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Debby Willis, Chairperson
Michael Foster, Administrative Assistant

ORDINANCE REVIEW COMMITTEE

Meeting Notes

Monday, February 25, 2019 @ 3:00 PM

Regular Meeting

City Hall Council Chambers

1.) Call the meeting to order

Chair Deb Willis called meeting to order at 3:07 pm

2.) Roll Call

Pat Hart, Clare Marron, Deb Willis, Joel Alexander, Luis Sigel, Barb Skelton
CEO/Assistant Planner

Introductions: Thomas Fiorelli- Director of Economic Development/Planner, Mark Eyerman - Contracted Planner, Michael Foster-Administrative Assistant

3.) Review of December 17, 2018 meeting notes

Chair Willis asked committee if they had a chance to review previous meeting notes. Committee needs time to review meeting notes, they were not distributed prior to meeting.

4.) Edits to OMNIBUS amendments

Mark Eyerman reviewed suggestions of changes from last meeting addressing planning board comments to change Central Business (CB) to Traditional Downtown (TD). Changes need to be made throughout document to change to TD and keep consistent.

Roof Form

Mark Eyerman continued with roof form discussion. (From Roof Design Standards Memo dated 2/21/2019) "As a starting point I broke buildings into two categories – buildings with one or two stories and buildings with three or more stories. For the purpose of the roof design standard the number of stories would be based on the front façade – the side of the building facing the primary street providing access to the site. Then within the category for one and two story buildings I broke that into smaller buildings (less than 4,000 SF of building footprint) and larger buildings. This is based on the idea that a building with less than 4,000 Sf can be designed to accommodate a traditional truss roof with a 5:12 pitch. If

you take a building with a width of 40 feet and put a 5:12 pitched roof on it, that puts the ridge a little over 8 feet above the eave. And even at 50 feet that puts the ridge at about 10.4 feet above the eave line. This may require some thought about the overall shape of the building when you approach 4,000 SF of area to create spans that are reasonable.”

Barb Skelton asked about corner lots because the roof form language refers to the side of the building facing the front of the lot. The definition doesn't say who makes the decision of where the front is located. Need to address issue of lots between two roads. The front lot line is defined as separating the lot from either road. Barb mentioned some ordinances refer to the side with largest dimension or most traveled way.

Mark Eyerman discussed issue of buildings on a slope, with multiple stories as you go down the hill, and only one or two stories on the other. He had originally drafted with language saying facing the side of the street from which the lot gets its primary vehicular access. If a property owner/developer had a building with 2 stories on one side and 3 on the other side on a corner lot, you could argue either side is the front to get the roof they want.

Joel Alexander mentioned always counting what is above grade and asked how height is currently measured.

Barb Skelton read definition stating that the height of a structure is the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure.

Pat Hart asked if the Intown Commercial was formerly what was being called Intown Fringe.

Mark Eyerman responded yes, going toward bridge and Main. The way this is written Rite Aid would not be required to have a pitched roof. A pitched roof on a building that size with a 5/12 pitched roof you would have a 20ft high ridgeline on a 12-foot wall. Barb Skelton stated that it would look out of proportion.

Clare Marron mentioned there are going to be other things in ordinance to break up the larger walled buildings.

Pat Hart mentioned other towns have really nice looking buildings because code is written so they have to look nice and we might end up with these flat buildings if our code allows that.

Mark Eyerman responded that from December planning board meeting they had commented that the new emergency medical building is going to be an attractive building with a flat roof.

Deb Willis corrected that it is the urgent care building.

Joel Alexander referenced the kidney care center with a flat roof

Pat Hart asked how that roof was approved.

Barb Skelton responded because of the length of building and width of lot, it would be a severe sloped roof to meet pitch. Part of justification was the practicality of snow coming off the roof and into stream could cause erosion control issues. A number of things were reviewed for that sight.

Deb Willis asked what the committee wants to see happen for corner lots, leave as is or something more specific.

Barb Skelton responded that she has no preference she just wants to raise the issue. The proposal of ordinance is in line with what ORC members were looking to address to allow flexibility.

Mark Eyerman cautioned that courts in Maine have been strict in recent decisions about ordinances which create any flexibility for Planning Boards to use their judgement on issues. The power to zone and regulate is a legislative function, that's the city council, and the role of the planning board is administrative to apply rules not make them. To address concerns of the look of a buildings roof, language was included to say that it needs to be visually compatible with the overall design of the building which will give planning board some leverage to try to negotiate with the applicant if need be.

Mark Eyerman recommends that the front of a corner lot either be facing the street that gets the primary vehicular access or the street that is the primarily vehicular street. In some cases, it may be desirable that people face their building toward the interior street rather than the major street.

Barb Skelton mentioned that it would go through city attorney for review before any changes would be made.

OMNIBUS

Mark Eyerman reviewed asterisks on land use tables regarding Shoreland zoning and Timber harvesting. The state change of Shoreland zoning guidelines gave municipalities the option to turn over the regulation of timber harvesting under statewide standards to the Bureau of Forestry, rather than regulate it itself. Asterisk is showing City turned timber harvesting over to state. The comments from the Planning Board were that the footnotes need to be revised starting on Page 8 of OMNIBUS, revised 2/21/19. He added the asterisks under Resource Protection (RP), Shoreland Overlay Limited Residential SLR, Shoreland (SL) and changed wording to read "The regulation of timber harvesting where permitted is administered by the State Forestry Bureau."

Barb Skelton mentioned that she recalls the board deciding to recommend removing asterisks and using numbered footnotes instead. There are double asterisks next to crematory under HDR, with no explanatory notes and the corresponding note has been deleted

Pat Hart pointed out that there are both asterisks and numbered footnotes.

Barb Skelton mentioned that the asterisks in document shifted when categories were added so some are listed in wrong category.

Deb Willis asked if it should be numbered instead.

Barb Skelton recommended removing asterisks and using footnotes with numbers to clarify.

Mark Eyerman reviewed the Land Use Table for asterisks and needed changes. Several categories have asterisks which will be removed and replaced with numbers and corresponding numbered footnotes. Changes will be made to reflect Central Business (CB) changing to Traditional Downtown (TD).

Barb Skelton explained that the OMNIBUS will need to go back to the Planning Board for public hearing.

5.) Finalize Shoreland Zoning to go to state for approval

Mark Eyerman explained updated definitions, performance standards/land use standards, and nonconformance provisions. Followed State guidelines (formerly model ordinances) in a number of places. The cities shoreland zoning provisions are a hybrid, using some of the direct language from state guidelines. In other places it addresses things in other ways because it wouldn't make sense to have a 75-foot setback downtown. Edits were made from fall meeting including correcting misnumbering, adding tree warden instead of CEO relative to hazard trees, and the next step is for staff to take this to DEP Shoreland Zoning staff. Mark explained that under the rules, shoreland zoning has to be approved by DEP commissioner before it becomes effective. Once municipality adopts it, it goes to DEP, and they have 45 days to approve or not approve it. Mark suggests running it by DEP staff before adopting it and sending it in to DEP for approval.

Mark Eyerman explained that DEP provides guidelines, but they don't fit all communities. The Shoreland Zoning guidelines are inappropriate to Downtown Gardiner, the City of Portland, and Bangor. They have no recognition at all of urban built up areas around waterfronts. They were designed for camps around lakes in outlying areas.

Gardiner in unique situation, state identified as significant river segment.

Pat Hart commented that we have a river, a stream, and a tidal.

Mark Eyerman mentioned that Gardiner has a very difficult situation where the City is located on what the State has defined as a significant river segment from the former Edwards Dam downstream to another location someplace like Merrymeeting Bay which has special rules.

Thomas Fiorelli asked if Maine has a specific chapter for American State Floodplain Managers.

Barb Skelton responded that there is and she has reached out to floodplain staff who have been helpful with mapping issues and in resolving discrepancies between official version and different electronic digital versions to clarify for bank financing.

Mark Eyerman pointed out that the floodplain managers at the State have about ten different versions of recommended State ordinances that are customized to various flooding situations, so you don't adopt ordinances for inland communities that talk about tidal areas or highest annual tide where it doesn't apply.

Barb Skelton pointed out that there is one change to be made with the definition for tributary stream. It is crossed out and shouldn't be.

Mark Eyerman pointed out three new sections 13.20 Exemptions to Clearing and Vegetation Removal Requirements, 13.21 Revegetation Requirements, and 13.29 on Hazard Trees.

Also, changes to provisions for expansion and replacement of non-conforming structures. Old rules had 30% limit on floor area and volume in non-conforming areas. It is now a

footprint standard and height, and still has 50% of market value standard. Within 25ft of the water you cannot enlarge anything.

Barb Skelton replied that there is a scaled increase for each distance.

Deb Willis asked what the next steps are.

Barb Skelton responded that when Mark provides a copy she will send it to DEP, Jon Pottle, and Forestry Service. Will push for Forestry Service blessing before submitting to the Planning Board because previously Shoreland accepted it, but two years later Forestry Service said it wasn't done correctly and it doesn't apply.

Mark Eyerman mentioned he needs to go back and check to make sure that definitions related to timber harvesting need to be removed as requested by Forestry Service.

6.) Archeological/Historical Draft Amendments

Barb Skelton explained that we need to coordinate with HPC from State. If we want them to weigh in on changes, we need to have a meeting to know changes are allowed.

7.) Other

Barb Skelton will work with Clerk Kelly Gooldrup and City Manager Landes on residency requirements for committee because Joel Alexander will be moving out of Gardiner. Need to review board requirements.

8.) Upcoming meeting dates with tentative topics

~~March 11, 2019~~ Change back to one meeting a month

March 25, 2019 Need to contact HPC office for feedback and Swearing in of ORC members

9.) Adjourn

Barb Skelton made motion to adjourn. Seconded by Joel Alexander. All in favor. 4:30pm.