how much of frontage is glazed with openings or glass, roof types and roof pitches, the angle of the roof, out buildings, additions and the frontage type.

Mr. Cracknell gave some background information. They targeted 80 acres, containing CBB, a little of CBA along Bow Street and the water side of Market Street. They did not go into the Northern Tier as there were limits on resources, budget and time. They looked at 32 streets, 5 miles of public ways, and 50 blocks. 60% of this area has been redeveloped (replaced) since WW II. 30% of the target area is surface parking, both public and private. 5% or less is open space and most of that is Prescott Park. 65% of the buildings are brick. The height ranges are 12' up to 75' (Music Hall). 92% of the buildings are less than 42' and less than 3 stories in height and that includes the Portwalk project. Most tall buildings over 45' were built after WW II and are landmark buildings. Most have a very high quality finish which gives them a license to be very large. It is clear there are streets that are not conducive to tall buildings (Sheafe Street). Most buildings built before WW II have pitches roofs, and most buildings after WW II have flat roofs.

Mr. Cracknell mentioned the concept of likely development moving forward. There is a lot of development potential in this area even though it is largely built out. Recent infill buildings or redevelopment projects within the last 12-15 years represents 8 acres, or 10%. Pending projects are about 2 ½ acres. That leaves the potentially "threatened" parcels that could be developed in the future which total 15 acres.

They built a data base of what currently exists. FBZ not only speaks to the relationship between the building and the street in front of it but also the buildings on both sides of the street and buildings that are adjacent to the subject property. Therefore, it doesn't just affect the private property – the relationship between the City infra-structure is also considered. They need to understand how one side of the street works with the other side of the street. The idea is it is equally important for the City to be cognizance of the infrastructure and how it relates to the private structures. Mr. Cracknell felt this City

does a fantastic job, especially in the downtown, and what has happened on State Street, Daniel Street and Wright Avenue is the kind of public realm that most FBZ consultants and advocates work towards and we are already there from a Public Works standpoint.

Mr. Cracknell reviewed how the code is structured: Regulating Plan which replaces the Zoning Map, Development Plans, the Character Districts (like zoning districts), Development Standards, Definitions, and Architecture Standards and Guidelines in Appendix A.

The Regulating Plan (or zoning map) has three main districts: CD4L, CD4 and CD5, where there are currently four zoning districts. They do not plan to change the Downtown Overlay District. CD4L is a "light" version of CD4. The Municipal District will remain exempt from this zoning. Another special district is the Civil District, which consists of non profit properties which are open to the public and they have their own set of rules and regulations as the buildings are often very special.

Councilor Novelline Clayburgh asked if the City could build a 20 level garage if they wanted to because it is municipal. Mr. Cracknell confirmed they could do that today. Deputy City Manager Allen commented that, even though there are no zoning requirements, the City does, by policy, run its projects through the land use boards.

Mr. Cracknell went through how they came up with the different districts. It is all data driven. In CD4L, the predominant use is residential. The density of the development is medium or moderate. Part of the question is if it is transitional between one neighborhood and another and the answer is yes. The house types are medium to large and the setbacks are shallow with landscaping along the front.

CD5 is the urban district, which is the other extreme, and is the center (Market Square). Those properties are typically mixed use, high density, not transitional, mixed housing types, no setbacks, block sizes are smaller in the center than they are on the outer edges of the 80 acres and landscaping is slim to none. Everything between those two gets clumped into the CD4 district which is similar to CD5 with mixed use. The density is moderate to high, is transitional between CD4 and CD5, the house types are mixed, setbacks are shallow, the blocks are moderate and landscaping is moderate.

Mr. Taintor felt that one thing that jumps out from the map is that there are really two types of CD5. There is the traditional CD5 (historic core) and there is also the new CD5 developments on the periphery both at Portwalk, 30 Maplewood Avenue and at the entrance to the City at the Memorial Bridge. This is an example of how they have designed the regulating plan to reflect reality but there are really two different types of reality as some CD5 is seen as good and some of CD5 is seen as bad.

Deputy City Manager Allen asked if the graphics could be printed out in black and white because a lot of people are going to be printing this out. Mr. Cracknell agreed it could be improved upon and they would do something with that.

Mr. Taintor stated that 80% of this area is currently CBB with one height limitation and one set back limitation so their current zoning tells people to build a box. What they are doing here is being much more sensitive to the historic character of the City.

Mr. Cracknell continued with the three special requirement maps which are overlay maps, breaking the entire target area and breaking it into three separate character districts. The first Special Requirements Map addressed building height. The building height is trickier as they have six distinct building heights for the entire 80 acres (rather than the current 4) but they are not as uniform. No one can build

a single story building anywhere in the entire study area. They are then left with six options depending on where the property is located. Market Square (magenta color) is 4 stories with a short 5th (shorter upper story or mansard roof). Congress Street is 75' wide so it makes the most sense to put the tallest buildings there. 3-4 story buildings are allowed along Market Street, Ladd Street, Fleet Street and down Pleasant Street, Bow Street, and the end of Daniel Street. The green areas, most of the downtown, are 2-3 stories. Mr. Taintor pointed out that the building heights are designed in stories vs. feet.

Mr. Gladhill asked about the Rockingham which is in a district of 2-3 stories. Would it be an exception if they rebuilt an exact replica of the Rockingham. Mr. Cracknell responded that the Zoning Ordinance allows you to rebuild what was there within a certain period of time due to fire.

The second overlay map has a number of different things on it and addressed specific shopfront, step private frontages, percent frontage buildout and use requirement areas. The blue areas shown on the map are where property owners are required to have shop frontage on the ground floor. It means it is a commercial area and this is related to how the building facade relates itself to the street. They have made adjustments to the Downtown Overlay District (DOD) that would discourage ground floor parking in this area. The green area, on The Hill and Sheafe Street, typically has a defining element of a granite step or two and typically doesn't have landings. It seems important as a defining element to make sure that stays there. Lastly, they have the waterfront industrial properties and municipal properties.

Chairman Ricci asked if the step frontage might open up an issue with ADA? Mr. Cracknell indicated that there may be an issue where they have to comply with ADA requirements for access and his guess is that they would need a variance or they could put in two entrances where one would be secondary or non-used as part of the frontage to maintain the look of the step frontage.

The properties along the waterfront have additional requirements. The district would be part of CD4 and the lowest height requirements would be 2 ½ maximum height. The idea is that they are really special properties and the height should represent the area they like and want to protect. The waterfront is also restricted to buildings with wood siding instead of brick, because that is the existing character, and at least 50% of the frontage along Ceres Street would remain open for water views.

Mr. Taintor indicated that it may seem unusual to keep 50% frontage for waterfront industrial but it is already at 50% coverage in the ZO.

Ms. Moreau asked why that section was selected for all wood clad when there is also The Hill where every building is wood clad as well. Mr. Cracknell indicated there are at least 2 brick buildings in The Hill. Sheafe Street is also predominantly wood but it seemed more important to call out the working waterfront for what it appears to be and what some people wanted.

Mr. Cracknell stated that the last map is the least regulatory. They have identified all focal buildings on the Portsmouth Advocates Inventory from 1982, which is what the HDC uses as part of their review for any project within the Historic District. All 800 buildings were inventoried according to the Secretary of the Interior Standards and they are classified as either focal buildings or non-contributing buildings, which are typically new buildings, that do not add to the historic district. They have identified all focal buildings and they are there just to acknowledge and advise land use boards. Some of the landmark buildings have been identified as iconic such as the North Church, the former Post Office at 20 Pleasant, the South Church, the buildings around Market Square, and St. John's. It is not

unlikely that these buildings will change in the future and the idea in this code is that the development team would be expected to enhance the architecture of the building to respect its terminal vistas. They would require special treatment.

Mr. Hopley was trying to understand the reasoning behind why some other buildings were not iconic, such as the John Paul Jones House and the Middle Street Baptist Church. Mr. Cracknell felt it came down to the fact that iconic buildings are different from the terminated vistas. You can see them from a long way away. They may not have all of them properly labeled but they will continue to look at it. Deputy City Manager Allen asked if there was any regulatory impact. Mr. Cracknell stated there is a regulatory impact in terms of blocking that view and their obligation is to use best design practices to not overburden the impact on that long view. It is difficult to regulate and not have it be overly prescriptive but it needs to be recognized. Some buildings are so obvious that you can't get in front of it, like the little building next to the CommonMan. They wanted to put it out there so that they could have a conversation and if it doesn't work it is not a pre-requisite of the FBC. They do not have to have the map but it was felt that it would be helpful. Mr. Taintor added that it was in response to comments from a lot of people being concerned about views being lost and they would be looking for input from the Board.

Ms. Moreau asked about the public way that goes through the McIntosh lot. Mr. Cracknell noted there are a number of pedestrian public ways that go behind buildings and people have access to them. The public way on the McIntosh lot is just a recommendation of where they felt it would be a good place to have a public way. Mr. Taintor also suggested a public way at the old Chestnut Street and the continuation of the African Burial Ground. There is also a little alley behind the North Church which is currently City owned. This map is "forward thinking" and it recognizes items that would spur discussions should certain lots be redeveloped. They should also add the pedestrian alley behind the decks. Mr. Leduc suggested using a different line for potential ways.

Character District CD4-L (think Haymarket Square and The Hill). There are ten main criteria that differentiate this district from CD4 and CD5. The first is front yard setbacks which range from 0-12. This is based on the properties that sit in CD4. The second major difference is the build out of the frontage, or how much frontage on the street does the building cover. The middle category is 50 – 100% so there is a lot of variability. Mr. Cracknell continued to review the character district standards for CD4-L as shown on the proposed FBZ draft.

Character District CD4, the general urban district. He reviewed the same 10 factors, starting with the setback of 0 – 15' for the front yard, 50 - 100% of the property frontage must be built out, all yard types are allowed, lot width is as small as 18' and no bigger than 60'. Building coverage is 90% maximum and open space is 10% minimum. The building height is a 2-3 story range, glazing requirements go up because the buildings are mixed use. The only difference on the roofs is that in addition to gable, hip or gambrel, you can do mansard.

Character District CD5, Urban Center. (Congress Street, Market Street and Portwalk) They do to a 0 front yard setback, 100% frontage build out, the only yard type allowed is rear, lot width is the same as CD4 18-60', the coverage goes from 90% to 95% and the open space goes from 10% to 5% minimum. They do not have an open space requirement now for CD4 or CD5 so that increases from today's requirement of 0%. The building height is 3-5 stories, the glazing requirements are a little less than CD4 as the buildings are taller, and roof forms are the same as CD4.

Mr. Cracknell indicated that was a high-speed overview of the differences between all three Character Districts as opposed to the dimensional table that we use now.

Chairman Ricci felt that this was long overdue. If this goes forward, and if they decide to expand the area, he asked if there is as much detail required and he asked if it will ever get done. Mr. Taintor felt there were two parts to that question. One is coming up with the structure of the ordinance and that is already done. What would need to be done is the measuring and looking at an area. The City Council has talked about moving this out to the Northern Tier and down Islington Street. They will need to determine what character district those areas are and get the measurements right. Some might require a new district. What has been done to this point will minimize what needs to be done to expand the areas in the future.

Chairman Ricci asked if they would ever be in a position to do 3-D modeling and GPS. Mr. Cracknell indicated they have been discussing this at the HDC for months getting quotes and looking at the scope and to adding the Northern Tier. The HDC voted last night to send a funding request to the City Manager and ultimately the City Council to create a 3-D model for 261 properties that would capture most of the district and create a 3-D model based on our current GIS data. Getting a 3-D map is a high priority. They will also require that developers doing new buildings would be required to provide data to drop into the 3-D model so they can review all impacts.

Councilor Novelline Clayburgh asked how much the appropriation request would be for. Mr. Cracknell believed it was for \$45,000.

Mr. Cracknell presented graphics of the 7 Civic spaces within the code: Parks, Greenways, Pedestrian Alleys, Squares, Plazas, Pocket Parks and Playgrounds. If someone was to develop a big project, like the McIntosh lot, they would be required to reserve 15% of the land area to do parks and playgrounds.

Lot Layers - This is new. Whatever the frontyard setback is, and you don't have one in CD5, the code speaks to what you can and cannot do in the first layer between the building façade and the street. The second layer is plus 20' and the purpose is primarily to keep accessory buildings and cars out of it. The third layer is what is left over, whatever is behind the first two layers. No parking is allowed in the second layer and is only allowed in the third layer. They have three types of yards: Edgeyard, sideyard and rearyard.

Principal building, back building and out building are all illustrated for an easier understanding.

There are seven Private frontage types: Common Yard, Porch, Stoop, Step, Shopfront, Officefront and Forecourt. All were illustrated with descriptions.

Frontage and lot lines. The difference between these are how the code relates to the concept of the first lot layer between the facades and the principal frontage. The design standards and guidelines speak to elevation on all sides of the building. These are meant to illustrate what these concepts pertain to.

Building types are all very basic: House, Duplex, Rowhouse, Live/Work, Small Commercial Building, Apartment and Large Commercial Building.

Zoning Ordinance Text. There are 7 main sections. The General provisions talk about the purpose and intent, the applicability to the other land use regulations and how to use the Form Based Code; The Regulating Plan talks about the map that replaces the zoning map; Development Plans identifies when

you need to go before a board or commission and projects need to conform to the regulating plan; Character Districts, Civil Spaces and Municipal Districts, Development Standards, and Definitions are standards defined by the building form tables, the specific requirement maps, the use table (which has not changed from CBB and Waterfront Industrial) and off street parking; They have added in new definitions.

The only other section that has been added is Appendix A – Architectural Standards and Guidelines which apply to the HDC. Instead of it being a big black vacuum, the attempt is to establish and encourage traditional development patterns and, going back to what the public has been saying, a lot of the new infill projects in downtown don't fit into the surrounding character or quality. The purpose of these guidelines is to encourage contemporary expressions to be presented but not to be the default setting and to put the burden on the applicant if they want to be innovative and creative in the heart of downtown Portsmouth to convince the HDC that it is appropriate. The idea is still to put a very contemporary design in downtown Portsmouth but otherwise they are willing to work with buildings that have worked well in recent history and fit in.

Mr. Taintor stated the original draft had images embedded in the text but they pulled them apart. The final document will have them embedded and merged again so they won't be jumping around so much.

There were a few conforming technical changed to the Zoning Ordinance that they will present to go with the Form Based Zoning Ordinance. They are incorporating the character districts, referring to the maps, making some changes in the DOD by adding some streets and they meant to limit the setback from the street to above ground parking spaces, they are adding the sign districts in and are cross referencing all of the terms that are in FBZ.

Deputy City Manager Allen asked what their Zoning Map will look like during this transitional period. Will they have a Regulating Plan inset and still have some CBB off to the side. Mr. Taintor felt they would have a big solid dashed line with a blank area saying "See Regulating Plan".

Chairman Ricci asked if it would make sense to have the map that shows each district area rather than one map that shows all three on the same map. That would strip it down and make it a little easier to understand.

Chairman Ricci asked when the Planning Board will see this again. Mr. Taintor confirmed they have a hearing scheduled for October 24th. They might want to keep the public hearing open after the October 24th meeting as they might want to have a presentation for the public who have not had an opportunity to review this. They can reorganize the presentation so it's not as long. He also felt they could possibly have a meeting in early November, before the City Council public hearing, to get additional Board input.

Mr. Leduc asked what will happen when they expand the areas and they come to an area of town where the people don't like the character. They are trying to preserve the character downtown so that would be a totally different approach. Mr. Cracknell responded that there are some conflicts in their study area already, like Portwalk which is 5 story. The Rockingham will be a lot more non-conforming if this is adopted as they can't imagine having a 75' building if redeveloped.

Deputy City Manager Allen felt that there has been a heroic effort in putting this together and a lot of work has been done by Mr. Taintor and Mr. Cracknell.

Chairman Ricci felt this was very exciting, it's very simple and gives them a better level playing field.

Mr. Cracknell asked the Board members to give follow up comments to the Planning Staff.

II. ADJOURNMENT

A motion to adjourn at 8:40 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 .

These minutes were approved by the Planning Board on February 20, 2014.