

**PLANNING BOARD
WORK SESSION
PORTSMOUTH, NEW HAMPSHIRE**

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

6:00 PM Work Session begins

September 26, 2024

MEMBERS PRESENT: Rick Chellman, Chairman; Greg Mahanna, Vice Chair; Joseph Almeida, Facilities Manager; James Hewitt; Paul Giuliano; Andrew Samonas; and William Bowen, Alternate

ALSO PRESENT: Peter Stith, Planning Department Manager

MEMBERS ABSENT: Karen Conard, City Manager; City Councilor Beth Moreau; Anthony Coviello

.....

Chair Chellman called the meeting to order at 6:00 p.m.

I. Co-Living Use

[Timestamp 6:15] Developer Mark McNabb was present to discuss his petition for co-living use. He said the intention was for a co-living building as opposed to a co-housing one and that it would provide living for about 50 percent of single individuals. He said it was not intended to be a short-term stay or overnight rental but would be a year's lease. He said it was similar to a college dorm with a common area. He said there were mostly conventional or micro apartments downtown and he wanted the flexibility to do something other than that. He said it was an inherent hardship when the City zoning had a parking requirement for downtown, and he did not have the ability to provide for parking. He said parking downtown was expensive and that statistics ran 20-30 percent showing that there were people who didn't have a car because they either didn't want one or couldn't afford it. He said he wanted to embrace that fact and give those people a place to live downtown.

[Timestamp 13:01] Chair Chellman asked what the difference was between co-living and a micro apartment. Mr. McNabb said a micro apartment was a self-contained unit with cooking, and co-living could be a self-contained unit but did not have to be. He said the kitchen could be a common area and there was flexibility for a unit to have a bedroom with its own private bath. He said parking had to be provided for a current micro apartment, which increased the square footage, but a co-living apartment had the option of having less square footage. Vice-Chair Mahanna said it seemed to be like a boarding house, with shared space and private bedrooms. It was further discussed. Vice-Chair Mahanna said having a common cooking facility could be a health liability and that someone had to be in charge of it. He noted that a boarding house had the Health Department's jurisdiction over it. Vice-Chair Mahanna said it was an issue of changing

zoning and make co-living work with conditions based on the concerns of the Planning Board. Chair Chellman agreed and said he was intrigued by the proposal but thought it was different from similar proposals because it was in an urban setting and was more complex than a boarding house. Mr. McNabb said there wasn't a boarding house in the downtown zoning, and he was trying to fill that gap. He said the pods could be limited to no more than 10 in a common area and that the property owner could be responsible for inspection.

[Timestamp 24:17] Vice-Chair Mahanna said he saw three pillars: 1) sanitation, 2) supervision, and 3) term. He said the Board had to come up with something that fit the new use, there needed to be an on-site manager, and there had to be a definition of what co-housing is so that the zoning could be changed. Mr. Samonas said the exponential increase in noise and people in the building was a constraint for him. He said the authority aspect was important to implement so that someone was involved in the day-to-day management. He said the CD4 and CD5 zones had properties that were conducive to co-living and should be reviewed as to where else they could be implemented downtown. Mr. McNabb said limits were important and thought there could be a certain number of units to begin with. It was further discussed. Chair Chellman said a land use approval ran with the land and that the building's owner would eventually not own the building. Mr. Bowen suggested that Mr. Stith to do some national research to see what the best practices were. He advised that there should be a strict set of rules relating to noise internally at night and protecting personal property, and a task list for residents to share tasks. He said other issues were selection and discrimination statutes, duration limits, and so on. He said the scale component was also important because 60 people were difficult to manage as opposed to ten. Since there was no real living space, he said the residents would be elsewhere when not sleeping, so there could be a question of neighborhood loitering. He said he'd like to keep the parking separate.

[Timestamp 38:40] Mr. Giuliano asked if Mr. McNabb saw the use as a commercial one or residential one. Mr. McNabb said it would be a residential use with longer term rentals, which was how people used to live downtown before zoning. Mr. Giuliano said there was zoning to consider and the Planning Board had to ask the City Council to approve a new use in CD4 and CD5. Mr. McNabb said it would involve a year's lease and the units would be priced less than apartments but not priced so low that it would attract undesirable tenants. He said the prices would be for service workers and professionals and would involve payroll deductions from employers. He said they could consider private refrigerators, bathrooms, a small sink, and a microwave in each room, all of which would produce benefits different from needing whole residential units. He said they would regulate the number of units, occupants, and behavior.

[Timestamp 43:14] Mr. Almeida said it sounded like a hybrid of long-term stay hotels, apartment buildings, and hostels, and he was concerned with where the building code would apply. He said the Planning Board was charged with finding more reasonable housing in Portsmouth and that co-living might be one of the many options they were trying to provide. He asked Mr. McNabb to elaborate on what he imagined the building would be like when it was up and running and who the leasers would be. Mr. McNabb said he thought half of the people he expected to lease were already living that way in conventional downtown apartments, with two or three other roommates so that it was affordable. He said co-living would normalize that and allow an individual to do it on his own and not have to have 3-4 other people to do it. He said the living areas per floor would be extensive, with flat-screen televisions and sitting areas, and each floor

would have its own laundry. He said there would be no more than 20 people on a floor, and there would be a rooftop deck for all tenants. Mr. Almeida said the zoning language and considerations changed when a complex got over a certain size. Chair Chellman said it was an issue of scale and could be an issue with the State Statute. He asked Mr. McNabb if he imagined ownership being a possibility. Mr. McNabb said he did not. Chair Chellman said Mr. McNabb would then want to prevent a condo conversion. Mr. McNabb agreed and said the co-living units would not be luxury units like a condominium. Chair Chellman said it could be done so that a condo conversion would be possible, but it would be complicated. Mr. McNabb agreed and said the rooms would have to have their own electrical meters if they became condos, but in his proposal, all utilities would be included. Mr. Hewitt said he was still confused about the difference between a boarding house and co-living and suggested that the Board see what other communities had done. Mr. Giuliano asked if the co-living would qualify as a boarding house if it didn't cap at ten people. Mr. McNabb said boarding houses were short-term stays.

[Timestamp 52:14] Vice-Chair Mahanna said it looked like an alternative to a roommate situation and thought Mr. McNabb was heading toward the idea of a high-end apartment complex, where someone would rent a studio to get the community space. He asked what the price point per bedroom would be. Mr. McNabb said it would depend on what got approved, the size, and the parking issue. Mr. Samonas asked how the waiving of a security deposit would be regulated outside of building code and occupant load per pod. Mr. McNabb said they would do credit and criminal background checks and would waive the security deposit if the tenant's employer did payroll deduction. Mr. Samonas asked if the model would work if Mr. McNabb had to do a hybrid situation with co-living on one or two floors and micro units on another floor. Mr. McNabb said he would not have all co-living in the building but a mix of co-living and micro and conventional apartments. Mr. Almeida said he didn't think that not charging a security deposit could be written in the new zoning. He asked why the City didn't allow unrelated people to live together. Mr. Stith said it was the definition of a family. It was further discussed.

[Timestamp 1:01:24] Chair Chellman said there was a lot to figure out and other information to pull from other resources. He said the Planning Board's approval would grant a maximum number of occupants in an overall urban living complex but with pod elements. Mr. McNabb said each pod would have a supervisor. He said that what he proposed existed in other urban neighborhoods and that he wanted limits on the scale, intensity, permitting, and length of stay. Chair Chellman said the Board would gather some outside information and come up with a draft of the talking points. Mr. Samonas said there had to be a preventive clause for selling the units. Chair Chellman said the Board would work with City Staff.

II. Hanover Street Zoning

[Timestamp 1:07:18] Mr. Stith reviewed some of the background of the Hanover Street zoning and said it started in 2019 when there was a citizen request to rezone some areas on Hanover Street, the Downtown Overlay District, and the North End Incentive Overlay District. He said the Planning Department brought it to the Planning Board in January 2020 and held a public hearing and then were going to schedule another meeting, but the pandemic hit. He said some of the zoning that changed over the past few years related to building height definitions, changes in building height designations for Foundry Place, and the requirement that a Conditional Use

Permit be required for the North End Incentive Overlay. He said part of the original request was to rezone properties on Hill Street from CD5 to CD4 and from CD4 to CD1, including 361 Hanover Street, but it didn't get any further from the January 20 hearing.

[Timestamp 1:09:05] Mr. Hewitt said they were dealing with a lot of old history, and he asked for a chronology of what happened on the City's end and what the residents did to request the zoning change that ended in March 2020. He said the City did things related to that zone after March 2020, and he wanted to know what those changes and the implemented dates were. Mr. Stith said the 361 Hanover Street memo had some of that information. Mr. Hewitt suggested a side-by-side comparison. Chair Chellman asked what the difference was between CD4 and CD5. Mr. Stith said it was the intensity of certain uses, and it was further discussed. Vice-Chair Mahanna asked if the current Version 2 would meet variances from CD4. Chair Chellman said he didn't know about the back. Mr. Stith said it would be fine if it were CD4 because the back of it was in the Incentive Overlay District and the height would not change because it was based on the street. Vice-Chair Mahanna asked if there was really an issue then. Chair Chellman said the proposed plan was vested, assuming that it was followed through within a year with additional work. It was further discussed.

[Timestamp 1:14:36] Mr. Giuliano asked how it would work if zoning changes were proposed on someone else's property. Chair Chellman said notice would have to be given to each property owner in the zone, but a change could be proposed with the property owner's permission. Mr. Stith said that was a slight intensity in CD5 relating to building coverage and open space, but it was similar in most respects. Chair Chellman said one thing that had changed since 2020 was what happened in the north end and that it was quite different from the west end neighborhood. He asked how that transition would be made, and it was further discussed. Mr. Bowen said the question was how one transitioned from the downtown district to a residential district. He said what they wound up with was a lower height on Hanover Street than Foundry Place, a less intense building development on Hanover Street, and then a goal of having income-based housing on the Hanover Street side. He said that didn't happen on Hanover Street but it did happen on the Foundry side. He said he thought the transition was about whether it was commercial and residential. He said originally on Hanover Street, there was going to be commercial on the ground floor. Mr. Stith said a variance for that would be necessary. Chair Chellman said that, from the resident's perspective, the current proposal was more in scale than the first one, but the first one fit in more with CD5 zoning. Mr. Almeida said he wanted to see more details because the Board was considering future proposals as well.

[Timestamp 1:25:18] Robin Husslage of 27 Rock Street was present and said she lived up the street from the proposed development. She said she had worked with former Planning Director Juliet Walker and wanted transition zoning from CD5 down to where she was, which was CD4-L1. She said Ms. Walker had proposed either CD4 or CD4-W. She said the difference between CD4-W and CD4/CD5 was significant because of maximum building coverage, minimum lot area per unit, and minimum open space, and because the overlays added complexity. She said the residents had not wanted any of the overlays in that area. She said they asked for CD4-W zoning on the buildings that fronted Foundry Place and CD4-L1 on that portion of 361 Hanover Street. She said the proposal was that the front part on Hanover Street should be CDR4-L1 and the back end CD4-W, but they never had a public meeting due to COVID, after which other zoning

elements were moved forward on except for their issue. She said they were stuck with whatever 361 Hanover Street did and there were other properties that would be affected. She said the other important aspect of CD4-W was the uses that were not compatible with the hotels, conference centers, and nightclubs in the CD4 and CD5 zones. Elizabeth Bratter of 159 McDonough Street was also present to discuss the zoning.

[Timestamp 1:35:05] Shane Forsley of 361 Hanover Street was present and discussed the comparisons from the vested plan versus the alternate Conditional Use Permit Plan. He said they did the analysis of how it would match up with the CD5, CD4, and CD4-L1 zoning and that it would be a perfect match in CD4-L1 because it outlined how the three building developments on Hanover Street would be carved into a 4-unit development yet still conform to that zoning. He said the alternate Conditional Use Permit plan still required relief. Vice-Chair Mahanna said they were vested and that the Board needed to focus on the definitions of CD4, CD5, and CD4-W and ensure that the other transitional properties were treated properly. It was further discussed. Mr. Bowen said there were implications for the zoning for the other sections and how that could be done in a transitional zone, and there were some specific zoning adjustments that could be made. Chair Chellman agreed and said the other question was whether the overlays made sense to maintain or adjust. It was further discussed. Chair Chellman said he thought it made sense to adjust the zoning. Mr. Bowen asked if there was a component of architectural design in the Character District, and Chair Chellman said there wasn't one yet. He said the Board needed guidelines for downtown and the subdivisions in the outlying areas.

III. Downtown Overlay District

[Timestamp 1:43:05] Mr. Stith reviewed the 2012 map that went from the Planning Board to the City Council when they were looking at expanding a particular area to include the Downtown Overlay District due to the development that was occurring. He said the City Council only included the Connie Bean site and said they'd go back to it but never did. Mr. Hewitt asked if Mr. Stith knew why the City Council didn't approve what was proposed. Mr. Stith said he didn't know but would look into it, and it was further discussed. Mr. Almeida asked about downzoning. Chair Chellman said downzoning meant that one could do fewer things on their property, and upzoning meant that one could do more intense units. He said downzoning could be 50 units and upzoning could be 100. Mr. Stith said the original purpose of creating an overlay like that was to create economic liability and pedestrian abilities along the street as well as ground floor commercial. Chair Chellman said it tied into the Board's parking discussion. Mr. Stith said non-commercial uses did not require parking. He said his memo described it, and it was further discussed. Chair Chellman asked if it made sense to have two types of Downtown Overlay District. Vice-Chair Mahanna said it was an opportunity to introduce a transitional overlay. Mr. Almeida said he didn't see preserving residential in the Downtown Overlay as a problem. Chair Chellman said new development in downtown was a problem as well as pedestrian vibrancy. It was further discussed. Vice-Chair Mahanna said the Board should start with a concept and expand it. Mr. Bowen asked whether any change to zoning should follow the Master Plan. Chair Chellman said they could discuss changes to zoning without needing the Master Plan for guidance. Chair Chellman asked the Board to come up with some refinements to discuss in the future. Mr. Bowen said he would look through the Master Plan to see where the proposed zoning didn't conform.

IV. Parking

[Timestamp 2:01:09] Chair Chellman said there was a presentation by the parking consultants who were working on the downtown parking issue and that they had come up with several recommendations. He said they had some metrics in terms of what was available for what the downtown had for parking and how much of that parking was used. He said the downtown core was running at about 97 percent and that the parking consultant said the City was okay at 97 percent, which meant there were a few spaces, but that they were not okay because people drove around looking for spaces and it increased traffic. Chair Chellman said the main topic for zoning and parking was about taking parking out of zoning and bringing it to site plan so that it could be more adaptive. He said it was a changing topic because developers came up with new ideas, cars and parking were becoming different, and most communities had started putting parking into their site plans. He said Conditional Use Permits could be done, but that was innovative zoning that changed the whole appeal process, so it was more flexible to have it in the site plan. Mr. Hewitt said most communities had parking in their site plan requirements and preferred it. Mr. Giuliano said it was less common now for an applicant to come before the Board for parking relief, so putting it into the site plan would make it more flexible. Chair Chellman said zoning was subjected to more legal restraints than the site plan was. Mr. Bowen said Portsmouth would need a third garage downtown within ten years and thought the Board should consider where that would go. He said the consultants discussed car sharing and electronically tracking cars coming into the city to direct people to available parking spaces, but the most strategic idea to him was a third garage because downtown parking was at 97 percent capacity. He said the discussed ways to limit the duration of time allowed for people parking in neighborhoods. Vice-Chair Mahanna said parking spaces became available for the residents when the bars and restaurants closed, but early in the morning those spaces got used for a different use. He asked if changing the parking would give the Board the ability to size the parking for a project per the intensity of the use of the project versus the zoning. Chair Chellman said that could be done, and it was further discussed. Chair Chellman said the first step would be to take parking out of zoning and put it into planning, and then the Board could work on adjusting it.

V. Other Items

[Timestamp 2:17:22] Mr. Hewitt noted that there were three Planning Board meetings in November. Mr. Stith said two of the meetings were joint meetings with the City Council, a workshop on the CIP and a joint public hearing. Mr. Hewitt asked if the rezoning of Commerce Way as part of the settlement with the City over the Michael Kane issue would come before the Board. Mr. Stith said there would be a public hearing at the October 17 Planning Board meeting.

VI. Adjournment

The meeting adjourned at 8:20 p.m.

Submitted,

Joann Breault
Planning Board Minute Taker