

# CPC Minutes of January 24, 2012

A regular meeting of the City Plan Commission (CPC) was held on Tuesday, January 24, 2012 at 4:45 p.m. in the Department of the Planning and Development (DPD) 1<sup>st</sup> Floor Meeting Room, 444 Westminster Street, Providence, Rhode Island.

## Opening Session

Call to order: Chairman Durkee called the meeting to order at 4:45 p.m.

Members Present: Chairman Stephen Durkee, Vice Chairman Harrison Bilodeau, Ina Anderson, Andrew Cortes, Luis Torrado, JoAnn Ryan and Meredyth Church

Staff Present: Thomas Deller, Robert Azar, Bonnie Nickerson and Choyon Manjrekar

Approval of meeting minutes from January 17<sup>th</sup>, 2012: Ms. Ryan made a motion seconded by Mr. Cortes to approve the minutes. All voted in favor.

Mr. Deller presented the Director's report. He said that two major issues being reconsidered in the Downtown Zoning Ordinance were demolition regulations and design review. He said demolition standards had been changed to more directly address historic preservation issues. After discussions with the Mayor's office, a resized boundary of the Downcity District was proposed and any new construction within the boundary would be reviewed by the Downcity Design Review Committee, which is similar to the existing review process. Mr. Azar said both issues would be discussed in detail.

## COMPREHENSIVE PLAN

### 1. Public Hearing on Comprehensive Plan Changes – Continuation of the complete review of changes to Providence Tomorrow: The Interim Comprehensive Plan – for public hearing and action

Ms. Nickerson said the current version of the plan addressed the changes made at the previous public hearing. Mr. Durkee said he felt the maritime designation along Allens Avenue did not convey the fact that water related uses were not mandatory. Ms. Nickerson said the updated Zoning Ordinance, which would be presented before the Commission in the future, would change uses permitted in the W-3 zone, but would remove the footnote that all uses had to be marine related. Mr. Durkee said residential uses are prohibited, but the word maritime should be struck to indicate that a mix of uses was permitted. Mr. Bilodeau asked for Ms. Nickerson's opinion. Ms. Nickerson said hotel and residential uses were not permitted and a variety of commercial and industrial uses, including marine uses were permitted. Mr. Andrew Teitz representing the Working Waterfront Alliance, said Allens Avenue is a Waterfront Port zone, not Waterfront mixed use. He said an emphasis on maritime uses was important. Ms. Nickerson said the concern over removing the waterfront use was that there might be a conflict between the Zoning Ordinance and Comprehensive Plan. Mr. Teitz said it should reflect maritime use as a priority.

Mr. David Kolsky said he wanted more information on how to make changes to the Comprehensive Plan after approval. Ms. Nickerson said State Law requires that plans be updated at least every 10 years, but plans could be changed up to four times a year. Mr. Kolsky asked about the process to be followed. Ms. Nickerson said input would be collected by DPD staff and the plan could be changed if the input warranted a change. Mr. Kolsky asked how neighborhood plans related to the Comprehensive Plan. Ms. Nickerson said neighborhood plans were intended to be guiding documents but not part of the plan. Mr. Kolsky asked about the rezoning process for the City. Ms. Nickerson said zoning was required to reflect the Future Land Use map of the Comprehensive Plan. Mr. Cortes said if individuals felt they weren't getting a satisfactory response from the DPD, they could petition the CPC to change the plan.

Mr. Donald Pryor said two land use categories should be reconsidered, the removal of mixed use from Allens Avenue and allowing scrap yards as a permitted use, which could pose an environmental hazard. He said open space and public space should be considered distinct land uses. Ms. Nickerson said merging both uses was in place since the previous version of the plan and the two are distinguished in the Zoning Ordinance.

Mr. Dulgarian asked when changes could be made to the plan. Ms. Nickerson said amendments would be considered after the plan was approved by the City Council. Mr. Dulgarian said there should be more information on implementing low impact development. He said single occupancy vehicles and carpooling should be distinguished and there should be more detailed information on housing development trends.

Mr. Azar said the CPC needed to vote on any changes to be made to the document prior to the hearing being closed. Mr. Durkee said he recommended that the maritime use categorization of Allens Avenue be deleted. Mr. Cortes made a motion seconded by Ms. Church to accept the plan changes as presented by Ms. Nickerson at the previous session of the hearing. Mr. Cortes said he would be open to an amendment to strike the word maritime from the description of Allens Avenue. Mr. Bilodeau said he did not agree with the change as striking off one word would not make a difference to the meaning of the section. Mr. Torrado proposed an amendment to the motion to delete the word maritime from the description of Allens Avenue. Mr. Cortes and Ms. Church accepted the friendly amendment. Mr. Cortes said the word maritime was used in many instances to reinforce the industrial nature of Allens Avenue. Ms. Anderson asked Mr. Durkee to explain the reasoning behind the change. Mr. Durkee said the waterfront was maritime in nature, but historically mixed use. He said removing the word maritime would emphasize that commercial mixed use was also permitted. Mr. Cortes said he was comfortable with the change as the entire description of the area emphasized maritime use. A discussion on the change ensued. The amended motion passed 6-1, with Mr. Bilodeau voting against the motion. Mr. Teitz asked that the vote be reconsidered. Mr. Durkee said the intent of the document remained the same.

Mr. Cortes made a motion seconded by Ms. Ryan that the CPC approve the Comprehensive Plan with the previously approved changes and recommend that the City Council approve it as well. All voted in favor.

**2. Changes to Downtown Zoning** - Consideration of an Ordinance in Amendment of Chapter 27 of the Ordinances of the City of Providence Entitled "The City of Providence Zoning Ordinance" Approved June 27, 1994, as Amended, to Change Certain Text in Articles I, III, IV, V, VI, VII, X, and Appendix A to Revise the Regulations for Downtown; and to Revise the Zoning Map for Downtown. – for action

Mr. Azar read from a prepared document available to the audience. The document contained a list of comments received in response to the previous presentation of the ordinance and the DPD's actions to address them. The following actions and changes were made:

- The DPD did not propose a change to permit institutions by right Downtown.
- The DPD would consider zoning land intended for open space D-1. Mr. Azar said the change could occur in the future and was not required immediately.
- Language promoting greenways and open space was added to the introduction.
- The role of various bodies in conducting design review was clarified.
- Language was added for the composition of the Downtown Design Review Committee (DRC) to include a community planner.
- Language was added for the mayor to accept recommendations from any organization regarding DRC membership, not just the Providence Foundation.
- Mr. Azar said the issue of public input on design review would be discussed later in the meeting.

- Language to prohibit freestanding signs Downtown was added.
- A provision for canopy signs to extend within 6 inches of the face of the curb was added. Mr. Durkee said the provision may conflict with the building code. Mr. Azar said it could be changed to conform to the building code. A discussion on signage ensued.
- Language on access from A and B streets was clarified.
- Language was added to give the DRC the authority to waive the requirement of equipment not being mounted onto A street building facades.
- The requirement that building frontages should have entrances every 35 feet is included in the ordinance and can be waived by the DRC.
- Language was added to permit parking ramps on garages to be exposed by right on B streets and by waiver on A street facades.
- Language was added for the DRC to consider the historic value and architectural quality of the building, design of new structures for the site and design of the new structure in relation to neighboring structures when considering demolition.
- Additional regulations pertaining to the demolition process was added. Demolition requires a waiver from the DRC. Eligibility for demolition requires plans for a new structure for an approved use with a design that meets DRC criteria and the DRC finding that the building is not architecturally or historically significant. If the DRC finds that a building is architecturally and historically significant it can be demolished if it constitutes a hazard to public safety, preservation of a building would cause undue financial hardship on the owner and the merits of new construction outweigh the merits of preservation.
- Language was added for the DRC to review proposed demolition and new construction simultaneously. Demolition approval is not granted until plans for new construction have been approved.
- Language was added to state that the building official does not have the sole discretion to demolish a damaged building except in dire cases of health and safety.

Ms. Ryan asked if language regarding sale of a building could be changed to say that in addition to willing, the buyer must be financially able to save a building. A discussion on demolition ensued.

- Language was added to provide more residential density when providing active ground floor uses to address a comment about incentivizing residential and mixed uses. The bonus provided for active ground floor uses will be based on the street frontage of those uses. The incentives will be prioritized for providing uses on A street facades.
- Language was added for the provision of bike parking to include facilities for locking bikes.
- Language was added to limit research and development facilities to biosafety level 3, with biosafety level 4 being the highest level of toxicity. Mr. Azar said illustrations and maps would be more legible. No changes would be proposed to building height.
- Mr. Azar said comments about regulating nightclubs would be addressed by a separate ordinance before the City Council, not by the Downtown Zoning Ordinance.
- The length of the intersection between I-195 Wickenden Street offramp is not under the purview of zoning and would not be addressed in the Ordinance.

- The ‘Citywalk’ concept would not be included in the ordinance as the open space layout would depend on the I-195 Commission.

Mr. Azar spoke about the development review process proposed for Downtown. He said the original version of the ordinance eliminated the Downcity Overlay District and gave DPD staff authority to review development that conformed to the Ordinance. The DRC would review requests for incentives, waivers and demolition. Based on comments received, it was proposed that the DRC will review development in the core of Downtown, within a boundary that roughly follows the National Register Historic District. The boundary that the DRC operates within will not overlap with the Capital Center. He outlined the boundary on a map. Mr. Azar said design review would occur everywhere in Downtown and detailed changes were made to the operating procedure of the DRC. The changes would add a layer of design review that does not currently exist in the Jewelry District and allow DPD staff to review development in the fringe areas around Downtown.

Mr. Cortes asked if the regulations could create a scenario where DPD staff reviews a project without the input of a reviewing body. Mr. Azar said that would be the case if a project conformed to all regulations. Mr. Cortes asked if development thresholds could be used to determine the method of review to provide transparency. Mr. Azar said staff review would streamline the development process. A discussion on development review ensued.

Mr. Durkee said he felt that design review should not fall upon a single staff member and suggested that the approval of the Director should be required for plan approval. Mr. Cortes said it could be possible to have thresholds for design review as used in other parts of the City. Mr. Torrado, Ms. Church and Mr. Bilodeau said it was important to streamline the development process. Ms. Anderson asked for an explanation of how the ordinance would streamline development. Mr. Azar said the current review process is not as predictable and specific as proposed in the ordinance. A discussion on the development process ensued.

Mr. Colin Kane, Chairman of the I-195 Commission said the I-195 parcels all front on A streets, which would prevent access to parking structures. He said location of A streets near highway ramps would make retail use impractical. Mr. Azar said earlier versions of the plan listed Clifford and Friendship Streets as B streets. Mr. Durkee said it was necessary to have areas for loading and parking access on the I-195 parcels. Mr. Kane said the open space Downtown was concentrated into two major parks. He said the concentration of open space in one area was an impediment to activation of a space that could have restaurants, retail and amenities like public restrooms. He said he would like the open space to be spread to create linkages around Downtown instead of concentrated in one space. Mr. Kane said there needed to be a comprehensive parking solution that addressed all of Downtown as large buildings could not be supported without structured parking. He said one story buildings should be permitted to allow for uses like restaurants to activate space. Mr. Kane said South Water and South Main streets were classified as A streets. He said that classification was not sustainable for buildings and lots with frontages on both streets. He suggested more research on the subject.

Ms. Church left the meeting at 6:55 pm.

Mr. Peter McClure said he felt development of the “citywalk” should not be contingent upon granting incentives to developers. He said he had not heard of any complaints of delays from design review bodies and did not see the need for streamlining the development process as staff review may not have the same level of scrutiny as a public body. Mr. Durkee said the procedure for review was clearly laid out in the ordinance. Mr. McClure said educational and medical institutions should be permitted by right. He said the section on interim uses did not mention a procedure for removing or dismantling an interim use. Mr. Azar said that provision could be included in the certificate granting the use.

Mr. James Hall of the Providence Preservation Society said the ordinance did not address the organization’s concerns on demolition, especially demolition by neglect. He said language on demolition mentioned taking a building’s historical significance into account, but did not specify how it would affect decisions. He said institutions should be permitted by right downtown and it was his opinion that public design review was not problematic.

Mr. Mike McCormick of Brown University said institutions should be permitted by right downtown. Mr. Clark Schoettle said the criteria for demolition of a historic structure were related to the financial standing of the owner, not the historic nature of the building. He said buildings should be evaluated by a third party appraiser to determine their value. Mr. Peter Brassard said a provision for a waiver from the 20 foot required depth of A streets should be added to the ordinance depending on site conditions. He said the Director of the DPD should sign off on plans approved by staff. He said the land zoned for open space Downtown should be zoned D-1 as open space could be distributed within Downtown. Mr. Andrew Teitz said the DPD should consider a singular design review process for all development Downtown in the future. He said South Main Street should be an A street instead of South Water Street. He said demolition and regulations should consider the value of new development to Downtown.

Mr. Arthur Salisbury said the DRC's review area should not be limited and should include the Jewelry District as well. Mr. Dan Baudouin said institutional uses should be permitted as of right Downtown. Mr. David Kolsky referenced the past demolition of a downtown gas station and asked if it would have been demolished under the proposed regulations. Mr. Azar said the proposal would have to have been reviewed by the DRC taking into account its architectural and historical significance and review of a new building that conforms to development regulations. He said a parking lot would not be permitted and new regulations would be more effective than they are today. A discussion on demolition regulations ensued. Mr. James Hall asked how a building's historic significance would be determined. Mr. Azar said the DRC could adopt regulations pertaining to criteria for determining architectural and historic significance. Mr. Bilodeau asked if the Providence Preservation Society could create a list of buildings categorized by historical significance or propose other solutions to determine historical and architectural significance. Mr. Durkee said a previous attempt at creating a list was not successful. Mr. Hall said the National Register Historic District could be used to determine historical significance as the buildings had been vetted on a national level. He suggested providing incentives for developing vacant lots to prevent demolition. Mr. Azar said a list of historic buildings could not be a part of the Downtown zoning process due to time constraints in developing a list and including it in the current ordinance.

Ms. Anderson asked how the Commission was expected to act given the outstanding issues. Mr. Azar said that except for the issues of the open space designation on the map, demolition regulations, permitting institutions by right downtown and the development review process, the ordinance should be approved as presented. He asked the Commission to make a recommendation to allow the zoning process to proceed. He said the Commission could revisit certain issues and make recommendations to the City Council the following month as the Council's public hearings would not begin till March. Mr. Durkee said the Commission should move the Ordinance to the next step by acknowledging the changes made by staff and addressing audience comments by making changes to be submitted to the council. A discussion on the format of the ordinance ensued.

Mr. Cortes said he was uncomfortable about projects that would be considered major land development projects not being reviewed by a public body. He asked that the term "act of god" be removed in referencing unexpected events. Mr. Azar said it was a commonly used term. He asked if the word "property" should be replaced by "building" when talking about buildings in the ICBD. Mr. Azar said the ICBD deals with property that buildings are located on. Mr. Cortes asked about a provision to allow members with expired terms to continue to serve on the DRC until a replacement was made. Mr. Azar said it was a common practice to permit the functioning of the board. A discussion on the DRC's functioning ensued.

Mr. Durkee said the Commission should discuss the outstanding issues. He said academic institutions should be permitted by right Downtown. The area zoned as open space should be zoned D-1 and the Commission should work with the I-195 Commission to determine the location of park and open space. As the language pertaining to demolition dealt with a building's value, language should be added for a third party appraisal to determine if a building could be demolished. Mr. Azar said the cost for appraisal should be borne by the applicant, not the City. Mr. Durkee said the Director's signoff on plans should be mandatory for design review. Mr. Cortes said a layer of public review would be more pragmatic for Downtown development. Mr. Durkee said development would be reviewed for waivers and incentives as developers would want to maximize the value of their development. A discussion on the development review process ensued.

Mr. Durkee said the commission should discuss and vote on the four outstanding issues previously identified. Mr. Cortes made a motion seconded by Ms. Ryan to recommend that the City Council approve the revised Zoning Ordinance for Downtown as presented with all of the changes depicted in the attached table except for the four outstanding issues of the open space designation on the map, demolition regulations, permitting institutions by right downtown and the development review process. The Commission found the revised ordinance to be in conformance with the purposes of Zoning and the Comprehensive Plan. All voted in favor.

### **Permitting Institutions by right Downtown**

Mr. Durkee said the Commission should make recommendations to the council on the four outstanding issues not voted on by the Commission. Mr. Durkee asked how the recommendation should be worded to permit institutions as of right Downtown. Mr. Azar said the Commission could make a motion to the council which stated that the Commission recommended that educational and medical institutions be permitted as of right in the D-1 zone. Mr. Durkee asked how the recommendation would be implemented. Mr. Azar said it could be done by stating that the use table in Section 303 of the Zoning Ordinance be changed to delete the letter 'S' and replace it with the letter 'Y' beside uses 21.1 and 24 under the D-1 zone. Ms. Ryan made the motion suggested by Mr. Azar, Ms. Anderson seconded. Mr. Cortes asked if the recommendation should reflect a strong recommendation from the council or if the item should be considered carefully. A discussion ensued and Ms. Ryan amended her motion to make a strong recommendation to the Council to consider allowing institutions by right Downtown. Ms. Anderson accepted the amendment. All voted in favor.

### **Open space designation on the Downtown Zoning Map**

Mr. Durkee asked how a motion to change the designation of a parcel on the map from Open Space to D-1 should be worded. Mr. Azar said that the parcel of land zoned as open space to the east of Dyer Street and to the south of Dorrance and Peck Streets and to the north of the Dynamo house property be designated as D-1 zone. Mr. Azar said the Commission could also insert a height limit. Mr. Azar said 100 feet would be appropriate given the surrounding height limit. Mr. Cortes made the motion suggested by Mr. Azar, Ms. Ryan seconded. Ms. Anderson asked if there was an assurance that there would be open space within Downtown. Mr. Durkee said that the I-195 Commission was required to have a certain amount of open space Downtown. A discussion on open space ensued. Mr. Azar said the motion could be amended to ask the council to seek an assurance that there would be a minimum amount of open space Downtown. Ms. Anderson asked if Mr. Cortes would accept an amendment asking the council to require a certain amount of open space Downtown, Mr. Cortes and Ms. Ryan accepted the amendment. All voted in favor.

### **Demolition**

Mr. Durkee suggested that language be added to Section 502.5 (B) 2(b) (ii) requiring a third party appraisal to determine the value of a building proposed for demolition, with the cost borne by the applicant. Ms. Ryan made the motion suggested by Mr. Durkee. Mr. Torrado seconded. Mr. Cortes said there should be more specific guidelines recommended to the council to address concerns regarding demolition. A discussion on demolition regulations ensued. Mr. Azar said it would be difficult to come up with guidelines immediately given the factors involved. Ms. Christine West, a member of the DRC, said demolition regulations should allow for clarity and defensibility of decisions. Mr. Andrew Teitz said historically significant could be defined as any building that was in a National Register Historic District. Mr. Durkee said that would not address buildings that weren't in the district. Mr. Azar said the Commission could revisit the issue of demolition and develop supplemental recommendations at the February CPC meeting, which would occur prior to the public hearing before the City Council Committee on Ordinances. Mr. Azar said the Commission could make a motion to communicate to the Council that supplemental regulations would be developed upon further discussion. Mr. Cortes made the motion suggested by Mr. Azar. Mr. Torrado seconded. All voted in favor.

**Downtown Design Review by staff**

Mr. Durkee recommended that development within the Downcity Overlay district require the full approval of the Downtown Design Review Committee and the rest of the D-1 zone is subject to the Downtown Zoning Ordinance. He said that projects reviewed by staff should be signed and reviewed by the Director of the DPD. Ms. Ryan made the motion suggested by Mr. Durkee. It was seconded by Mr. Torrado. All voted in favor.

**3. Zoning of I-195 surplus Parcels** - Consideration of an Ordinance in Amendment of Chapter 27 of the Ordinances of the City of Providence Entitled "The City of Providence Zoning Ordinance" Approved June 27, 1994, as Amended, to Create Revised Regulations for the I-195 Surplus Land Parcels in Fox Point and to Revise the Zoning Map to Create a New Zoning Overlay District and Revise the Underlying Zoning Districts C2, W2, and OS for Said Parcels – for action

Mr. Azar said the CPC’s recommendation to the City Council should approve the zoning of the I-195 surplus parcels finding consistency with the principles of zoning and the comprehensive plan. He said one change made was that the through block easement on Parcel 5 could be located within a defined range, not at a certain point. Ms. Ryan made the motion suggested by Mr. Azar. It was seconded by Mr. Torrado. All voted in favor. Ms. Anderson said she would like to discuss the A and B street designation Downtown at the next meeting.

**Adjournment**

Mr. Cortes made a motion seconded by Ms. Anderson to adjourn the meeting. All voted in favor.

The meeting adjourned at 8:45 pm.

Respectfully Submitted,



Choyon Manjrekar,  
Recording Secretary