

**MINUTES OF  
WORK SESSION**

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

**7:00 P.M.**

**CITY COUNCIL CHAMBERS  
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE**

**MAY 8, 2008**

**MEMBERS PRESENT:** John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Jerry Hejtmanek, Vice-Chairman; Donald Coker; Anthony Coviello; Paige Roberts; John Rice; and MaryLiz Geffert. Alternate and Norman Patenaude, Alternate

**MEMBERS EXCUSED:** Cindy Hayden, Deputy City Manager; Richard A. Hopley, Building Inspector;

**ALSO PRESENT:** David M. Holden, Planning Director; and, Lucy E. Tillman, Planner I  
Robert Sullivan, City Attorney

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**I. DRAFT REVISED ZONING ORDINANCE**

**A. Article 9: Site Development Standards (Parking and Loading)**

Chairman Ricci turned the meeting over to Rick Taintor.

Mr. Taintor indicated they had been working on the parking section and there are a number of policy issues that need to be discussed. The issue deals with the Central Business (CB) District. The City at one point had no requirements for parking and then 12 to 13 years ago started instituting a parking requirement. It have a parking requirement but gives credits for structure parking, which cuts the parking ratio into a third and it allows a buy out in lieu of parking at 5% of the cost of a parking space times one third, which comes out to 1.67% of the cost. They are wondering what to do with various options.

**1. Central Business District**

His handout outlined four questions for discussion.

- A. Should private development in the CBD be required to provide off street parking:
- B. If off-street parking is required in the CBD, what are the appropriate off-street parking ratios in the CBD?
- C. If off street parking is required in the CBD, should an in-lieu payment option continue to be offered?
- D. If an in-lieu payment option is offered, how should the fee be determined?

Mr. Taintor indicated that there are no right and wrong answers , it is all policy questions. He went though the outline.

**A. Should private development in the CBD be required to provide off street parking?**

This is something that lots of cities do lots of different ways. Some Cities totally exempt parking requirements or some Cities lower the parking ratios for downtown, which is what Portsmouth has

done since 1997. An option he talked about a while back was exempting first floor non-residential parking. There is also a question of residential vs. non-residential.

**B. If off-street parking is required in the CBD, what are the appropriate off-street parking ratios in the CBD?**

The existing zoning really cuts the parking ratio into a third. The zoning standards should support a walkable downtown so they shouldn't be the same ratios of places where you have to drive to. They want to provide a balance between under-parking and over-parking. Do they have a good ratio now? They should also discuss ground floor vs. upper floor and residential vs. nonresidential.

**C. If off street parking is required in the CBD, should an in-lieu payment option continue to be offered?**

If they require off street parking, should they allow buy outs to a payment per space that they don't create.

**D. If an in-lieu payment option is offered, how should the fee be determined?**

Right now there is a really strong incentive for the developer to pay that fee because it is so low compared with the cost to provide those spaces but there is nothing in it for the City and it is not meaningful revenue for the City. The question is are they just charging the developer or should they be charging the developer in a way that will help provide public parking spaces.

Mr. Holden felt it might be helpful if Lucy Tillman gave an overview of how they do it now. Also, he wanted to correct a type. 1995 – 1997 is when they had no parking standards, before 1995 they had a variety of mechanisms, none worthy to mention.

Ms. Tillman gave an overview. The current Zoning Ordinance requires you to establish a baseline for properties in the downtown and the way that they find out what the uses are is through building permit applications. They only have information on applications from 1997 so not all properties have that information and that is now eleven years out. They have new owners, changes in properties that may not have come in through a building permit application. It gets increasingly difficult to find out what the number was and what those uses were, especially when you are working with new owners and old owners have died, there are no records so that has become increasingly problematic. To create that baseline figure you have to do the investigative work to find out what the use was as June 1, 1997, look up any variances that may be been granted, and add any currently conforming parking spaces. That establishes the base line. They then review the new use, for instance a lot may have a baseline of 10 and the new use requires 13 parking spaces so the new use would have an unmet parking need of 3 spaces. Therefore, they would pay three times the current unmet parking fees which is currently \$1,297.00 but is increased on an annual basis. Ms. Tillman indicated that it gets increasingly more difficult to establish the base line.

Mr. Holden added that, in the long run, this approach is not sustainable.

Ms. Roberts wondered in big picture what Ms. Finnigan or City staff may have thought about overall transportation needs downtown. Are they considering other forms of transit? She would like to know their long term future in terms of cars and what their need is 10 – 20 years. Chairman Ricci had the same question. Mr. Holden thought they can involve the Board in that. It is generally accepted never in a downtown do a one to one because it would then be all parking. A ratio of 5-1 for example, one space serving five uses, would create endless cars circulating. In many ways they are trying to figure out if the current balance is good, what goes into adding that balance, and one key item is that the City Council is looking at public parking facilities.

Councilor Dwyer felt that they have a vital downtown because of the residents that live downtown. How would a ratio vary in towns that have living downtown vs. downtowns that are largely business or retail?

Mr. Taintor responded that this varies from City to City. In San Francisco there was a debate to eliminate off street parking requirements for residential uses. It is the opposite of what is happening here as where most development is residential and in that case most was commercial development. They were actually looking at eliminating residential off street parking but not non residential off street parking. There is no right or wrong answer. It depends on their needs in 10-15 years.

Mr. Holden stated they have seen projects in our downtown with a residential component, they like to provide parking for residential. Mr. Taintor stated that a gentleman by the name of Donald Shoop, has been doing a lot research and writing on the high cost of free parking. You acquire a new building that you sell the parking space separate from the space it is serving so that can buy a condominium and buy one or two parking spaces

Mr. Coviello did not think that he would want to punish residential as their use fills in at night. Also for economic development he does not want to punish the retail. It's the non-residential and non retail that should be paying.

Mr. Coker asked about Mr. Holden's reference to a 5 to 1 ratio and a 1 to 1 ratio? Mr. Holden explained that was the Zoning Ordinance requirement for use. Mr. Coker asked if a restaurant would have one ratio and a retail store would have another ratio? Mr. Holden confirmed that whatever that ratio is, they have to provide it. Mr. Taintor confirmed that right now they have an ordinance which gives them a 3 to 1 credit but in fact that is really all they are going to do in the downtown because of the high cost of land. So why not in the ZO have two columns, one for Central Business and one for other places where the required ratio may be 3 parking spaces for 1,000 s.f. for office on Route One and 2 parking space for 1,000 s.f. in the Central Business District. Chairman Ricci remembered they had that discussion on the Portwalk where they had 1,000. Mr. Coker stated, as a downtown resident, he would like free parking. He thinks it is very important, and it was Councilor Dwyer's point, about why they are successful downtown is because of the residents. Mr. Taintor felt the people in offices add to the downtown at day and residents add to the downtown at night.

Councilor Dwyer amended that as they had statistics on how often the garage is full at night and it's something like 75%. They are a nighttime down. It is not residents at night, it's residents plus, and that is their challenge. Also, the number of times that the garage is full is escalating and that is what they need to solve. Chairman Ricci thought that is the info that Ms. Roberts was asking for and it would be helpful if they could see that data. Mr. Coker added that parking in the Parrott Avenue lot is hard to get into by 7:45 a.m.

Mr. Rice noted that residential units without parking are very tough to market.

Chairman Ricci asked the Board what their general feeling was?

Mr. Rice liked the 3 to 1 as middle ground. Chairman Ricci thought if they could get the data to see if it supports it. He asked Councilor Dwyer is she had seen any other data that may lend itself to his. Councilor Dwyer felt that, between Jon Fredericks and Deb Finnigan, there is a lot more they can look at to figure this out. Chairman Ricci thought it would be interesting to see over the last five years with the economy "slowing down", he thought Portsmouth and the seacoast are in a bubble.

Mr. Coviello liked the idea of the first floor being exempt. Councilor Dwyer stated that when she first heard that she wasn't in favor but in an attempt to help small businesses they want to make sure they are not disadvantaging small businesses. So she would support that. Mr. Holden stated, antidotally, most people feel it is the tenant that ends up paying even though the benefit goes to the owner of the property. Councilor Dwyer asked if there was a way to further legally credit the small independent

business? Attorney Sullivan felt that they can but it becomes more difficult to administer the more complex it is. He is worried about the complexity.

Councilor Dwyer felt they were unanimous in not wanting to hurt the small business. Attorney Sullivan indicated that they tried to do this two years ago. Mr. Coviello noted that as soon as the property is sold it changes hands. Mr. Holden felt this discussion is good as it is going to take the Board's input and Staff getting together to craft something. The model they have cannot remain the same. The discussion should be what are the uses that work? He keeps hearing that mixed uses work, they want to protect the vitality they have and do no harm, but also address a need. They can also say when the residential property is developed and providing that parking, they are losing some of the flavor of the ground floor. There are a lot of policy issues in this.

Councilor Dwyer asked if there could be a rotating assessment or time line to deal with the change over? Mr. Taitnor felt it wouldn't be tied then. Right now it's tied to the building code. A lot of communities, instead of our way, they do it through parking assessment separate from the Zoning Ordinance. Donald Shoot also wrote about the ideal municipal revenue source, which are parking meters. One of the issues they want to look at is what their need is and how it relates to supply. The system right now is based on studies that were done in 1997. There has been a study in a California city where people watched cars driving around the downtown and found over 50% of cars were cruising around looking for parking spaces.

Ms. Geffert asked whether it is the experience that zoning and parking policies have incentives or are they so attenuated that they are ineffective to achieve policy goals. A parking district in the Central Business District seems more able to be incentive. Councilor Dwyer agreed and felt it was more appropriate. We are better and better able to deal with parking and it is a great revenue generator. It not only pays for all parking expenses, Coast buses, the garage fund and provides money to the City.

Mr. Coker felt the City has a bad habit of taking away single parking spaces here and there. The cumulative effect of that is like the death of a family. It needs to be recognized. Councilor Dwyer explained that most of those areas are for safety issues. Mr. Coker understands that but felt the impact is the same. Mr. Taintor indicated that the study will show if they are ahead or behind. Mr. Holden pointed out that in 1997 the study assumed that the Parade Mall was going to be parking.

Mr. Coviello went back to the Department's concerns about what they have now is not sustainable. Can there be an announcement that downtown property owners have 2 years to provide an assessment to the Department on their current parking situation. He thought they were losing data on what 1997 was like. Councilor Dwyer agreed they could recalibrate. Mr. Taintor felt 1997 was essentially grandfathering what was there. Mr. Holden explained that the intent of that date was to say everyone prior to that, whatever they had was their initial credit and from there they figured out a baseline. Mr. Taintor stated, in other words, even today they don't necessarily charge people what they need to bring them come up to any type of standard? If they had a deficit in 1997, they are allowed to keep that deficit. Mr. Holden confirmed that is how Parade Mall gets a credit but there was very good dialog.

Ms. Geffert thought about the Central Business District and they may also want to think about the Islington Street Corridor, as they are looking at developing that corridor. Mr. Coviello asked Mr. Holden if he saw a problem in trying to get a new baseline or trying to ask people to get it done? Mr. Holden agreed it is labor intensive. They are trying to get from the Board a variety of approaches.

Ms. Roberts felt they have identified three challenges. They have the "night plus night", the issue of the administration of this complex system. Mr. Taintor stated his argument is maybe the benefit they are getting from this incredibly complicated system isn't even worth it. Ms. Roberts asked what are they trying to achieve? Revenue, intermodal transport, and pedestrian friendly.

Mr. Coker felt they are looking at this as a micro where they have a given business with x amount of parking. How could they do the big picture review of the same principal but for the whole district?

Mr. Taintor stated that was possible and was done in 1998. Looking at the entire parking supply, and entire square footage in the downtown, then they have a giant shopping center that operates at different times which gives blended parking ratios. They are looking at the entire overall system and deciding whether it works. They have to decide at what point they are exceeding parking thresholds.

Mr. Coker would like to know if they are okay now? Chairman Ricci suggested, to make it simple, they should identify supply and demand. They have many municipal lots and he asked if they can add floors to them? He doesn't see downtown doubling in size. Councilor Dwyer felt they should make it more of a current use thing. The idea is to forget the use and use square footage. Commercial use doesn't pay a relatively higher tax than residential. Putting the whole public obligation on tax payers was a little much but it seems they would not have to assess people too much each year if they did it by square footage. Maybe they could add \$100 into the parking fee every year if they have so many square feet. It would have to be a special district assessment, with the key being the issue of demand vs. use.

Chairman Ricci asked if the City knows if there is a strong demand, a slight demand or an excess for parking downtown? Councilor Dwyer didn't know if the City has that answer in their system. Mr. Holden felt that Portsmouth varies through the day and becomes a different community. He felt the peak hours of use and everything else would probably give them a good indication. They have succeeded as downtown is still very much multiple use. That gets a little complicated at night when they have a variety of uses coming together. Councilor Dwyer felt they could do it on three 8 hour shifts.

Chairman Ricci indicated that he would like to adjourn at 9:00 but at least hit each agenda item. They could probably spend the whole two hours on this issue so he suggested taking a summary of each one and then he assumes there will be a follow up meeting. Mr. Holden felt they have enough to head in the right direction.

## **2. Reserve Parking Area**

Mr. Taintor explained that they would have their minimum parking requirements and this would allow the Planning Board to permit a developer to construct fewer than the number of spaces, provided it is a reserved parking area designated with would support those additional spaces so that if the use changed in the future, they would be able to use those parking spaces. It is a way to address a temporary need. Mr. Coviello thought that was great. Mr. Taintor stated this is saying less parking is required if they show on their site plan overflow parking that they can use at special times.

## **3. Maximum parking ratio.**

Mr. Taintor indicated this concept is to establish a maximum allowed parking ratio as well as a minimum required parking ratio. This would discourage developers from planning for the maximum worse case scenario. Chairman Ricci referenced an application for Borthwick Avenue where the parking was four per hundred and they ended up putting seven per hundred because based on today's logistics four didn't work. Mr. Taintor felt it seems like there is an awful lot of parking at Wal-Mart. Chairman Ricci felt that could be a great case for more green space. Mr. Holden added that, with the maximum parking ratio they are making a policy statement that they are aware of the issue and are willing to work with it. If someone wants to put in a lot more parking, they are going to have to work for it. Mr. Taintor didn't think there was a lot of controversy with the Board on this point. It was the general consensus that this was a great idea.

## **4. Offices: Business/Professional/Medical**

Mr. Taintor felt this was a tricky one. Medical offices require more parking because of the nature of their activity. What happens is, a building might be built for one purpose but then it gets used for a use with a higher parking requirement. They could make a more stringent requirement for all medical

offices and allow reductions with a reserve parking area. Another option is to require medical office parking ratio in combination with underground parking for all new office buildings. That increases the cost to the developers. Thirdly, they could make no change and rely on variances and make judgment calls

Mr. Coviello likes option #1 because the medical people will demand parking or they won't move into the space. Councilor Dwyer asked if that is actually what option #1 mean? Mr. Taintor explained that if they require 4 parking spaces per 1,000 for non-medical and 5 parking spaces per thousand for medical, this would say that all office buildings would have to provide 5 spaces per 1,000 and they could use the reserve parking area. Councilor Dwyer felt that seems to be going the opposite way. Mr. Ms. Tillman confirmed that the variance could be several things. It could be for the use, the number of parking spaces, or it could be for reducing open space. Mr. Taintor stated if they grant variances they would have the issue of losing the open space and may have more congestion, with people parking on the street. Councilor Dwyer asked if the Borthwick Forrest study show they were set for medical space in the next 25 years? Mr. Holden felt that may be true, but Griffin Drive was supposed to be all industrial yet there is a surprisingly amount of medical there and Jackson Gray was based on a certain number of doctors and practices have expanded and they finally had to purchase land to increase the parking lot. They base their parking on the actual building permit application which says what the use is and the change in use, if allowed, will actually start to fill that area. This challenges us because if they are heading to the medicals then they will provide the parking up front. Whereas, if they are doing something that is not as intensive, they may be inclined to say they don't need all the parking so they will set up a reserve area. He can see how it could function and he is not sure whether they have enough medical space. Some studies say we need more doctors.

Mr. Coviello imagined the Planning Department would be pushing non-medical to reduce the size of their lots. Mr. Holden responded that the first time they see it is when they are building the building and they are used to everyone wanting to max out the site because it is so expensive. Ms. Roberts indicated that she does not want to encourage maxing out of parking spaces. Vice Chairman Hejzmanek asked about option #2, maybe they should require underground parking. Mr. Coviello thought it sounds like they are granting too many variances when they shouldn't be. Mr. Holden felt the BOA has taken a very active role in the difference between a dimensional variance and a use variance. Attorney Sullivan confirmed it is easier to get a dimensional variance.

Chairman Ricci summarized that the Board is definitely not in favor of #1 or #2.

## **5. Parking, Yards and Buffers in Business Areas**

Mr. Taintor felt this was an interesting one. He asked the Board to think about Route One/Lafayette Road and the General Business. Looking at the front of the building, option A. is to require parking to be behind the front yard. Option B. is that parking cannot be between the street and the building. Option C. and Option D are two different degrees of dealing with the side and rear. Right now they could a corridor of green space cross the front and continuous building and parking behind that frontage, and no restriction on parking. Some communities require that parking be set back 5' or 10' from front or side lot lines. Some require deeper set backs. The question is whether this is a building envelop or building envelop. This has to do with how they envision future development.

Mr. Rice referred to Option B, and asked if they are talking about commercial building? Mr. Taintor confirmed that was correct. Basically it would be them changing their policy and creating a more defined street line. Ms. Roberts agrees with the policy of limiting or prohibiting parking between the street and building. If they are talking the business zone then what would be the point of having a set back from the side or rear lot? Mr. Holden indicated that if they don't have anything they could have asphalt to asphalt on the lot line. Perhaps they want some separation but allow some incursion into it. Mr. Rice asked where do Special Exceptions and variances come into play here? From prior experience he doesn't see how you maintain a quality streetscape allowing off street parking in front of the building. He also sees the potential for the destruction of green space as well. Mr. Coviello

agreed. One goal was to get parking in the back. In a sense, they create another road behind the lots which is what they like. He thinks parking should be in the back, rear and sides. Chairman Ricci mentioned that they hope that Lafayette Road will be the gateway to the City someday so they need to keep the fronts green. Councilor Dwyer spoke regarding the visual picture and thought maybe there is a setback issue with the side too to avoid wall to wall cars. Mr. Taintor gets the general sense that they don't like parking in front of the buildings. Chairman Ricci noted how different Margarita's plaza would look if the parking were on the side and the rear.

Ms. Geffert added that the Meadowbrook development and the old Yoken's site would look very different if this were in place.

Mr. Coviello felt they have created an anti-overdevelopment because they can move things around so much. If they had this the Meadowbrook probably couldn't have had all of their parking in the center of the project. Chairman Ricci added that they have to be careful with that as they don't want it to become too difficult to develop but he felt they are going in the right direction.

Mr. Taintor stated they have talked about building design standards and there are different problems with Islington Street than Lafayette Road. They are looking at a special design standard along Route One. It has a lot of potential for new uses.

Ms. Roberts asked if pervious pavement was in the mix somewhere for some of the big lots and their redevelopment. She felt they could maybe push pervious.

Mr. Coker asked what is the difference in cost between asphalt and pervious per square foot? Chairman Ricci stated it depends on a lot of different variables. There is a seminar on June 12<sup>th</sup> in Somersworth on that. Chairman Ricci felt it would be very helpful to have someone from UNH to come and talk to them or the Board could do a field trip over to UNH. Mr. Holden stated they did it several years ago and maybe they can do it again. Mr. Taintor pointed out that the technology is changing.

Attorney Sullivan felt that a lot of the discussion was more Site Review than zoning. A lot of this might be more appropriate in Site Review. Mr. Taintor thought that pervious pavement is in the Site Review Regulations. One of the hard lines between zoning and site review is if they have a set back requirement. Attorney Sullivan agreed that there is a cross over and they are already going to have a 200 page Zoning Ordinance and he would like to see some of this put in Site Review where the Planning Board would have more latitude.

Chairman Ricci asked if there was a parking guru they could hire to assess their downtown. Mr. Taintor stated there is a gentleman in Cambridge that he would love to have them talk to. His name is Jason Schriber and his specialty is downtown parking. Chairman Ricci doesn't feel they have a good handle on the future. Councilor Dwyer felt they have so much on the horizon. They haven't even mentioned the McIntyre Building. Mr. Coker also added that fuel prices are going up and up which means there will probably be fewer and fewer cars on the road.

Councilor Dwyer indicated that the Economic Development Commission (EDC) has had a lot to say about the credits, etc. There are probably other people who should be in on this discussion. Mr. Holden confirmed they are headed towards that with the Boards' input. It is an amazingly complex subject.

Chairman Ricci felt that they had accomplished what he had hoped they would achieve tonight. They have given Staff and Mr. Taintor plenty to do.

Mr. Coviello had a separate issue from tonight's agenda. He asked about the number of meetings they had been having and he asked what was expected for attendance? He asked what the thoughts of the Chairman were on the attendance issue. Chairman Ricci felt everybody who appears to either a public

hearing or a work session, it is not the first time they have opened that plan. Everyone comes extremely well prepared. He would base attendance on public hearings which are very important. Mr. Holden felt the board is doing a commendable job and they understand that members are unable to attend all meetings. Staff finds the Board's input extremely useful and they have scheduled so many meetings because they are trying to complete the goals that they have set. They plan to take time off in the summer. May 29<sup>th</sup> was previously free but they have now scheduled a joint Site Walk and Work Session with the Conservation Commission as they owe it to them to get that done.

Mr. Taintor indicated it is extremely helpful for him to talk to the Board and he's trying very hard to meet dead lines. Chairman Ricci indicated that he met with the Mayor and they agreed they would work hard through the month of May and take June, July and August off. Mr. Holden clarified that they are scheduling through June.

Mr. Coviello also mentioned that he wouldn't mind going longer into the evening and having less meetings. Councilor Dwyer agreed also. She would rather start at 6:00 and go until 10:00. Chairman Ricci felt that in the fall they will be able to combine items and make the meetings longer.

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**II. ADJOURNMENT**

A motion to adjourn at 8:14 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 June 19, 2008.