

**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.**

**AUGUST 6, 2009**

**MEMBERS PRESENT:** Paige Roberts, Vice Chairman; Anthony Coviello; Anthony Blenkinsop; Cindy Hayden, Richard Hopley; and MaryLiz Geffert, Alternate

**MEMBERS EXCUSED:** John Ricci, Chairman; M. Christine Dwyer, City Councilor; Donald Coker; John Rice; and Norman Patenaude, Alternate

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

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Vice Chairman Roberts called the meeting to order and read the public hearing notice into the record.

**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)).

Vice Chairman Roberts turned the meeting over to Planning Director Rick Taintor for a brief powerpoint overview.

Mr. Taintor explained that he will be giving some background about the Zoning Ordinance changes, how they got to where they are and highlighting some of the major changes. He handed out a one page summary of comments received at the last two public hearings, and they will add to that after future meetings. They are proposing some new districts (Gateway District & Sign Districts) and there are proposed boundary changes to existing districts. They will begin reviewing Zoning Map changes at the August 20<sup>th</sup> Planning Board meeting.

The last major revision of the Zoning Ordinance was in 1995 and many incremental changes have been made over time. Federal and State laws have required revisions also. Some of their objectives are to implement the recommendations of the Master Plan which had a number of land use and zoning recommendations, sustainability and environmental issues was a key theme, to balance increased flexibility in the ordinance, to balance resource protection with private property and economic development, using common sense and making the ordinance more user-friendly. They have added more tables and defined more terms and highlighted them in the new 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.

This process was started in April 2006 and they have had over 45 Planning Board meetings, 8 City Council work sessions, 12 meeting with other municipal boards and they have also continued to receive referrals from the City Council, the biggest of which is the Senior Housing proposal. They finished the draft Site Plan Review Regulations in April of 2008 and draft Zoning Ordinance in June of 2009.

Major changes were made to the format and structure of the Zoning Ordinance. They combined all of the dimensional standards, combined all of the overlay districts together, they pulled the supplemental use regulations from the use regulations and they tried to define terms to be more precise. Substantive changes are the Gateway District along Lafayette Road, the Continuing Care Retirement Community section, expanded jurisdictional wetlands, significant changes to the downtown parking standards and they created sign districts.

The Gateway District would include the existing GB and OR districts between the Rye town line and the Route One By-Pass and the objectives are to encourage mixed use development. One of the themes of the Master Plan was to make the rest of Portsmouth as nice as the downtown and this section would begin to work on that. One key item is that the front yard setbacks would be reduced, bringing the buildings closer to the road. A conditional use permit, or Gateway Planned Development, would be optional and would allow residential uses if they are in a mixed use development with incentives of greater development potential.

Mr. Taintor stated that another major change is revises to the way the City regulates parking in the downtown area. The current regulation is very complex and was created in 1977. They are 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 new residential development, 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.

Another major addition to the ordinance, which is generating a lot of interest, is the Continuing Care Retirement Community Proposal, which initially came through as a referral from the City Council. It is being defined as a new use in the Zoning Ordinance and it must include independent living units, assisted living units and skilled nursing care units. It has to be in an OR district, within ½ mile from a hospital and at least 35 acres of one or more lots. A certain amount of developable land is required, maximum height is 50', except less than 150' from a residential district it can only be 3 stories or 40'. At least 40% of the developable area must be useable open space and any areas within 150' of residential area must be vegetative buffer area. He displayed the Site Plan from the proposed development between Borthwick Avenue and Islington Street.

Regarding resource protection, sustainability and wetlands protection, they made changes in the wetland section to expand coverage. A wetland is currently only jurisdictional if it is ½ acre or more

and the proposal is to reduce that threshold to 10,000 s.f., or cutting the jurisdictional area in half. He displayed a map of the wetlands which showed the areas that would be affected by the new regulations. They also included some Best Management Practices for stormwater and vegetation management areas within the buffer areas to further protect the wetlands.

Signage is a difficult item to regulate and it is very complex. Their approach was to create six sign districts and they created tables to identify types of signs and setbacks.

They will be working on revisions to the Zoning Map next. They will be proposing to pull the CB District back to 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. Also, in the future, they want to look at areas in the City where there are large numbers of non-conforming lots, such as Elwyn Park and Panaway Manor. They will be looking at each neighborhood to determine whether the zoning is context sensitive and reflects each individual neighborhood.

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.

They have the Draft Revised Zoning Ordinance on the City's Website and there is an on-line comment form which the public can submit. This is the next to last Public Hearing, with the last one scheduled for September 10<sup>th</sup>. The Planning Board will then review comments and decide what changes to include in the draft before presenting it to the City Council in October.

Mr. Taintor reviewed the comments which have been received at the previous public hearings. The comment regarding motor vehicle sales was reviewed and the proposed required set back between motor vehicles sales and a residential district and he believed this was a valid comment and he will probably make a recommendation to have it changed back to the existing regulation.

Vice Chairman Roberts stated that their purpose was to take public comment and input but not to answer questions or review issues as that will happen at the end of the process.

John Grossman, 170 Mechanic Street, representing the Portsmouth Advocates. Their interest was in the Historic District. He noticed the footnotes from the current Zoning Ordinance have been removed and he hoped to see them put into the new Zoning Ordinance as they helped to clarify things sometimes at public hearings. He stated that he believed the Zoning Ordinance was very well done and he congratulated everyone that was involved. He did not believe the section entitled Exemptions of Certificates of Approval, Item 7, Mechanical Equipment or Ventilation, makes sense. Section 10.634.21 does not include that a plan must have dimensions and he feels strongly that they are needed. Section 10.635.23 does not include a requirement to notify abutters of a work session and he felt that was very wrong and it was imperative for abutters to know when work sessions were scheduled so that they can follow a project. Also Section 10.653.60, regarding notices of public hearings and work sessions conflicts by stating that abutter notices are required. Something that is not listed is when a large project has been approved and they come back for amendments, that abutters need to be notified of the hearing. Section 10.635.60 (4) was not very clear but the existing ordinance explains it with a footnote. Regarding the time period for review, it says 30 days which he thought might be tight when it goes to a second meeting. He found it interesting in Section 10.636.52 regarding Appeals that the City tells the Court what to do. In Section 10.1274.10 about signage, it

stated that a wall sign will be at least 2/3 as wide as the building frontage of the structure and he realizes that this is not new but it seems there should be a footnote about whether this is appropriate. Lastly, he loves the Gateway.

Ralph DiBernardo, 1374 Islington Street, speaking on behalf of himself and his wife, Linda. They want to state again their objection to paragraph 10.734.53 in the Continuing Care Retirement Community section that specifies two separate travel patterns. He felt it was obvious that it was written to accommodate the Borthwick Village proposal. He felt this rigid requirement could derail a good project. Maybe one access could be for emergency use only. He came across something else that concerns them. The DiBernardo's have a single family house next to their house and the owner rented out three rooms. This created a serious parking issue. He found a definition of a Boarding House which is the definition of a Rooming House in every dictionary he looked in and the definition also says "See also Rooming House" yet there is no Rooming House reference in the definition section. It looks to him that anyone can rent out 3 rooms in their house and not come under a Boarding House definition and that doesn't necessarily mean 3 people so it could result in up to 6 cars, which he feels is a problem.

Paul Mannle, 1490 Islington Street. He is addressing the Continuing Care Retirement Community section. For discussion, he asked the Board to consider that this ordinance was site specific so it would violate the Master Plan due to the fact that a comprehensive study of this area has not been done. This section would also be spot zoning. He felt this sets a dangerous precedent in the City for spot zoning. If it is not site specific, it is still an included use in the office research district as it is another form of medical facility and they are tying it to the hospital. In Section 10.733.30, the access should be the same as everything else in the OR and it shouldn't impact any surrounding residential facilities. Regarding the two access points, he agrees they should have them but they could both be on the same road. Islington Street residents don't have a problem with something going in there but they do have a problem with access to Islington Street. 10.735, Conditional Use Permit Criteria regarding community purposes, he felt they would need at least 5 acres to do any of that and it should be deeded back to the City. He would add a stipulation, because this is not site specific, that the CCRC overlay does not apply to the 41 acres between Borthwick and Islington so that it is not violating the Master Plan. Also, since it is not site specific, he would suggest that adding this section into the Zoning Ordinance is improper. He asked why Mr. Coker recused himself if it's not site specific.

Vice Chairman Roberts thanked the public for their comments. She reminded the public that they are also taking input on the City's website.

Seeing no further speakers, Vice-Chairman Roberts closed the public hearing.

Mr. Taintor advised the Board that they have scheduled three additional meetings in September and October to finalize this document and get it to the City Council. He is asking the Board to approve public hearings on September 24<sup>th</sup>, October 1<sup>st</sup> and October 8<sup>th</sup> for discussion of the Draft Revised Zoning Ordinance.

The next public hearing on the Draft Revised Zoning Ordinance will be held on September 10<sup>th</sup>.

Mr. Coviello asked for input back regarding Mr. DiBernardo's concern about people renting out rooms. Deputy City Manager Hayden agreed they will look at it and report back. Mr. Taintor added that the City adopted a separate boarding house or rooming house ordinance and they wanted to make sure they weren't in conflict with that.

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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.