

**MINUTES  
OF  
REGULAR MEETING**

**PLANNING BOARD  
PORTSMOUTH, NEW HAMPSHIRE**

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

**7:00 P.M.**

**JULY 9, 2009**

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

**MEMBERS EXCUSED:** John Ricci, Chairman; Donald Coker; Alternate and Norman Patenaude, Alternate

**ALSO PRESENT:** Rick Taintor, Planning Director;

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Vice Chairman Roberts called the meeting to order.

**I. PUBLIC HEARING**

A. A public hearing is convened to solicit public comment on the Draft Revised Zoning Ordinance, dated June 11, 2009 and the Draft Revised Site Plan Review Regulations, dated April 24, 2008. Copies of these documents are available for public inspection in the Planning Department, the Public Library, and on the City's website ([www.cityofportsmouth.com](http://www.cityofportsmouth.com)).

Rick Taintor, Planning Director, went through a brief overview of the process and the highlights of the proposed Zoning Ordinance.

Mr. Taintor's presentation gave information on the context and background of the Zoning Ordinance changes, the process that was followed, focus on major changes, Zoning Map revision and Site Review Regulations.

He explained how the Zoning Ordinance is connected with State law, Federal law, the City's Master Plan, Planning Board Regulations and other City ordinances. Boards that have responsibilities relating to land use are the City Council, Planning Board, Conservation Commission, Historic District Commission and Board of Adjustment. The major distinction in the whole land use system is between the Zoning Ordinance and the Site Plan Review Regulations and he explained the differences between the two. The Zoning Map shows how the City is divided into zoning districts. There are base districts and there are overlay districts. A key aspect of the Zoning Ordinance is the use regulations which are done through a Table of Use Regulations where columns across the top are zoning districts and rows down the side are uses that are defined or described in the Zoning Ordinance. The other major part of the Zoning Ordinance is the dimensional and intensity regulations. He displayed an illustration of front yard, side yard, building height, coverage, etc, which is how the Zoning Ordinance regulates intensity. He explained Floor Area Ratio (FAR) which allows for more flexibility.

Mr. Taintor displayed a sample Site Plan which would be presented to the Planning Board and would be the next step for review of specifics such as traffic review, landscaping, stormwater management, etc. It is important to remember there are tiers of review.

Mr. Taintor explained the background of how they got here. In 2005 the City revised its Master Plan and identified four areas of priority: downtown vitality, improvement of some major corridors, supporting a diverse community and protecting resources and encouraging sustainability. The last major Zoning Revision was in 1995 and since then there have been incremental revisions which have made the Zoning Ordinance complex and sometimes hard to use. There have been new Federal and State Laws that have been adopted which the City must respond to. New laws have been adopted on wind energy systems, telecommunication cell towers and workforce housing. More recently the City has added the Downtown Overlay District which prohibits residential uses on the ground floor of a good portion of the Central Business District to encourage economic vitality of the area and the Residential Density Initiative/Planned Unit Development (RDI-PUD) was adopted in 2007 to provide a means to increase the residential density of a site where a good proportion of the site are residential affordable units. Also, in 2007 restrictions were added to height limits to the Central Business A district.

This revision process started three years ago in 2006. They have had over 60 meetings, including 45 Planning Board work sessions, 8 meetings with the City Council, 12 meetings with other municipal boards, a number of referrals from the City Council and they finalized the revised Site Plan Review Regulations in 2008.

The key objectives of the Zoning Ordinance are to promote sustainability, balance flexibility with predictability, balance resource protection with private property and economic development, use common sense and make the ordinance more user-friendly. They have added more tables and defined more terms and highlighted them in the new ordinance. He reviewed the 15 sections of the ordinance.

To promote sustainability they focused on low impact development, LEED rating program, limiting impervious surfaces, they introduced reserved parking areas and shared parking areas. They made changes to the wetland protection regulations, adapted lighting regulations for "Dark Sky Friendly" fixtures and simple things such as promoting the use of rain barrels. He also talked about sustainability in relation to the building codes.

Mr. Taintor gave examples of how the Master Plan goals have been incorporated into the Zoning Ordinance. One goal was to protect neighborhood character and residential conversion was an issue. Another goal was to improve commercial corridors and they have created a Gateway District. They have changed some of the jurisdictional areas for wetlands and introduced management performance standards for the buffer areas to protect natural resources. They have created minimum standards for open space, they are trying to balance flexibility for front yard exceptions, they have addressed off street parking and the location of parking facilities and have addressed drive through regulations.

Regarding resource protection and sustainability, they have decreased the jurisdictional area from ½ acre to 10,000 s.f. and they are including vernal pools. They are looking at tidal wetlands along the North and South Mill Ponds and will look to Best Management Practices to address stormwater protection and vegetation management. On the Site Review side, they are encouraging the reduction of impervious surfaces, pedestrian and bicycle circulation, dark sky friendly lighting, and create landscaping and screening standards.

Mr. Taintor talked about one of the major changes which was the introduction of the Gateway District for the Lafayette corridor. There is a Gateway District and within that is a Gateway Planned Development. The Gateway District would go from the Rye Town line to Route One. One of the goals of the Master Plan was to redevelop commercial areas that are comparable with the quality of site and building design of the downtown area. The objectives are to encourage mixed use

development, enhance character of corridor development, expand moderate-cost housing opportunities, incorporate pedestrian/bicycle access and circulation and the efficient use of transportation infrastructure.

Another area of the Zoning Ordinance are sign regulations which address sign types, the area of signs, the height and setback of signs and the way that signs may or may not be illuminated. They are proposing six sign districts and to completely revise the sign regulations by looking at them on a district by district basis.

Mr. Taintor stated that another major change is revising the way the City regulates parking in the downtown area. The current regulation is very complex and was created in 1977. They are now proposing changes and their objectives are to continue the flexibility that exists, to promote public shared parking, discourage surface parking lots and to simplify the regulations. In the long term it will be a good idea to separate the financing of parking from development permitting.

The changes are to modify the parking regulations in downtown and their goals are to eliminate parking requirements for first floor non restaurant uses, to help support small businesses. They want to standardize the parking requirements based on floor area and they will deduct the first four spaces in order to support the smaller uses. They will update and simplify the in-lieu fee by requiring on-site parking for residential, eliminate the 1997 "baseline" computation and increase the in-lieu fee to 40 – 50% of the estimated cost.

Mr. Taintor pointed out the current Central Business district where the parking regulations currently apply and they are proposing that the Central Business district be reduced in size and that the in-lieu fee apply only to the Downtown Overlay District.

That ended the changes to the Zoning Ordinance. Mr. Taintor indicated that they will be working on revisions to the Zoning Map next. They will be proposing to pull the CB District back to about Parker Street and to rezone the remainder of the corridor Mixed Residential Business which will change the maximum height of buildings from 60' to 40' and eliminate some uses that might have higher impacts on the neighborhood. Another set of changes deals with a change in boundaries to the Historic District. They are considering an extension down Islington Street to Bartlett Street, an extension down Middle Street to South Street, addition of the corner between Bridge and Vaughan Street and two lots next to the Parade Mall. Osprey Landing is a very complex overlay district which is the result of a court settlement and they have reduced that section. They will look at the area between the Route One Bypass, Bartlett Street, Cate Street and Cottage Street, among other areas.

They will continue to look at implementing design review standards and regulations and looking at external regulations, such as the PDA Zoning Ordinance and the Airport Approach Overlay District. They will be looking at non-conforming lots to see if they can come up with new regulations that are sensitive to the historic context of the neighborhoods and one particular area they will be looking at is Atlantic Heights.

Mr. Taintor explained that the City Council needs to adopt the revised Zoning Ordinance and amend the Planning Board Ordinance and Site Plan Review Ordinance and the Planning Board will adopt the new Site Plan Review Regulations.

The Planning Board will be holding public hearings on the Draft Revised Zoning Ordinance on July 23<sup>rd</sup>, August 6<sup>th</sup> and September 10<sup>th</sup>, after which they will make a recommendation to the City Council and the City Council will take it under consideration and act on it.

Vice Chairman Roberts thanked Mr. Taintor for his excellent review. She thanked the public for attending and advised the public that they will be taking comment from the public and if people had

questions they would write them down and either address them at the end of the meeting or, if further research is required, they will get back to them. She called for first time speakers.

Michael Dohner, 152 Hillside Drive, had four areas of concern. He felt that new people have come into town who have not followed the regulations and a lot of problems have ended up in Superior Court. Attorneys have been able to get around the Site Review Regulations because the Regulations haven't had enough teeth. He asked if there was a way to avoid litigation through the Zoning Ordinance. His second concern was that signage needs to be better defined. His third concern was medical equipment (MRI, cat scans, diagnostic radiological equipment). Van type outfits are now being made available to medical offices and these vans are very serious and dangerous. He felt that wetlands need to be better protected as it is difficult to prevail before the Superior or Supreme Court. He applauded the Planning Board for the proposed regulations. His neighborhood feels like the BOA has "given it all away".

Vice Chairman Roberts confirmed that next Thursday, July 16<sup>th</sup>, was the regular Planning Board meeting which included a hearing on the Draft Senior Housing Ordinance. Future hearings on the Proposed Zoning Ordinance will be held on July 23<sup>rd</sup>, August 6<sup>th</sup> and September 10<sup>th</sup>. The City will be setting up an email address for the public to submit their comments.

Seeing no further speakers, she closed the public meeting.

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**II. ADJOURNMENT**

A motion to adjourn at 8:15 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 August 20, 2009.