

**MINUTES
OF
WORK SESSION**

**PLANNING BOARD
PORTSMOUTH, NEW HAMPSHIRE**

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

7:00 P.M.

MAY 14, 2009

MEMBERS PRESENT: John Ricci, Chairman; M. Christine Dwyer, City Council Representative; Paige Roberts, Vice Chairman; Anthony Coviello; John Rice; Anthony Blenkinsop; Richard A. Hopley, Building Inspector; Cindy Hayden, Deputy City Manager; MaryLiz Geffert, Alternate and Norman Patenaude, Alternate

MEMBERS EXCUSED: Donald Coker;

ALSO PRESENT: David M. Holden, Planning Director;
Lucy Tillman, Chief Planner

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Chairman Ricci called the Work Session to order and turned the meeting over to Rick Taintor.

I. WORK SESSION

- A. Discussion on possible zoning amendments to permit Senior Housing Facilities in the Office Research (OR) District, subject to certain conditions. This session continues the Planning Board's review of a City Council referral (Borthwick Village). (This Work Session is a continuation of the Planning Board Work Session held on April 30th)

Rick Taintor explained that at the last work session they had a red-lined draft Senior Housing Ordinance and after discussion the Board, it was decided to have a follow up work session. Tonight he would like to go through some conceptual recommended changes. He made a powerpoint presentation identifying the key issues. They also met with the proponents the other day so that are aware of these also.

The first major change was to Conditional Uses.
Limit to Continuing Care Retirement Community or Assisted Living Residence
Independent living units must be in a CCRC
Add definitions for "Assisted Living Unit" and "Nursing Care Unit"

There were a couple of different drafts on phasing. They would recommend that Assisted Living and Nursing Care units shall be developed at a rate at least proportional to buildout rate. AL and Nursing units can be built sooner than Independent Living units, but not later

Mr. Coviello stated that usually they are separate buildings and have different building code requirements so the developer would have to physically start the dependent living first. Mr. Taintor said they could be built at the same time. Mr. Coviello was concerned about unintended consequences

but maybe that is that getting too involved in the building side. Deputy City Manager Hayden recommended that Mr. Taintor address what they are trying to avoid and they can discuss it at the end of presentation. Mr. Taintor confirmed that the idea was that there would not be a development that was entirely independent living.

Mr. Rice was confused about proportionate. Mr. Taintor stated there was a proposal that if the Conditional Use Permit says "X" number of IL and NA, then the development would have at least that proportion of assistant living and nursing.

Ms. Geffert had a question about the concept of a nursing unit? It comes up in the density section. Is it a bed or a room? Mr. Taintor indicated it was typically a bed and it could be a single bed in a single room but it could also possibly be in a double room.

Mr. Taintor discussed buildings. The initial proposal was up to 4 stories or 50 feet. He recommends they remove the requirement for pitched roofs and at least 50 percent of building perimeters shall be habitable space (not parking) with direct access to the exterior at grade. At the last meeting they discussed walking into one level and drive into a lower level in the back and he just defined it better.

He displayed photos of buildings showing the scale they are looking for.

He went on to building setbacks. Initially it was 50 feet from parcel boundary. He is suggesting 150 feet from residential districts, or maybe 100 feet. The further you push the buildings back, the parking would be pushed to the back, which would have lighting next to a residential area. He showed photos of the site and existing building to give the Board an idea of setbacks.

They had a couple of different ways of looking at required open space. They are proposing that a minimum usable open space be about 40% of the developable area and the development area would be the upland area of the lot. They are also suggesting at least 40% of the required parking spaces be provided below the buildings (ie, no more than 60% shall be in surface lots)

The biggest point of discussion is that there should be at least two separate access points to existing public streets (not limited to emergency access). There should be the possibility of continuous vehicular access between the two street access points. There should be sufficient right of way reserved for a public street. So there should be a way for vehicles to get from one side of the project to the other that could be a public street.

Mr. Taintor indicated that they talked to the Fire Department and the input was that there was concern with two different issues. One issue is continuous access through for ambulances, etc. From a planning point of view, the development will really be on Islington Street and people who live there will want to leave that way. Councilor Dwyer stated this was the long standing issue. They are talking about two separate access points that are to two different streets. Given the tradeoffs she is not sure why they would require that during zoning but rather would be discussed during approval because there are then definite tradeoffs to that neighborhood. She can understand two separate access points but not to require that they be on two separate streets. Mr. Taintor displayed an illustration of how you would have two access points on public streets on this site but it does not have to be those two access points. A concern of this site is two upgrade railroad crossings.

Mr. Coviello was concerned about this and would like to hear from a traffic engineer. People exiting Borthwick Avenue as a cut through is a concern. Mr. Blenkinsop felt the potential of being on two different roads would mean it would have to be these two roads for this project, Borthwick and Islington. The residents have expressed concerns about Islington being a main access and they have discussed Islington Street not being a main access. Deputy City Manager Hayden reminded everyone about Atlantic Heights and the problems an emergency road had to be built. They want to address this in zoning up front because they want to be very clear. They have talked internally about the cut

through issue. This isn't a place where everyone gets out of work at 5:00 and will stream out at the same time. The trip generation is not going to be at a peak hour. Mr. Taintor added that there are many ways to avoid this being a cut through. They could possibly have a round-about to slow them down or make it more like a traditional street pattern with stop signs.

Councilor Dwyer felt it was not very far if you are driving to go out the back door. Mr. Holden suggested that when TAC is looking at it, it will be very significant in a highly populated area. Directing them towards Borthwick will send them to Route One and then to Cottage or Bartlett Street which are problematic. Going out Islington would be less problematic. The Board probably doesn't remember when the bridge failed at Atlantic Heights and they had to put an emergency access in over night. If this were being developed in OR they would also be asked to look at it.

Councilor Dwyer was concerned about turning left on Islington. Mr. Holden felt that is a consideration of putting this project in that area.

Vice Chairman Roberts felt ambivalent. She can see residents wanting to access to Islington but Islington Street residents have been very clear about not wanting more traffic on Islington so traffic will be a key issue and they will have to keep that in mind.

Ms. Geffert addressed the concept of doing this as zoning rather than site review. The orientation of the site looks towards Islington Street and she thinks it is a stretch that this site is logically fed by Borthwick. They have to stop pretending that Islington will be an access point. Therefore, she believes the access issue is a zoning point. Secondly, from substantial public benefit aspect, as this site is developed, integration with the community is a critical component and the only way to integrate is with accessible access.

Mr. Coviello didn't think, until recently, that this parcel had access to Borthwick.

Mr. Taitnor addressed public benefit. They need to discuss what type, what is meaningful, what is feasible. Regarding public access, if the public benefit area is close to Islington Street, the public needs to get into it. He is not convinced they need a separate public benefit but it has to be meaningful. He does not have answers but looks to the Board to discuss it. Deputy City Manager Hayden stated that what struck her was everyone would be driving to the playing fields and would need parking which is not provided. They need to consider what they are trying to preserve. Mr. Taintor indicated that one benefit is taxes and providing housing that is not offered now. They need to weigh public benefit. Chairman Ricci thought that is a loose end that may not get tied up tonight. Determining exactly what type of public benefit will require additional discussion.

Mr. Coviello's overlying concern was they are an older community and today's paper says we are getting older, so he would like public benefits for the younger population as a draw. Deputy City Manager Hayden felt that is great theoretically but she doesn't see it working. Mr. Coviello felt that maybe they could get a playing field. Chairman Ricci doesn't want to see a playground but rather something this is multi-use. Councilor Dwyer thought Creek Farm was a good analog to this and that parking lot is small. Ms. Geffert was concerned about senior housing being set aside from the rest of the community and, from a zoning perspective; this should not be set apart from the community.

Chairman Ricci asked the Board for some dialog. Mr. Rice asked if anyone was troubled by the proximity of the buildings to the residential neighborhood? He is not opposed to the project but he is concerned about the massive institutional buildings going up 100' from the residential area. Deputy City Manager Hayden agreed to an extent but that is balanced with the fact that someone can build big tall office buildings now. This gives the Board more control. She was reminded that if they get as far as adopting the Conditional Use Ordinance, it doesn't guarantee this project will be built.

Mr. Taintor noted that OR would allow 60' buildings. Councilor Dwyer felt it may speak to a landscape buffer as one characteristic of this property as a built in buffer. Chairman Ricci stated that the elevation where these buildings are proposed goes down towards Islington Street. He is also concerned that 60' office research is 9:00 am – 5:00 pm and there wouldn't be any activity at night or on weekends whereas this application will be 24/7.

Deputy City Manager Hayden thought maybe they should look at the Site Review Regulations to see if they need to add something else regarding a buffer. Chairman Ricci thought it might make sense to institute a "no cut" zone. Mr. Taintor felt it might but it would limit the parcel. Mr. Holden felt that could be part of the Conditional Use. Mr. Rice added that maybe they could require a buffer zone in the proposed ordinance, such as a vegetative buffer.

Chairman Ricci invited the applicant to address some of the questions that were raised by the Board.

Malcolm McNeill, counsel for the developers, stated that they appreciated the opportunity to meet with staff this week and they have seen this presentation. They can work with most of what was proposed. The traffic is a concern to them but they have indicated that if that is what is required, they will attempt to work with it.

Mark Stebbins addressed the Board. He stated that they had no problems with phasing and building two buildings at once. They have no problem with the maximum building height. They are proposing very flat pitched roofs. They could even put dormers on the roof so it is a story but under the roof. He indicated they will have to put elevators in and it that would leave more open space with four stories. It would probably be a mixture of 3 and 4 stories and will transition nicely. The City will be very involved in the architectural design. Regarding the parcel boundary, they would prefer the 100' as they are trying to put landscaping and no parking on the Islington Street side. It would ultimately be up to the Board with a CU permit. Mr. Blenkinsop was concerned about a vegetative buffer in the 100' buffer. Mr. Stebbins didn't like the idea of a "no cut" as it can get unruly but he has no problem with a landscaping buffer. Mr. Coviello asked if WBBX road would be the access? Mr. Stebbins responded that they want to do the right thing for planning and staff feels two roads is the way to go. The compromise is to give them enough land and the rights so that at a future date they could have a public street through the site. The access is in fact WBBX road.

Mr. Stebbins did not have a problem with the open space and it was always their intent to have parking below as the residents will be elderly.

Councilor Dwyer asked someone to speak to the use of the two different railroad tracks. Mr. Holden indicated that the first is the Hampton Branch and is being preserved and the principal user was Foss. There is probably one train at the moment. The busier one is the Rockingham Branch off of Borthwick. The spur heading off is not used any more. It is an active line that goes to the shipyard and is an important connection.

Mr. Stebbins addressed the public benefit issue. They have this land and they can put a public benefit easement in it for the City to decide in the future. They want to put in walking trails around the site. Mr. Hopley asked which track goes to the Schiller Station? Mr. Holden confirmed they met up and they both do. He would guess there are approximately four trains per week in a good economy. Mr. Stebbins stated that they have a very substantial agreement with B&M and it has signals, bells & whistles. Mr. Patenaude asked if WBBX Street is wide enough for two way traffic? Mr. Holden confirmed it would have to be a 50' right of way. Mr. Patenaude asked if they could limit access in both directions to emergency vehicles but access for the residents to Islington Street on the way out only? Mr. Holden felt that enforceability would be the problem. Deputy City Manager Hayden envisioned a train going by on the Borthwick end and someone needs to get out in an ambulance, and that is what they hear from their emergency forces.

Mr. McNeill commented that in terms of some of the language in the proposed ordinance which he had added that was found offensive, they discussed the removal of that language to be consistent with what was proposed before. The important point is as they consider the through traffic issue, or other issue, the way this is currently drafted, nothing compels the Planning Board to approve. Although it provides flexibility, not all projects will be suitable. Whether the issues are zoning or site review, there is very broad authority of the Board and they can exercise significant control. In term of the list provided by the staff, they can live with it. They would like to move forward with the City. Mr. Holden explained that the section they are dealing with is what the City envisions the CU being, which is a negotiated process. The zoning will be created, the opportunity exists, then they start the negotiations and that is language that reminds everyone that they are trying to find the common balance. Mr. McNeill stated that regarding the issues of cut through and continuous roadway, they have been affected by what they have heard at public meetings in the neighborhoods and those will have to be resolved. Deputy City Manager Hayden reminded everyone that they have heard from the Islington neighborhood but they will also hear from the Borthwick neighborhood if they send everyone via Borthwick Avenue. It is a balancing act and she understands they are trying to be sensitive. Mr. Holden stated that the Planning Board is representing the interests of the entire City.

Mr. Coviello agreed that someone on Cottage Street may not think this effects them but the traffic will be heading their way.

Mr. McNeill stated they would like to continue working with staff towards drafting an ordinance that the City can adopt.

Deputy City Manager Hayden asked, since they know height issues will be an issue of the neighborhoods and they are thinking of a 3-4 story mix, could they work with them on this in the ordinance? Mr. Stebbins thought they would have something saying if it is between 100' – 150' it would have to be 3 stories and anything over 150' would be over 4 stories. Deputy City Manager Hayden was not looking for a concrete answer but just some sort of tradeoff as that may be a way to get community support.

Chairman Ricci thought they could have a percentage of buildings less than 4 stories and have a waiver if they go with all 4 stories they can save open space. He would also wholeheartedly support a no cut zone. It's hard to replace a 20' oak tree. Islington Street has a lot of nice mature trees. Mr. Holden indicated that in all PUD's they have done a lot with preserving vegetation. They should be able to get a model for that to provide for the care and maintenance of that.

Mr. Coviello thought they could have a requirement under Section E, Design Standards, that the applicant is required to show some form of sustainability. Deputy City Manager Hayden confirmed that has been added under site review. Chairman Ricci asked if they have bonuses in the language? Deputy City Manager Hayden confirmed it was just downtown.

Ms. Geffert responded to Deputy City Manager Hayden and thought if they were prepared to go and require pitched roofs, they could encourage sustainable building elements in addition to site review regulations. Deputy City Manager Hayden acknowledged that it is all for sustainability but she doesn't feel great about making it a mandatory item at this point because it seems adding another layer on at this late date and she has issues with that. Why pick on this section? Ms. Geffert thought having something in this ordinance about sustainability raises this issue. They don't have to mandate it but doing something along the lines of what was done in the Site Review Regulations calls attention to it.

Councilor was interested in what it means to have a green fire station? It's very different from having a green library. She thinks there are probably some very interesting specifics about what it means to have a green senior housing facility. What are the particulars related to this facility? Green isn't just generic.

Mr. Rice wanted to bring up the buffer zones again. He stated that 100' is exactly the width of his lot. If they added 50' they would not have to be as clever with their landscaping to buffer the building.. Chairman Ricci reminded him of the different levels of height based on the amount of buffer.

Mr. Coviello asked if north of the parking lot is a wetland, keeping them from moving the parking lot north? It was confirmed that it was.

Ms. Geffert spoke to the design standards and wondered whether the Board would consider adding a #7, saying something like access to development and the community spaces within the development shall be situated and designed to encourage meaningful interface between the development and the Portsmouth Community. She is concerned about the intersection. Chairman Ricci felt it was "too squishy" and they will probably do it anyways which is why one of his concerns about going out to Borthwick is that it does isolate if they wanted to go to the Plains field to see a game or down to Coffee Roasters. Mr. Holden felt they may have some of that under the Senior Housing A, referencing the site has to meet the goals of the Master Plan. Mr. Coviello thought they could get rid of the word "housing"? Ms. Geffert suggested changing it to say "by, among other things, providing for".

Chairman Ricci wanted to give the Department enough information to proceed. It never amazes him when you think you have things covered, they get a list of small comments that change things.

Mr. Taintor noted that there is a lot of consensus on some issues but not quite consensus on access and public benefit. Those are the two big issues. They have dealt with all other issues. Chairman Ricci felt those are the two biggest things you can't put in a box as they are site specific.

Mr. Coviello asked where the minimum off street parking numbers came from? Mr. Taintor indicated there is a lot of debate on what parking standards are and concerns with standard rates. These are fairly typical across the board. In an early draft, he had 1.1 per unit for independent and that was meant to accommodate the staff and that is a rate that has been used in other places. They can look at this. The independent may be a little bit low but AL and Nursing may be high. Mr. Coviello indicated that they had a plan come before them on Pease where they had a reserve parking lot, if they needed it in the future. Maybe that would work here? Mr. Taintor stated they put that in the revised Zoning Ordinance.

Mr. Blenkinsop asked where public benefit is defined. Mr. Taintor confirmed it could be under g but it would probably be under e, if they are going to require it. Mr. Blenkinsop was a supporter of public benefit with fields and the idea of sustainability should be encouraged and considered a public benefit.

Councilor Dwyer thought that another type public benefit is when you think of this property and the pressure that is increasing around it with the expansion of Route 33, building Target, there is real public benefit in having some passive recreation space. They should acknowledge that and think about it. The value that people place on the Jones Avenue area is amazing. The value of that kind of space is changing.

Vice Chairman Roberts felt they could be more specific like not having fertilizer. A playing field needs to have a perfect surface so it probably requires fertilizers. Sustainability is case by case and she would like to see some sort of open space that will minimize pavement and run off. She would like to see as much of this site open as possible. Chairman Ricci would like to keep the public benefit generic which gives them the control. Ms. Geffert thought in Section F3, putting all utilities underground, why not say other than solar or wind generation facilities. That would make it more visible and get people to think.

Mr. Taintor stated, in terms of the issue of open space as a public benefit, all upland area is being calculated as part of the land area per dwelling unit. It is already being required as open space so it would not be public benefit. Deputy City Manager Hayden felt that was a good point and maybe on

Page 5, G3, maybe it should add “and public access” after “A portion of the site shall be set aside for community purposes”.

Chairman Ricci wanted to reiterate that he likes setbacks in relation to building height.

Deputy City Manager Hayden asked if staff felt that they had enough guidance to revise the draft and come back to the Board with a new, clean draft. Then the next step would be to hold a public hearing on that draft. Mr. Taintor felt they were leaving some things wide open but Chairman Ricci agreed that sometimes they need to. Mr. Holden felt that they certainly were ready to proceed to the next step and define what might still be outstanding. That was the consensus of the Board.

Deputy City Manager Hayden asked if the next meeting on this draft needed to be in work session format or would they want to do that as part of a regular meeting? Chairman Ricci would prefer to do it as part of a regular meeting. He felt they have “work sessioned” this to death. Deputy City Manager Hayden agreed. Chairman Ricci indicated that could be done at the June meeting. That was the consensus of the Board.

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 June 18, 2009.