

**CITY OF KEENE
NEW HAMPSHIRE**

**JOINT PUBLIC WORKSHOP
PLANNING BOARD/
PLANNING, LICENSES, AND DEVELOPMENT COMMITTEE
MEETING MINUTES**

Tuesday, May 19, 2015

6:30 PM

Council Chambers

Planning Board Members Present

Gary Spykman, Chair
Christine Weeks
Councilor James Duffy
Andrew Bohannon
Nathaniel Stout
Douglas Barrett
George Hansel

**Planning, Licenses and Development
Committee Members Present**

David Richards, Chairman
Councilor Emily Hague
Councilor Bettina Chadbourne
Councilor David Meader
Councilor Carl Jacobs

Planning Board Members Not Present

Mayor Kendall Lane

**Planning, Licenses and Development
Committee Members Not Present**

Staff Present

Rhett Lamb, Planning Director

1. Roll Call

Chair Spykman called the meeting to order at 6:30 pm and a roll call was taken.

2. Approval of Meeting Minutes – April 13, 2015

A motion was made by Christine Weeks that the Joint Committee accept the April 13, 2015 meeting minutes. The motion was seconded by James Duffy and was unanimously approved.

3. Public Workshop

Ordinance – O-2014-12 – Relating to Zone Change for a Section of Wyman Road.

Petitioners, Attorney Thomas Hanna on behalf of Prospect Place, street section located from the intersection of Route 12 and Wyman Road to the northeasterly boundary of Tax Map and Lot Number 919-09-024. This section of Wyman Road would be added to the list of streets in Section 102-1111 where Institutional Uses are permitted by Special Exception. Thirteen parcels in total would be affected by this proposal.

Chair Spykman explained that last month there was a presentation by the petitioner, staff and public comment. The matter was continued to this month. He indicated that the meeting tonight is for a proposed zoning change not about a particular project and added that he wanted that to be clear to everyone who makes a comment

Attorney Thomas Hanna representing Prospect Place was the first speaker. He indicated that Prospect Place is proposing a Continuing Care Retirement Community (CCRC). Both bodies present today had questions which staff has answered in the staff report except to the question as to what CCRC is. Attorney Hanna introduced Ed Kelly who is an expert on CCRC and has been working for Prospect Place on this issue as to how they might meet their mission. Chair

Spykman asked that those comments be kept brief as the meeting is not on that topic. Attorney Hanna noted that the staff reports asks that the petitioner address this.

Mr. Ed Kelly stated that he has been working in the field of senior housing for about 40 years. He stated that he has been working with Prospect Place and then Woodward Home to develop a project on this land.

Prospect Place is a 147 year not for profit organization serving seniors in this community. This facility is now old and doesn't serve efficiently the needs of its residents. The same is true about Woodward Home. The Board of Directors of both facilities consisting of 24 volunteers have voted to merge the two organizations to operate more efficiently and help develop a CCRC.

A CCRC is a combination of independent living units, which may range from a modest one- to two-bedrooms with den units. It has a large amount of community space that would provide activities, laundry, meals, transportation services and housekeeping to the residents. They also have a health center. It is referred to as a CCRC because it allows residents to live in a continuum of care, in a dignified life style with being active and healthy but being provided nursing care when necessary. It is also a financial plan so that when people move in they are sheltered against cost of long term care.

Mr. Kelly added that a resident pays an entrance fee and a monthly fee which is affordable to a wide group of people in the area. The fee is directly related to the size of the unit. This is not a purchase of real estate but an agreement between the organization and the residents that they will be cared for, for the rest of their lives. He explained that if a resident for example starts at paying \$3,000 a month for their stay at the CCRC but a few years down the road needs nursing care which could be at a cost of \$8,000 per month, that individual will only still be paying \$3,000, the cost will not change because they now need added care.

Mr. Kelly went on to say that this facility is highly regulated by the NH Department of Insurance and the Department of Health. They make sure that the facility is financially viable to the extent that the facility cannot be built until 70% of the units are reserved for the 10% deposit. The typical resident may move in, in their late 60's or some who are in the 90's. Some who still might be working and the average age of residents moving in will be 76 -78 years old, at move in 60% of the units will be occupied by couples and over time the median age will be in the 80's.

The reason many choose a CCRC is because their home has become a burden, they want to enjoy life and be part of the community but don't want to keep taking care of their home.

At the last meeting there was discussion about traffic. It has to be noted that most people who will be moving in are married couples but only a few work and most residents will be on campus during dinner time as this will be one of their important social times of the day. Hence, during rush hour there will only be a few residents on the road. However, some of the employees who are employed by this facility could be on the road during rush hour. As far as those who work in this facility, most will be employed by the health center and the hours of such centers are usually 7 am to 3 pm, 3pm to 11pm and 11pm to 7 am so the change of shift will not fall during rush hour traffic.

Mr. Kelly stressed that this facility has to be adequately sized, if it is too small it becomes too expensive and if it is too large it will be too large for the community. Mr. Kelly added that he

was the developer for Rivermead in Peterborough in addition to his many years working with senior housing.

As far as the jobs this facility will create; it will employ about 100 people, approximately 65% will be full-time. There will be a wide variety of jobs ranging from well paid executives, department directors, administrative staff, and health care related staff to maintenance staff. These will be well paid jobs and competitive in the market place. He added that there are always good relationships that are formed in these facilities which lead to fewer turnovers. There are also High School and college aged children who will be employed in the facility and is a place where these kids don't work very long hours and it is also a good environment for seniors to have these young people around.

Although this is a not for profit organization, the Board of Directors recognize that they have to pay their fair share to the City of Keene for services that are provided. A payment in lieu of taxes is envisioned which will be in the hundreds of thousands of dollars.

There was a survey done of the market place and focus groups were conducted in five different locations to see if there was going to be a need for this kind of community in this area. 330 people showed up which indicated to the Board that there was in fact a need for this type of facility. Mr. Kelly indicated that it is clear that this site does have environmental issues, floodplains, slopes and wetlands. A unique aspect about a CCRC is that all the residential and healthcare components are developed in a tight manner. They want to shorten the walking distance for residents hence in this site of 48 acres only nine to ten acres will be used and the rest will be vacant. This concluded Mr. Kelly's presentation.

Mr. Jim Phippard of Brickstone Landuse Consultants was the next speaker. Mr. Phippard stated that Prospect Place has submitted a petition to rezone a portion of Wyman Road for institutional use. Mr. Phippard stated that the question is should institutional uses be allowed here, can they be accommodated here and felt the answer was yes. He stated that when Corporate Park was developed Wyman Road saw improvements 200 feet beyond Black Brook Road. Utilities were improved, street lights were added, the right of way was widened, and city water and city sewer were also extended. The water and sewer lines pass through the proposed property to Wyman Road and then extend back to the south.

At the location where the improvements stop, the remaining roadway travelling to the north is a narrow 33 foot right away. The road surface is not good and there are steep slopes. Mr. Phippard stated that he can report tonight that they have reached an agreement with the abutting property owner to purchase an easement of land to make additional road improvements if it becomes necessary to support institutional uses. Mr. Phippard then started to go over the institutional uses identified under the Zoning Ordinance.

Councilor Duffy stated that he needs more guidance on what is before the Joint Committee today. He noted that this Body is supposed to evaluate a zoning change and didn't feel the questions he posed last month have yet been answered regarding CCRC. He indicated that the task he is assigned to is whether this zoning change is consistent with the Master Plan and did not feel it was helpful for him to hear about the agreement the Petitioner has reached with abutting property owners. The Councilor felt that the zoning change could happen but this project may never come to fruition. He added that it makes it very difficult for him to be objective based on the testimony he has heard so far.

Chair Spykman stated that some of what Councilor Duffy has said might be shared by others and indicated to Mr. Phippard that this process is difficult to define. The Joint Committee has one task tonight and that is to evaluate whether this one stretch of road could be rezoned for institutional use and asked that Mr. Phippard stay focused on the topic at hand.

Ms. Weeks stated that as a member of the Planning Board she finds it difficult to separate the project from the zoning ordinance. She felt it will affect her vote knowing that a non-profit group proposing a project that is something that is greatly needed in this community and did not feel this was an unethical organization making this proposal.

Chair Spykman explained after the applicant is done, staff will address the Committee, and then it would be public comment. After which time, the Joint Committee will have time to have an internal discussion. He said that he was going to try and keep the presenters focused as the Committee has a difficult job to be objective.

Mr. Phippard continued with his presentation and stated that the best way to consider institutional uses is for the Joint Committee to look at the list of institutional uses identified in the Ordinance. Health care facility, hospital, temporary housing for families of patients, clinic, nursing home, sanitarium, home for the aged, convalescent home, private school, child care facility, place of worship, senior center and a museum. He said there may be other uses not listed that qualify as "institutional" as determined by the Zoning Administrative as it the case in this petition. Concern was expressed in the staff report about the condition of Wyman Road and the width of the right of way and whether if larger institutional use came into being can the road support it. Mr. Phippard believed that it could.

Mr. Lamb stated that he agrees with Mr. Phippard's analysis that the traffic issue and the adequacy of the roadway is an important issue but the Petitioner's relationship in acquiring property to widen the road is irrelevant to this discussion. The adequacy of the road, potential for impact from institutional uses is all relevant but land deals for widening the road is not.

Mr. Phippard went on to say that in the Ordinance for any institutional use to go into such a location they would need a special exception from the Zoning Board. If the special exception is granted then they have to go before the Planning Board for the site plan process which is a very detailed process. All aspects of impact associated with altering land, adding traffic come into play. He noted that he is confident that he can bring forth a proposal for any of those uses on the list mentioned earlier and get approved for a special exception and get approval for site plan approval. Hence, the bottom line is that this area can and should be allowed to be used for institutional uses.

Attorney Hanna addressed the Committee again. He stated that the staff report gets into the proposed use. Attorney Hanna stated that the Staff Report from April states that the ...*Master Plan is intended to be a general guide not a prescriptive indication of future development* ... He noted that a CCRC was not contemplated by the Master Plan which is a handicap for the petitioner. He agreed that the Master Plan is a dynamic document but becomes outdated in a short period of time. He also reminded the Committee of what the Vice-Chair of the Ad Hoc Steering Committee for the Master Plan stated February 2, 2010, ...*things can change drastically in five years and hence, flexibility is something that should be kept in mind...*

Mr. Hanna said, as stated in the Staff Report, there is a clear need for this type of facility because of the demographics and suitable land for this type of use in the downtown is extremely limited.

Attorney Hanna added that it doesn't exist. Any other site that was considered for this type of use would need this type of petition.

He felt that the Committee can use items in the Master Plan to approve this request such as the overriding goals in the Master Plan include supporting a high level of independence for seniors, enabling seniors to age in place, promoting active wellbeing. When choosing an institutional use it should use existing infrastructure which is one of the reasons why this site was selected and Wyman Road is appropriate; it is adjacent to corporate park, close proximity to a highway, availability of water and sewer, significant portion of Wyman Road has already been upgraded that it is appropriate to add this street where a special exception can be granted.

Staff comments were next.

Mr. Lamb stated that it is interesting to look at the Master Plan and what it is really intended to do. He felt the Plan has some well identified goals to pursue a sustainable future for the City. This is why the plan has identified in it primary growth centers with secondary village type settings –these are the recommended actions for the land use plan. He agreed that things do change. However, the question is whether this is the right place for an institutional use and the Committee has to keep in mind all the other possible institutional uses that could be proposed on this site. This is the reason for the Committee to separate the applicant's specific project from the act of changing Zoning and this is why staff looked at other institutional uses, where they are located and how they got there.

Mr. Lamb talked about the YMCA property on Summit Road. The reason this location as chosen by the YMCA is because property was available to them not because it was on a street where institutional use existed, the ordinance was changed to accommodate the YMCA.

Mr. Lamb stated that it was important to choose portions of the Master Plan that should be pursued by the City in the long term to produce the kind of development that the Master Plan is calling for and agreed that it is a difficult place to be.

Mr. Lamb then referred to page 13 of the staff report where it refers to agricultural soils. Blue depicts soils of no significance, pink depicts soils of local importance (area around Black Brook), and orange depicts prime soils (off this property). This is important because the Master Plan includes principles of sustainability in terms of the City becoming more capable of producing its own food. So when you develop on agricultural soils you lose those soils for the future.

Mr. Lamb went on to say that the Miracles in Motion question came up. This structure was built for private purposes. It was established with a special exception by the original applicant and is a special exception for a "non-commercial outdoor recreational facility on a property having no access to an arterial street". This is the title for the special exception application. Mr. Lamb added that Miracles in Motion has been operating since approximately 2006.

Mr. Lamb went on to say that staff has had a follow-up conversation with NHDOT regarding the Corporate Drive, Route 12, Wyman Road intersection because of safety issues raised by residents. He explained that most of these comments relate to seasonal weather patterns which make this area foggy during the early morning hours and at night. The question that has been posed is whether the approach to the intersection along Route 12 could be made safer. Certain improvements have been made, especially to the south bound lane (downhill) adding signs to make drivers more aware of an approaching intersection. Mr. Lamb stated that he had talked to

the District 4 Engineer who had indicated that there were no other plans for other improvements but they are aware of the issues.

Mr. Lamb stated that there was also a question about Langdon Place. Mr. Lamb reminded the Committee that the current institutional use was adopted in 1995; this was when the list of streets was created. Before 1995 institutional uses were not specifically regulated and conflict arose as to whether institutional use should be located on neighborhood streets. The ordinance was adopted in 1995. Langdon Place was developed in conjunction with a nursing home and a group home for the elderly in a rural zone in 1990. This location was a former gravel pit and this development was an improvement to what existed previously.

Mr. Lamb went on to say that the road argument is an interesting one and questioned whether a road needs to be adequate to support an institutional use before it is rezoned. Mr. Lamb stated that he doesn't have a specific answer for this. He referred to the use on Base Hill Road which was, in effect, contract zoning and added that staff was not suggesting that here. He added that it is the agreement of all pertinent city departments that Wyman Road in this location as it exists currently is not adequate for institutional use except for perhaps a small institutional use such as a daycare facility. He added that the important question is whether this road is adequate for other more significant institutional uses.

Councilor Jacobs asked whether Mr. Lamb sees opportunities for institutional uses elsewhere in the city. Mr. Lamb stated that the land use map refers to primary growth areas and neighborhood village centers that were being contemplated for these types of uses. The applicant has indicated they were looking for rural settings and that is because this is what their development model calls for. He added that zoning doesn't always need to come before a project, even though it is ideal that a plan is written, implemented through roadway and infrastructure improvements, and then development follows. This was the Blackbrook Corporate Park development scenario.

Ms. Weeks asked when Blackbrook Corporate Park was proposed whether the area had to be rezoned. Mr. Lamb stated that it did as a function of the prior steps of an economic development plan and a land use plan which identified this property in this area as corporate park. Ms. Weeks noted that in the staff report it is stated that there is a need for this type of use and asked whether this would be similar to the City saying there was a need for corporate park. Mr. Lamb answered in the negative and added that this is staff's opinion and an attempt to provide the Committee with some guidance.

Mr. Barrett asked whether Mr. Lamb could provide his expertise as to the notion of zoning following use with the understanding that each motion would be considered carefully. Mr. Lamb stated that he appreciates the question but didn't think he could refine his answer better than he has already provided. The disconnect here is between what the Master Plan is proposing and what the Petitioner is proposing. The problem with the City's institutional street list is that it is being changed incrementally; when the next project comes along, we are asked to accommodate it by adding a new street to the list.

Councilor Hague asked Mr. Lamb to go over the streets on the list for institutional use. Mr. Lamb listed the streets as follows:

1. Arch Street, from Park Avenue to Whitcomb Mills Road.
2. Court Street, on the west side from Westview Street to Maple Avenue and on the east side from Evergreen Avenue to Maple Avenue.
3. Hastings Avenue, on the west side only from Trowbridge Road to Evans Lane.

4. Main Street, on the east side from Central Square to the Swanzey line and on the west side from Central Square to Greenwood Avenue.
5. Maple Avenue.
6. Marlboro Street, from Main Street to Eastern Avenue.
7. Park Avenue
8. Reconstructed Base Hill Road about 800 feet, more or less.
9. Summit Road, from Park Avenue to the Maple Avenue/Hastings Avenue intersection, and continuing northerly on the west side of Summit Road for a distance of 1,000 feet.
10. Washington Street
11. West Street, from the intersection on Route 9/10/12 to Park Avenue.
12. Winchester Street.

Ms. Weeks asked whether there was a 50-acre property in any of the streets Mr. Lamb just referred to. Mr. Lamb stated that there are some large parcels on Court Street but some of those might be protected by Conservation Easements and they are not of rural nature.

Chair Spykman asked for public comment next.

Ms. Jeannie Sy of 185 London Road, Westmoreland addressed the Committee first. Ms. Sy stated that they bought a property on Wyman Road in 1979 which property included 95 acres. Everything except the area around the house was zoned industrial. They eventually moved down the hill, paid to have ten acres taken out of industrial and built a home. Once their kids were out of school they moved out of town and their property was on the market for seven years and did sell some land and the remainder was sold to an individual who was going to open a woodworking company. During this time they applied to put their land in conservation but the State turned them down. They asked the city to help keep the land open space but the city decided against it. She noted that this was the best farmland in the city, with Blackbrook running through it. The City had drilled wells to make sure the water was clean because of the landfill located above, so there are test wells on the property. The entire property was finally sold in the late 80's.

Ms. Sy stated that the person who purchased the property for the woodworking company approached the city and asked the city to take over the road which the city declined and at that point he proposed to sell the land to the city for four times the price. She noted that the area has now changed, it is not rural anymore, this was decided when the city did not want to maintain this land as open space.

Ms. Barbara DeMatteo representing Miracles in Motion was the next speaker. Miracles in Motion is an equine therapeutic facility serving all ages. Ms. DeMatteo noted that they own this property. She stated that initially they were in support of this proposal. She indicated that her concerns arose when she read the January minutes.

The first concern is that there are no density limitations for institutional uses and what that could mean for the future. Ms. DeMatteo referred to the second and third criteria of concern to them.

2. Such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.
3. There will be no nuisance or serious hazard to vehicles or pedestrians.

She further stated that the increase to traffic and the loss of the pastoral ambience immediately surrounding the barn is important to the execution of the program and make the equine assisted

program difficult. Ms. DeMatteo stated that she was also concerned about the wetland footprint and that it might be altered. She felt that subtle changes in water level that sometimes happen at the present time make it difficult for their operation. They are already operating in a very narrow boundary of dry land; the smaller pasture has flooded in the past and only 1/3 of it was usable. The culvert that runs under Wyman Road has been blocked by brush which floods Wyman Road and the City has no plans to change that culvert, but if anything else is done to change the balance it could be difficult for them. She added that there is a paddock in a lower area which is dry most of the time but a small rise in the water table will wipe that out as well as the large pasture.

Ms. DeMatteo talked about the current road width which is 20 feet paved and 33 feet right of way which doesn't conform to the minimum requirements of a collector street (page 12 of the January minutes). For commercial it is 24 feet paved and 55 feet right of way, residential collector is 30 feet minimum paved and 60 feet right of way and the comments in the minutes is that this street will likely be considered a commercial street. It is also indicated that the city has no plans to upgrade this road but if it was to be upgraded would Miracles in Motion property then be taken by eminent domain.

She also noted that with this proposal there could be a loss of about 12 feet from their property as well as the existing buffer.

The traffic increase could be a concern. At present time getting in and out of the property is difficult especially with the windiness and hilly nature of the road. Horses as well as people with hyper-sensitivity issues could have problems with traffic sounds coming from trucks, heavy equipment, motor cycles, and sirens. During rush hour, traffic could become a problem at the Route 12 intersection but added that she wasn't sure when traffic by their site would become heavy because 9 am to 6 pm is their peak hours.

Ms. DeMatteo referred to page 16 of the minutes – wetlands – where it is stated that this type of aquifer is vulnerable to contamination and felt their septic which is already problematic would be fatally stressed with the rise in the ground water.

A Miracles in Motion Board member asked that it be pointed out that 60 – 75% of the lessons happen between May and November which is when construction could happen. Their income is 60% depended on lessons that happen during that time. In closing stated that they like having neighbors but felt this site might be too close.

Chair Spykman read a letter into the record from Nancy and Jeremy Lory of 63 Wyman Road. *We attended the April 13 workshop on this topic and requested more time to consider the information presented that night. The Committee graciously extended the workshop to another night, May 19. We appreciate the extension, having had sufficient time to review the topic, we are satisfied with what is being proposed for the zoning change. We no longer plan to attend the workshop on May 19. We would like to express our appreciation to Rhett Lamb, Karen Purinton and other staff in his office for the many courtesies throughout this process. Our questions were welcomed, and thoughtfully answered patiently.*

Attorney Hanna stated that so that there won't be any illusion that Wyman Road has never been considered for high level traffic – in 1994 when the corporate park was created, it included the land all the way to the northerly boundary of the Miracles in Motion property as well as to the northerly side of the Lane property. Subsequent to that decision by the Council there was a

rehearing requested on the rezoning which was reaffirmed with the understanding that there will be no more than 100 tractor trailer trucks on Wyman Road per day. At that time in 1994, it was decided that Wyman Road was appropriate for all the uses permitted in corporate park. This land was subsequently rezoned to rural but that was not in any way because of concern for traffic it has a lot more to do with the landowner.

Attorney Hanna went on to say that Miracles in Motion is an institutional use and it has an odd permit history. He added that Ms. DeMatteo's comments were important but it had a lot to do with site plan and Zoning Board issues. He noted that she also did not mention the second criteria for a special exception, "*such approval would not reduce the value of any property within the district, nor otherwise be injurious, obnoxious or offensive to the neighborhood*". The owner of a property in an institutional use abutting Miracles in Motion would have to convince the Zoning Board and take measures and protect that property from many of the concerns raised by Ms. DeMatteo. He added that none of the land of Miracles in Motion would need to be taken.

Councilor Hague asked Attorney Hanna whether he disagrees that Miracles in Motion is a non-commercial outdoor recreational facility. Attorney Hanna stated that this is the permit they received in 2006 and he considers it to be an institutional use.

Mr. Lamb referred to the comment made by Ms. Sy about the city owning the property on Wyman Road and added that since his time with the City in 1996 he doesn't recall the city owning any property on Wyman Road unless it was to become part of a road right of way. He added that land was purchased by MEDC at one point and then developed and leased to businesses.

With no further comments, the Chair closed the public hearing. Chair Spykman explained that what the Joint Committee will be discussing is a change of zoning and once the discussion is completed there will be two separate votes. The PLD Committee will vote as to whether it wants to send this matter on to the City Council to schedule a public hearing and the Planning Board will vote as to whether this matter is in conformity with the Master Plan.

Councilor Duffy stated that he is not only a member of the Planning Board but also a member of the City Council and had to recuse himself from the KEAP project because of his role as Councilor he voted on specific funding issues and loans to the organization that brought the site plan to the Planning Board. Mayor Lane and George Hansel had to recuse themselves as well; Mr. Hansel because he had publicly stated his opinion of the project.

On a quasi-judicial Board, members are required to be objective even though this can be difficult at times. He stated tonight he heard Planning Board member Ms. Weeks state that the City needs this type of a project. He felt this is support of a project when the Board is being tasked with a zoning issue. Councilor Duffy stated that he does not fault Ms. Weeks for her expression but does so in this setting and asked that Ms. Weeks be recused from further deliberation or vote on this topic.

A motion was made by Councilor Duffy to recuse Christine Weeks from further deliberation or vote on this topic. The motion was seconded by Emily Hague.

In the absence of the City Attorney, Chair Spykman asked Mr. Lamb for his assistance with the motion that was just made.

Mr. Lamb explained that the Joint Committee is acting in their legislative capacity and are advising the Council. As a Planning Board Member at today's workshop, members are not sitting in a quasi-judicial setting. You are not making a decision on the issuance of a permit in a typical Planning Board decision. In their legislative authority, the standard for conflict of interest is more like a City Councilor, which is less than the Planning Board quasi-judicial "Juror Standard".

Mr. Lamb stated that in the absence of rules of order of the Joint Committee the Committee will default to the Planning Board rules of order which give the decision about recusal solely to the individual and an advisory vote can be taken by the Board as to the presence of a conflict. It is up to the individual to decide whether a conflict is present.

Chair Spykman asked Ms. Weeks whether she has a conflict. Ms. Weeks stated that she does not have a conflict, she is a citizen and was asked to serve on this Board and could express her opinion. She has no monetary connection to this project and doesn't own any land abutting this property. Chair Spykman referred to the City Code that deals with these particular meetings:

These legislative workshops are not intended as due process public hearings. They are intended as a method by which City Council and the Planning Board may receive public comment.... It is intended in fact that the Planning, Licenses and Development Committee and the Planning Board are free to make appropriate changes to the proposed ordinance throughout this process without any requirement that additional public notice is provided...

The Chairman said based on what Mr. Lamb stated and based on the City Code this Body is not voting in the same manner as they would vote on a site plan review. Also because Ms. Weeks has not opted to recuse herself he plans on ending this portion of the discussion. Mr. Lamb stated that the Committee will need to act on the motion made by Councilor Duffy with the idea that it is advised to Ms. Weeks and added that the vote of the Body cannot recuse Ms. Weeks.

Chair Spykman noted that Councilor Duffy agreed to withdraw his proposal and asked whether the Board could move forward with that. Mr. Lamb answered in the affirmative. Councilor Duffy withdrew his proposal and apologized to Ms. Weeks that he was confused but felt members need to be more careful. Councilor Duffy withdrew the motion he made and Councilor Hague withdrew her second.

Councilor Jacobs recalled an incident during the Konover project when a comment was made by a Conservation Commission member and added that he tried to always refrain from any sort of public comment when he served on the Planning Board.

Councilor Duffy stated that the Joint Committee is supposed to decide whether this proposal is consistent with the Master Plan that was adopted in 2010. Before that time the City was dealing with a series of "patchwork" unrelated master plans which created a lot of confusion. He felt this is one of the reasons for the special exceptions, zoning changes and the list of streets where these zoning changes have happened. He felt this was not the way to do business and make decisions that would guide this community; things need to be less confusing and be more comprehensive,

The foundation of the current Master Plan dates back to 2005 and was described as the three E's, economic vitality, social equity and environmental integrity and that the Master Plan called for balance. The current Master Plan talks about connectivity, walkability, providing affordable housing etc. and all this has to be balanced. The Councilor stated that he does want to take

exception to a comment Attorney Hanna made earlier, that someone on the Steering Committee had stated that things come up that the City can't anticipate but felt there was a lot of specificity in this Master Plan and referred to Page 116 – 119 where it talks about the various planning areas which shows that the City is trying to integrate a sustainable development in this community that demonstrates a connection between economic vitality, social equity and environmental connectivity.

What we know about the petitioner's property is that it is prime agricultural land. According to the Master Plan, we are encouraged to develop density closer to the core. The Councilor then gave thought to how best to address this matter before the Committee. Is an institutional use that allows for certain types of development on this property more consistent than trying to preserve this land in its present state? Are there other ways to integrate seniors into other parts of the community and how do we best serve the goals of the master plan?

Councilor Hague noted that the heart of this question is where we want institutional uses to be located in this city. She referred to page 124 of the Master Plan, future landuse map, the area in question is slated for future industrial and manufacturing. However, on page 101 Active Well Being "...*explore the possibility of creating a new multi-generational community/senior center in a centrally located, walkable, transit-friendly location within our downtown area.... we should be working towards the creation of a community that integrates, not separates, all ages into the fabric of community life.*" Councilor Hague stated that the issue she struggles with is the precedence that has been set in this area by existing uses and the arguments that have been presented as to why this area would be appropriate for institutional uses. How do we balance that with the directives in the Master Plan to focus mixed uses into village nodes?

The Councilor went on to say that with the existing institutional use streets, only a very few have similar characteristics, perhaps the rural parts of Basehill Road, Summit Road and Arch Street and the others have mixed uses.

Mr. Stout felt that this conversation should not only be based on housing. In this discussion all the institutional uses should be considered as much as possible. He agreed that the Comprehensive Master Plan is an effective document but that is not the core of today's discussion as it does not have CCRC listed. What the plan does address is affordable, comprehensive housing. He indicated that his main concern about this land is access and environment and did not feel it was an outrageous idea to consider an institutional use in this area. Mr. Stout added that there is another Body beyond the Joint Committee that is going to decide what to do with this property.

Mr. Hansel stated that he wanted to reiterate some of the things that have been said tonight. He added that he has visited this site and noted that it is not a pristine rural area in the city. Additionally, his experience with the city and the processes that people have to follow for development, it would be a stretch to say this would be the worst case scenario no matter what institutional use is. Mr. Hansel stated that he is also sensitive to what Attorney Hanna said that the Master Plan is a living document that needs to adapt with the needs and new uses that come up and said he couldn't find any reference to CCRC in the Master Plan. He felt this request was appropriate at this time.

Mr. Barrett stated that he appreciates Councilor Hague's comment about the current list of roads and her observation that Wyman Road is a different character compared to those other roads. He felt one way to address this issue would be to approve a future road for institutional use based on

the characteristics of the already approved roads or maybe there were institutional uses that were not anticipated at the time the institutional uses were put in the document.

Ms. Weeks stated that she participated in the visioning process for the Master Plan and at that time her main interest was the school but now ten years later her view point has changed. She stated that if there was a Master Plan process now and she was part of it she will have a different opinion on it. She felt this should be an expandable document.

Mr. Bohannon stated that looking at the CMP, one of the goals was to have a sustainable future. Change invites progress and one of goals in the Master Plan is by 2028 Keene is to be the best city in the United States – what will that look like? What needs to be considered is whether the proposal for the zoning change complies with the Master Plan. He felt that the CMP is just a guiding document and it needs to evolve as we move forward.

Councilor Chadbourne noted that the CMP does not address CCRC and the CMP is a living document and there were ten points that Attorney Hanna pulled out from the Plan and there are portions the Joint Committee referred to, to address the opposite view. As a Council member she felt this matter should move forward for a public hearing.

Councilor Hague stated that the reason she called the Committee's attention to the Master Plan is not to belabor the issue but to show the inherent tension that lies within it and the difficulty in making a decision based on it.

Councilor Duffy stated that he agrees with Councilor Hague and felt the city needs to address its present needs and consider the needs and challenges of future generations, which is the goal of the Master Plan. The Councilor felt that CCRC is part of institutional use and it is appropriate to consider that and you could also call it a business model.

Mr. Stout pointed out that he is a member of the Zoning Board and if he was to take a position on a matter before the Zoning Board he should not take a position on the same issue when it is before the Planning Board. He asked whether he needs to be recused. Mr. Lamb explained under the legislative status the standard for recusal is less than if this was a quasi-judicial Body. The questions to consider for a recusal is are you an abutter to the property? Do you have any financial gain? And do you have any connection to this project? Mr. Stout has brought another issue to light, whether he needs to be recused from the Zoning Board vote if he was to take a vote as a member of the Planning Board. Mr. Lamb stated that this is the reason for wanting to separate the project from the petition to change zoning. He added that Mr. Stout's role tonight is legislative and does not preclude him from voting in the future as a ZBA, or Planning Board member. Mr. Stout asked whether it should be a vote from the Board. Chair Spykman stated that they were not voting on a project but a zoning change.

PLD Chair Richards noted that the other uses that could happen at this site is a prison, medical facility, museum or a school. Keene is not likely to construct a school and if the state or the county was to consider such a development they don't adhere to city standards. The next is a school and that is not likely to happen with the wetlands issue that exists.

Chair Spykman stated concerning the CMP – the Planning Board is not being asked whether this document covers everything and whether it is going to evolve. The Board's task is to determine whether the requested zoning change fits with the Master Plan and whether institutional use is going to be permitted on that stretch of the road.

The Chairman referred to the following language on page 116 of the Master Plan:

“...The concentration of high-density, mixed-use development and high- to medium-density neighborhoods in the urbanized area within the Bypass...” this is the vision that was set forth, to have development within the bypass and not sprawling into the countryside.

“...Areas for continued preservation of open space, agriculture and rural-residential uses. Given limited supply of large areas of readily developable land and the community’s desire to concentrate land within existing developed areas, land-use issues are mainly concerned with redeveloping and enhancing the existing available land and infrastructure.”

He stated that in his opinion looking at a piece of rural land as a perfect place to rezone for institutional use doesn’t fit with this wording.

Page 118 *“...Institutional users include city offices, health care facilities, county facilities, school property, and other non-profit land users. These entities provide vital services and jobs to the community. The location and functionality of institutional land uses should be focused near downtown or, where it fits the need and scale, in village/neighborhood activity centers.”*

The Chairman noted that this parcel of land is not near downtown or near a neighborhood center. He further stated inference was made that if this area was suitable for industrial use why it is not suitable for institutional use. He noted that in an industrial zone even with a special exception institutional use is not permitted. The Chairman felt that the vision the community put together into the Comprehensive Master Plan was clearly to keep development near downtown as possible and certainly within the bypass to preserve rural character. Page 101 also clearly states that senior housing was not intended to be located outside of the downtown.

A motion was made by James Duffy that the Planning Board find proposed Ordinance O-2014-12 relating to zone change for section of Wyman Road consistent with the Comprehensive Master Plan. The motion was seconded by George Hansel.

Ms. Weeks stated that she was confused by the motion because she was under the impression the Board was voting on rezoning a certain portion of Wyman Road. Chair Spykman explained that what the Board is doing tonight is determining whether this proposed zoning change was consistent with the Master Plan; the Council takes it from there.

Councilor Duffy asked whether this was a sufficient motion. Mr. Lamb answered in the affirmative.

Councilor Duffy stated that the Chair’s comments were articulate, this is not an easy decision and he will be voting against the motion that he made.

Ms. Weeks stated that there was a comment made about reference in the Master Plan regarding high level of independence for seniors, age in place and well-being among seniors. She felt that in looking at the Master Plan and looking at the demographics of the City, this motion was in keeping with the Master Plan.

Mr. Stout stated that the Chair’s observation was impressive. He felt that we can take the Master Plan literally or we can take a general interpretation. He stated the discussion that is taking place tonight is important and he will support the motion.

Chair Spykman stated that he did not want anyone to construe his opinion about whether this particular ordinance is in conformity with the Master Plan or whether the city should have a CCRC in Keene. He just doesn't feel this portion of Wyman Road should be rezoned as to institutional use as it is not in keeping with the Master Plan.

The motion made by James Duffy carried on a 4-3 vote, with Chair Spykman, Douglas Barrett and James Duffy voting in opposition.

A motion was made by David Meader that the Planning, Licenses and Development committee recommend that the Mayor set a public hearing. The motion was seconded by Carl Jacobs and carried on a unanimous vote.

4. City Council referral – Comprehensive Master Plan Implementation Update

Chair Spykman postponed the discussion to the next regular meeting.

5. Next Meeting – Monday, June 8, 2015

6. Adjourn

The meeting adjourned at 8:30 PM.

Respectfully submitted,

Krishni Pahl,
Minute Taker

Reviewed by: Rhett Lamb, Planning Director
Edits, Lee Langella