



## **AGENDA**

### **Joint Planning Board and Planning, Licenses & Development Committee**

**Monday August 13, 2018**

**6:30 PM**

**Council Chambers**

1. Roll Call
2. Approval of meeting minutes – July 9, 2018
3. Land Use Code Update Discussion
  - a) Stormwater Management
  - b) Floodplains
  - c) Surface Water Protection
5. Next Meeting - Monday, September 10, 2018
6. Adjourn

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**CITY OF KEENE  
NEW HAMPSHIRE**

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

Monday, July 9, 2018

6:30 PM

Council Chambers

**Planning Board Members Present**

Douglas Barrett, Vice-Chair  
Mayor Kendall Lane  
Michael Burke  
Nathaniel Stout  
Councilor George Hansel  
Chris Cusack  
Pamela Russell-Slack

**Planning Board Members Not Present**

Gary Spykman, Chair  
Martha Landry

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

Councilor Philip Jones  
Councilor Margaret Rice  
Councilor George Hansel

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

David Richards, Chairman  
Councilor Bart Sapeta

**Staff Present**

Rhett Lamb, Community Development Director  
Tara Kessler, Senior Planner  
Michele Chalice, Planner  
Mari Brunner, Planning Technician  
John Rogers, Building and Health Officer  
Med Kopczynski, Director of Economic  
Development

**1. Roll Call**

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

**2. June 11, 2018 meeting minutes**

Pamela Russell Slack noted that Douglas Barrett's name is listed twice.

A motion was made by Mayor Kendall Lane that the Joint Committee accept the June 11, 2018 meeting minutes as amended. The motion was seconded by Councilor George Hansel and was unanimously approved.

**3. Land Use Code Update Discussion**

Councilor Jones asked what happens once this discussion topic is completed before the Joint Committee; does it go before the City Council? Senior Planner Tara Kessler stated that the purpose of the land use code update discussion today and at future Joint Committee meetings is for staff to share information about sections of the City code and topics that staff have identified as potentially benefitting from updates or changes. Staff is looking for general comments and feedback from the Joint Committee so that the draft versions of the revised code won't be as overwhelming to review.

Councilor Jones asked whether the Joint Committee will be voting on anything tonight and whether it was open to the public. Ms. Kessler said that public comment is up to the Chairman's discretion but it has been the policy of this Committee to take public comment. She noted that there will not be any votes this evening.

Ms. Kessler started her presentation by noting there is a website for this project, [www.KeeneBuildingBetterTogether.com](http://www.KeeneBuildingBetterTogether.com), and there will be a series of community forums, which will be taking place in July and August. She noted this information is on the website and on posters being circulated. Tonight's agenda includes a series of presentations on three topics, including parking, landscaping and screening, and telecommunications.

**a) Parking:**

Ms. Kessler stated the focus of the parking discussion at this meeting is off-street parking. She noted that parking is addressed in many chapters throughout the City code. The goal with this process is to consolidate the information to one location. Parking standards address not only parking lots, but also paved areas that enter into parking lots, driveways, parking areas, etc. This is one area where clarification is needed.

Building and Health Official John Rogers stated that within the City Zoning Chapter, it is a little confusing because parking can be considered a commercial parking lot; however, it can also be considered a structure, such as parking garage. There are different setback requirements and other requirements depending on whether it is a commercial lot or a structure. Parking is also considered a use and can be either a primary use or an accessory use, such as with a single family unit.

Ms. Kessler went over the City's current parking requirements. Parking requirements are currently based primarily on the use of a property. Based on the primary use of a property, the Zoning ordinance will prescribe how many parking spaces the developer must provide. This requirement has resulted in parking driving the design of most projects. Mr. Rogers stated for instance there are two spaces required per dwelling unit. For a restaurant, it is one space per four seats. For retail, it is based on the square footage of the building.

Mr. Rogers then referred to a table which lists the number of parking spaces required for each use. He noted there are uses listed in table which are not covered by the zoning ordinance, such as colleges and schools. He stated some of the uses listed in the table are outdated and could benefit from an assessment of how many parking spaces should be required.

Ms. Kessler stated that one challenge for applicants and staff is how to determine the number of parking spaces that should be required for a use that is not listed in the table. At the present time, the Zoning Administrator makes the determination as to how much parking is necessary. Mr. Rogers added that trying to make this determination can be a challenge because the guidelines are vague when it comes to uses that are not listed. It is especially difficult to be consistent in making a determination with mixed use developments. Ms. Kessler noted if an existing lot is redeveloped and the use of the building changes, the owner of the lot would be required to adhere to the minimum parking requirements. The owner would have to demonstrate that they meet the minimum parking requirements before a building permit could be issued. This can be a hindrance for development, especially outside the Central Business Zoning District.

Ms. Kessler said that, as staff are reviewing the City's regulations, they are continually asking themselves "Why this is an important regulation? Why we should care, and what can the city do to improve its standard?"

At a minimum the parking requirements can be updated to meet current standards by also building in greater flexibility. One area that staff are looking into is the concept of shared parking. The City has allowed for shared parking in the SEED District, but there is potential for this to be expanded to other districts.

There is also the need to address the allowance of off-site parking requirements. Currently, the standard allows for off-site parking within 300' of the site with an agreement signed by the City Manager, which gets recorded at the Registry of Deeds. However, it is difficult to enforce. Ms. Slack asked how off-site parking is enforced today. Mr. Rogers stated this is what is problematic – it is a plan that needs to be approved by the City Manager and then gets registered with the deed and there is follow up from that point.

Ms. Kessler stated there are communities which have adopted parking maximums versus the minimum threshold. She noted that this is an option, but not something staff is recommending at this time.

Ms. Kessler then talked about the issue of “Flexibility”. As staff are exploring options for building flexibility into the parking requirements, they have looked to other communities for examples. Some of the options that have been utilized include:

- Allowing for reductions on a case by case basis, subject to parking study or set criteria.
- Providing reductions as a tool to incentivize certain types of development
- Allowing for reductions for a certain percent in exchange for a contribution to a parking fund.

Another option for flexibility is shared parking where it takes advantage of a mixed use building which has varying peak demands.

Staff are looking at is to organize parking standards related to parking lots in one section of the code and residential parking areas in a separate section. Currently, these standards are intermixed.

Regarding the parking requirements for one and two family parking requirement – Mr. Rogers stated two cars per family is not the norm anymore. Staff would like to look at other municipalities to see whether there are other options that could be offered for residential parking.

Councilor Jones asked whether there would be different parking options offered for different districts. Ms. Kessler stated this is something staff is looking into and perhaps offering different parking options for commercial settings. However, nothing is proposed at this time.

#### **b) Landscaping / Screening**

Ms. Kessler stated the focus of this portion of tonight’s presentation is landscaping as it pertains to zoning and the Planning Board’s development standards. She noted the purpose of the City’s landscaping requirements is mostly to provide screening, however other purposes for landscaping that are mentioned include the provision of shade within parking lots, stabilizing soils, erosion prevention, and aesthetics.

The City’s landscaping standards are located in two places. The Zoning Ordinance regulates landscaping for commercial lots in all zoning districts. Within the Commerce, Commerce Limited and Central Business Limited zoning districts, all parking lots are regulated. Some zoning districts have their own specific landscaping requirements, for example the Health Care and Corporate Park zoning districts have different buffer requirements than other districts. The second location where landscaping standards are addressed is within the Planning Board’s development standards,

specifically development standard number six. The focus of both the Zoning Ordinance and the Planning Board standards is on landscaping standards for parking lots.

Ms. Kessler stated that staff is proposing to consolidate all landscaping standards into one section, incorporate graphics to better explain landscaping requirements, and remove or reword confusing language where possible. In order to consolidate the landscaping standards, staff recommends removing the landscaping requirements from the Zoning Ordinance and placing all of the requirements under the Planning Board's development standards. This will make it easier to find the landscaping regulations and it makes sense because commercial projects will have to come before the Planning Board or go through a planning review process to get approval. Ms. Kessler referred to language within the Zoning Ordinance which describes landscaping options for parking lots using text. With simple visualization, there could be a better way to communicate the intention of the landscaping regulations that would make it easier for the reader to understand.

An example of one of the landscaping options described in the Zoning Ordinance was provided, which reads "A large landscaped area berm (minimum 1,000 sf, minimum 10 feet deep) on the street frontage between the paving setback line and the parking lot or building or in front of the building." Ms. Kessler said that this description is difficult to visualize without a graphic. Staff would propose rewording this section or removing it.

Mayor Lane asked whether any developer has used this option. Ms. Chalice said that this standard is located within the Zoning Ordinance, so the best person to ask this question would be Gary Schneider, who interprets the code. Ms. Kessler added that developers have the option to get their landscaping plan approved by the Planning Board, and often developers choose to use this option rather than trying to meet the standards as described in the Zoning Ordinance. Another example of a requirement that could benefit from rewording is the standard which states that there cannot be a gap of more than six feet between trees and shrubs. Ms. Chalice noted that this language is vague – does it include the distance between new and existing trees and shrubs, or does it only apply to new plantings? Is the distance measured from the trunk of the trees, or is it measured from the drip line? Clarification would be helpful.

Ms. Kessler said that these are the types of changes that staff is proposing. There are no substantive changes to the content of the landscaping standards that are being proposed at this time.

Vice-Chair Barrett asked if there were any questions from the Committee. Hearing none, he asked for questions from members of the public.

Councilor Jacobs stated that the City's landscaping standards speak to plants and trees, which have aesthetic value, and he would also like to see reference to public art as a part of landscaping. Often, public art is incorporated into gardens and landscaped areas. Currently, the ordinance does not mention public art as part of landscaping. Ms. Kessler stated that public art is a topic that would be coming before the Joint Committee at a later date. At that time, staff will discuss areas where public art could be incorporated or is already addressed within the City's regulations.

Med Kopczynski, the Director of Economic Development, addressed the Committee and said that the presentation did not address why the City regulates landscaping. He noted that Councilor Jacobs already mentioned aesthetics and the role that landscaping plays in making the site or the building attractive. This is a very different concept than what the City is trying to regulate through the Zoning code, which refers to landscaping as a form of screening, as a way to provide for infiltration and also to provide for some sort of shade. He stated it is important to know the

purpose of a regulation so it could be properly explained to developers and so the City can know whether it is being successful.

Mayor Lane agreed that landscaping for commercial settings are intended for screening. However, many of the regulations were written after the Colony Mill site was developed, and those standards were driven by concerns about aesthetics. The goal was to prevent large-scale parking lots from being a barren stretch of pavement, and to ensure that they would have some aesthetic value. Mr. Kopczynski said that staff has understood this to be the purpose, and it will be important to make this intent clear in the update.

### **c) Telecommunications**

Planning Technician Mari Brunner and Community Development Director Rhett Lamb were the next two speakers. Ms. Brunner stated the topic today will focus on telecommunications towers and antennas, which is section within the City's Zoning Ordinance. There is also a chapter of City code, Chapter 90, which is called "Telecommunications" that deals with cable television franchising. Staff is not going to be discussing that item today.

Ms. Brunner said that it is important to understand the broader context of telecommunications regulations at the federal and state level. At the federal level, telecommunications are regulated through the Federal Telecommunications Act of 1996, which is enforced by the Federal Communications Commission, or FCC. In 2012, there was a major update to this through the federal Middle Class Tax Relief and Job Creation Act.

At the state level, RSA 12-K gives NH communities the authority to regulate telecommunication through zoning and land use regulations. This RSA was originally passed in 2000 and then updated in 2013 to reflect changes that happened at the federal level in 2012. In the City of Keene, telecommunications facilities are regulated through article 7 of the Zoning Ordinance. Mr. Lamb noted this ordinance deals with cell tower service, which was brought to the city's attention in the late 1990's with the proliferation of cell tower development. At that time, the City put a moratorium in effect for six months, did a review of what was happening in Keene, and developed an ordinance which was passed in 2001.

Ms. Brunner said that the general purpose of this ordinance is to establish guidelines for the siting of telecommunication towers; however, the main focus was on larger installations and protecting "viewsheds" within the City. Ms. Brunner outlined the goals listed under chapter 102, Article VII. Ms. Brunner stated the ordinance achieves these goals by incentivizing facilities that are a good fit for the community while discouraging those that are not. It does this in part by establishing a view preservation overlay district. Ms. Brunner referred to the City's view preservation overlay map, noting that there are two view areas shown on the map: high priority view areas are shown in dark green and are referred to as "view area 1," and moderate priority view areas are shown in light green and are referred to as "view area 2." There are different types of facilities that are allowed within each view area.

Mr. Lamb added when this ordinance was first put in place, a three dimensional model of the city was created and the views from public places were evaluated and ranked. The result of this activity was the view preservation overlay map shown on the screen. Ms. Brunner stated that concealed facilities, which are completely concealed from view, are allowed anywhere within the City. New ground-mounted facilities which are camouflaged are allowed in view area 2, but not view area 1. New ground-mounted facilities that are not camouflaged aren't allowed in either view area or the historic district.

Ms. Brunner referred to an image of a cell tower that was made to look like a tree as an example of a camouflaged facility. She noted that the City prohibits towers, including camouflaged facilities, from extending more than 20 feet above the average tree crown height within a 150 foot perimeter of the facility. Mr. Lamb added that there are at least two camouflaged facilities within the City that most people probably don't know are there. Ms. Brunner said that an example of a concealed facility is the smokestack on the Colony Mill building, where a telecommunications facility is fully concealed inside the structure.

Ms. Brunner went over recommendations from staff to improve this ordinance, which include reviewing the ordinance for consistency with federal and state laws, fixing existing errors, and modernizing the ordinance to reflect newer technologies that have been developed since the ordinance was first written.

An example of where the ordinance could benefit from an update is the definitions section, where there are inconsistencies between the City's definitions and the state's definitions. For example, the term "collocation" is defined by both the City and the state; however the definitions are not consistent with each other. Collocation refers to locating a telecommunications facility, such as an antenna, on an already existing facility or structure. The City requires applications for collocated facilities to get a building permit as well as a conditional use permit, which is not allowed under state law.

Another opportunity is to fix errors that were made when the ordinance was entered into Muni-code. An example of an error that needs to be fixed is the table in section 102-1268 which lists design standards and conditional use permit criteria by facility type. Within the text of the ordinance, the criteria are listed by number, but in the table they are referred to using letters. For example, under facility type "A," the standards are listed as "A, B, C, and D." They should be listed as "1, 2, 3, and 4." Mr. Lamb noted that the table reflects the strategy of the ordinance, which is to make it easier for developers to install the type of facilities that the community would like to see and make it more difficult for larger and more visible facilities.

Finally, staff recommends updating the ordinance to reflect new technologies that have come out in the last seventeen plus years. At the time that the ordinance was written, the City was mostly concerned with larger facilities that had the potential to have a large visual impact. Since that time, newer technologies such as small cell and micro cell facilities have been developed, but they are not clearly addressed within the City's regulations. An example of a small cell facility is an antenna installed on top of a utility pole. Staff are proposing to research some of these newer technologies and consider whether it makes sense to simplify the permitting process for less obtrusive facilities that do not have a large visual impact.

Councilor Jones reminded staff when the telecommunication ordinance was drafted in 1999, the City received comments from developers who were not happy about the restrictions on locating towers on the hilltop.

Councilor Hansel asked whether the ordinance would also refer to wireless internet providers. Mr. Lamb stated it could and added this type of installation has no impact on the visual character of the city but the city's ordinance is not structured for small cell installation. Ms. Brunner added that the City's ordinance doesn't even have definitions for some of the newer technologies, such as small cell facilities. She referred to a couple examples of small cell facilities and noted that they do not have a significant visual impact.



Mr. Burke asked whether there is anything in the ordinance which permits emergency services to use towers. Mr. Lamb stated that in New Hampshire there is a first responder network called First Net and there is provision in the ordinance for the City to be able to construct a tower on its own property. He added New Hampshire and many other states are planning on greatly expanding the number of facilities to meet first responder needs, however Keene has not seen a proposal yet but staff expects to see one in the future. Mr. Burke asked about collocating an antenna on an existing tower. Mr. Lamb stated this can be done with permission obtained from the owner of the tower.

Mr. Burke asked what constitutes a tower. Mr. Lamb stated that the City's definition of collocation pertains to facilities that are collocated on towers, whereas the state definition includes other structures such as buildings in the definition. A tower is a structure that is built for the purpose of providing a mount for telecommunications facilities. The City's ordinance has a definition for the word tower. This concluded the presentation.

Mr. Kopczynski asked whether the work being proposed by staff so far meets with the Committee's approval. Ms. Kessler stated the goal of these presentations is to provide education about specific topic areas and inform the Joint Committee of the areas staff is proposing to cover with the land use code update. The purpose is also to get a sense of whether the committee supports this effort. So far, the topics covered in the presentations include the zoning districts, lighting, subdivision regulations, parking, telecommunications, and landscaping. In August, the discussion topics that will be covered are flood plains, stormwater management, and surface water protection. The goal of this effort is to keep the Committee informed as staff work on the project so that when it is time to review the draft ordinance, it won't be too overwhelming. This is really an educational opportunity as well as a request from staff to get direction from the Committee on the work they are doing.

Mr. Stout asked whether consultants have already been retained for this work. Ms. Kessler answered in the affirmative and added these consultants are looking at zoning in the downtown district. They will begin public outreach in August. The topics that staff are presenting on at these meetings is a staff-driven effort and represents the bulk of the work that is being done.

4. Next Meeting - Monday, August 13.

5. Adjourn

The meeting adjourned at 7:43 pm.

Respectfully submitted,

Krishni Pahl,  
Minute Taker

Reviewed and edited by Mari Brunner, Planning Technician and Tara Kessler, Senior Planner