

**REGULAR MEETING
PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 pm

JANUARY 23, 2020

MINUTES

MEMBERS PRESENT: Dexter Legg, Chair; Peter Whelan, City Council Representative; Karen Conrad, City Manager; Ray Pezzullo, Assistant City Engineer; Colby Gamester; Jody Record; Jeffrey Kisiel; Corey Clark, Alternate, and Polly Henkel, Alternate

ALSO PRESENT: Juliet Walker, Planner Director; Jillian Harris, Planner I

MEMBERS ABSENT: Elizabeth Moreau, Vice-Chair; Jay Leduc

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I. PUBLIC HEARING – ZONING AMENDMENT

- A. Proposed Zoning Ordinance Amendments to Article 4 and the Zoning Map for certain properties located along **Hanover Street and Foundry Place** to modify the location and boundaries of the North End Incentive Overlay District and the Downtown Overlay District, modify Building Height area requirements, and re-zone from Character District 5 to Character District 4 and Character District 4-L1. Properties directly impacted by these proposed amendments are 361 Hanover Street (Tax Map 138, Lot 63), 89-99 Foundry Place (Tax Map 138, Lot 62), 126 Bridge Street (Tax Map 125, Lot 16), 66 Rock Street (Tax Map 138, Lot 61) and Foundry Place property at Tax Map 125, Lot 17-1. Amendments are also proposed to Article 5A Incentive Overlay District requirements to require granting of a conditional use permit by the Planning Board.

SPEAKING TO THE APPLICATION

Planning Director Juliet Walker introduced the presentation. This started with a request from the potential developer of 361 Hanover St. The Planning Department presented options and there was a public hearing in August. It was referred back to the Planning Department to look at it again.

Nick Cracknell commented on the neighborhood context. The 3 main streets are in the edge of the north end study area. The character-based zoning was built from the charette. There were gaps because Foundry Place was not in existence. It goes from Foundry Place to Hill St. back up to the Heinemann Building. Hill St. is partly a public way and partly a narrow private way. There are a number of mixed use buildings on Hanover St. and then multifamily structures up toward Bridge St. Foundry Place has the garage. There is a hotel that will be on the corner of Bridge St. and Foundry. It will be a 5-story building with a recessed top floor. There is another proposed building to expand from Foundry Place up to Hill St. Both have been approved but have not been built yet. Hill St. has the back side of the Ferguson building. The Heinemann building is at the end of the road. There is a proposal to put in mixed use townhouses on Hanover St. towards the Heinemann building. There are 2.5 to 3 story buildings along Hanover St. with predominantly residential buildings. The North End Vision Plan is to promote mixed use walkable neighborhoods that

lead into the Islington Creek neighborhood. The Vision Plan helped to come up with the Character Districts with building heights that are street based. Heights are based on neighborhood context street by street. It's a more refined approach to building height.

Ms. Walker added that the process for the Character Districts adoption helped to refine the original proposal. Zoning is not perfect in all situations and tweaks are expected once things are implemented and considered in the context of the neighborhood and City. The neighbors expressed interest in changes in the area in part because of the proposed development. They want to preserve the neighborhood. The Planning Department met with the Islington Creek Neighborhood Association. The proposed amendments are the result of two different objectives. The first is the North End Vision Plan, which went through a lot of public input and the second is recognizing the neighborhood's perspective. The neighborhood has been very reasonable and understand there is a balance of interest. The existing zoning is CD-5 between Bridge St. and Hanover St. It is also in the Downtown Overlay District. The overlay applies a different set of standards above and beyond the base zoning. The North End Overlay District allows one story or 10 feet height increase and up 30,000 sf building square footage. In order to take advantage of that the applicant needs to provide community space and other standards. The height limits would be based on street frontage. There currently is no height area assigned for Foundry Place. Most places on Foundry abut other streets for height determination except the garage. There are some other areas without a height area assigned. Otherwise the height area is determined by abutting streets. The Heinemann building is determined by Hanover St. Lot 6 for Deer St. Associates is determined by Hill St. The proposed amendments include a modification to the Downtown Overlay District boundary. It would be brought back from Hanover St. to midway through the property line to correspond with the current North End District Overlay. It makes sense to have them align. The developer would like to have first floor residential units and there is neighborhood support of that. Then the development would need to comply with residential parking requirements. They are proposing to remove 66 Rock St from the Downtown Overlay. The North End incentive doesn't go to that property. There was a minor adjustment to North End Incentive line. The existing one cuts off the end of the 66 Rock St. property. It doesn't make sense for a small portion of that property to be in that overlay. They are also proposing to change in the requirements for the North End Overlay. Another change would be that for all character overlay incentives the Planning Board would have to issue a CUP. This would create an additional layer of review to get the incentive. Right now they are allowed by right if the proposal meets the minimum requirements. It is only reviewed during the site plan review. It doesn't give the Planning Board a lot of say within the context of the project. This would provide the Board with the ability to have a negotiation. It would be a good way to monitor the appropriateness of the overlay incentive for the property. Based on input from the presentation in August the proposal is for 2-3 stories or 40 feet height area for Foundry Place. The building height would be reduced for future proposals on Hill St. The currently approved Lot 6 and Lot 3 would not apply to this change. All of that area is currently CD-5. That is the most intense land use zoning district in the City. The proposal is to move it down to one zone lower. There is not much of an impact on land use. It does impact coverage of building footprint and is a slightly less dense development type. Half of the area would be changed to CD-4 L1, which would match the property on Hanover St. It is more like the density of general residency and neighborhood. The proposed CUP change would apply to any property in the overlay district. The Planning Board would grant a CUP for the incentive to be applied. The CUP would require certain findings in the decision and would allow the Board discretion to modify.

Mr. Clark requested an explanation on the different building heights and how they relate to the grade changes. Ms. Walker responded that the height is measured based on the average grade plane around the building. However, the existing grade at time the of construction is taken into account. If a property is located in two height areas, then the height area is applied 50 feet into the lot. The developer gets to take advantage of the higher height 50 feet in.

PUBLIC HEARING

Attorney Tim Phoenix of 127 Parrot Ave. spoke on behalf of Foundry Place LLC Lot 6. They own Lot 3 as well. They learned about this for the first-time last week and sent a letter. Mr. Phoenix read the letter into the record. They were concerned about the changes on Foundry Place because it may affect one of the lots they own. The lots are part of a 6-lot development Master Plan, which included the garage. This proposed change is coming after the garage has opened. CD-5 district was implemented in August 2015 in the context of the redevelopment of the area. That rezoning came after a lengthy vetting and well attended charette. It was determined CD-5 was the proper district, partially because of the height of the garage. Foundry Place Garage does not comply with CD-4 zoning. It was built to CD-5 and the developers thought the same zoning would be applied to the rest of the lots. 88-99 Foundry Place has received site approval using incentives for 4.5 stories or 60 feet. These changes would make that project and Lot 3 non-conforming. The plan committed to open space next to the garage and the developer planned to use that for incentives in the CD-5 district. The building shields the surrounding neighborhood from the garage lights and traffic. A shorter building would not be able to provide the same screening. Shorter buildings would make the garage the center of the development. Mr. Phoenix requested a work session with the Planning Board to vet the proposed amendment changes.

Robin Husslage of 27 Rock St. commented that the residents of the neighborhood provided input to the amendment. Ms. Husslage was still concerned about the proposal because it kept the incentive overlays. That means the buildings would be able to go higher. That would be contrary to creating a better transition zone from the downtown to this neighborhood. The overlays should be removed. Allowing bigger buildings would result in encroachment into the neighborhood. This section of town is in the National Register of Historic Places and the character of the neighborhood should not be altered.

Martin Burns of 280 Hanover St. commented that when he bought his house it was very clear what could or could not be done in neighborhood. Then the zoning changed and business went on and then it changed again. The changes in the zoning are concerning. Mr. Burns questioned what would happen with the Ferguson building if they went out. The height should stay down. The overlay districts allow too much. Mr. Burns was also worried about parking. The parking is already crowded in that area. If the area is rezoned and they put in apartments, then there will be little parking. Then people will park on the neighborhood streets because there are no parking restrictions.

Lawrence Cataldo of 133 Islington St. commented that he would come up in the second round to speak.

Jenae Paradise of 126 Hill St. commented that they bought the house 2 years ago. It has been in the family a long time. It is exciting to see the zoning is being considered to be lowered to CD-4. It is more fitting to the area.

Peter Hackney of 66 Rock St. commented that he was concerned with the height of the Heinemann building and other buildings that would be developed. Foundry Place is 8 feet below the Heinemann. The buildings are going up higher and it may block the sun. Mr. Hackney was worried about the height and density that would be allowed.

Second time speakers:

Lawrence Cataldo of 133 Islington St. thanked the Planning Department for listening to neighborhood. However, what was discussed in those meetings was very different than the proposal that was submitted. The larger building allowances are concerning. Parts of the proposal are inconsistent with the neighborhood. The incentive overlay is a downtown incentive. This is a residential area with limited commercial use space. This is not a location for an incentive district. It's not a place for 45-60 feet 80% coverage buildings. CD-4 L1 is consistent with the neighborhood. CD-4 is also reasonably consistent with the context, but the overlay districts are not. The zoning for the properties should be close to the surrounding building heights excluding the garage. Any zoning incentive that doesn't have sufficient parking would be a hardship and burden for the neighborhood. There are already parking issues today. This proposal should be reviewed to keep within the character of the neighborhood.

Elizabeth Bratter of 159 McDonough St. showed a comparison of the previous zoning prior to the Foundry Garage and the current zoning. The use table for the previous MRO and MRB are the same as L1 and L2. L2 allows restaurants, convenience stores, and function halls. They have the same uses for a small neighborhood. The incentive overlays should go away. The overlay district allows for a 30,000 sf building. That is too much to have on Hill St. or Bridge St. The maximum height in CD-4 L1 is 40 feet or 2-3 stories. Hill St. is on a hill, so buildings will seem higher no matter what. It would make sense to remove all overlays. The incentive and overlays could remain on the Foundry Garage side of Foundry Place. The overlay district should run along Foundry Place to allow Deer St. Associates to maintain their incentives proposed and protect all people who live on that side that is privately owned. Bridge St. down is the west end and the north end overlay doesn't have to be there. The maximum height along Hill St. and Bridge St. should be CD-4 L1 maximum 40 feet or 2-3 stories. Anyone fronting on Hill St. should be CD-4 L1. Anyone fronting on the Foundry Garage could be CD-4 L2. The list of uses make sense.

Robin Husslage of 27 Rock St. reviewed the packet the neighborhood sent to the Planning Board ahead of time. The Islington Creek Neighborhood starts on Bridge St. and goes toward downtown. The overlay districts do not belong there. The north end overlay should be removed or moved over like Ms. Bratter suggested. Parking is a huge issue in the neighborhood. An increase in building footprint and reduction in parking requirements would be an issue. The downtown overlay should also be removed. It disallows residential units on the first floor and other types of housing. There should be height requirement changes along Hill St., Hanover St. and Foundry Place.

Attorney Dennis Roberts commented they have not had very much time to review the zoning changes. They have not had the time to analyze fully or discuss with staff the concerns they may have. The neighbors speaking tonight also have concerns. They need more time to meet with the Planning Department and the neighbors to discuss concerns.

Chairman Legg asked if anyone else was present from the public wishing to speak to, for, or against the petition. Seeing no one else rise, the Chair closed the public hearing.

DISCUSSION AND DECISION

Ms. Henkel requested clarification on the parking requirement in the incentive overlay district. Ms. Walker responded that the parking doesn't factor in. They can go up to one story or a certain amount of feet, or have a lot size of 30,000 sf. It's often challenging to get to that because lot sizes are too small with the community space that is required.

Ms. Record questioned if workforce housing (WFH) was part of the incentive. Ms. Walker responded that the developer needs to provide either community space or WFH housing. In the Gateway District WFH is required. In the character districts it is an either or. So far no one has chosen WFH over community space.

Chairman Legg commented that if they keep the overlay district for this area, then he would welcome a change to eliminate community space and focus on WFH only. The developers always choose community space and there have been some mixed results. The City believes that WFH is still a number one issue. It is understandable why the neighborhood wouldn't want the overlay districts. However, it may make sense if the incentives required a CUP and they limited it to WFH.

Ms. Record agreed it should be limited to WFH.

Mr. Gamester agreed with the WFH comments and looking at the context of each project. They should put it into a CUP. The Downtown Overlay should be smaller given the residential character of the neighborhood. It could be revised more.

City Council Representative Whelan commented that the feedback from the residents was good and it is important to protect Hill St. especially. There are a lot of smaller homes in that area and they should look to protecting the neighbor. There should be a transition zone between them. Parking is a huge issue in that area. They should continue to work on this.

Ms. Record agreed with the majority of the proposed changes, but some parts could be revised more. It is necessary to maintain the character of the neighborhood.

Mr. Gamester commented that this was a tough area. The garage is big and the Heinemann building used to be 7 stories. It's a dense area. Finding the right balance for transition is important.

Ms. Walker suggested having a public work session as a Planning Board to allow more of a dialogue. No decisions would be made, but they would have an opportunity to have a discussion. They could present some revisions and talk through them. Then they would do another public hearing after that. Chairman Legg agreed that a work session would be helpful and requested that the Staff incorporate some of the feedback they heard from the abutters to bring to that session. Ms. Walker commented that the public work session would be advertised to the public to come give input.

Mr. Gamester moved to close the public hearing and asked for staff to schedule a public meeting and a work session with the Planning Board to discuss further revisions, seconded by Mr. Kisiel. The motion passed unanimously.

II. ADJOURNMENT

Mr. Gamester moved to adjourn the meeting at 8:29 p.m., seconded by Ms. Record. The motion passed unanimously