



AGENDA

Joint Planning Board and Planning, Licenses & Development Committee

Monday September 10, 2018

6:30 PM

Council Chambers

1. Roll Call
2. Approval of meeting minutes – **August 13, 2018**
3. **Land Use Code Update Discussion**
 - a) Presentation on How the City's Land Use Regulations Address the Comprehensive Master Plan Goals Related to Public Art, Energy/Climate, Agriculture, and Economic Development
 - b) Review of Draft Land Development Code Content Outline and Progress to Date
5. **Next Meeting - Monday, October 8, 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, August 13, 2018

6:30 PM

Council Chambers

Planning Board Members Present

Gary Spykman, Chair
Douglas Barrett, Vice-Chair
Michael Burke
Nathaniel Stout
Councilor George Hansel
Chris Cusack
Martha Landry

Planning Board Members Not Present

Mayor Kendall Lane
Pamela Russell Slack

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

David Richards, Chairman
Councilor Bart Sapeta
Councilor Margaret Rice
Councilor George Hansel

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

Councilor Philip Jones

Staff Present

Rhett Lamb, Community Development Director
Tara Kessler, Senior Planner
Kurt Blomquist, Public Works Director
Medard Kopczynski, Director of Special Projects
and Economic Development
John Rogers, Code and Building Official

1. Roll Call

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

2. July 9, 2018 meeting minutes

A motion was made by Councilor George Hansel that the Joint Committee accept the July 9, 2018 meeting minutes. The motion was seconded by Councilor Margaret Rice and was unanimously approved.

3. Land Use Code Update Discussion

a) Storm water Management

Mr. Kopczynski began by reminding the Committee that the city was in phase 2 of a project which is to develop a Unified Development Code. He noted what staff is doing at the present time is to examine and update the existing code. Most of the work staff is doing is cleaning up what exists, however, what staff brings before the committee are items staff feels the Committee needs to provide feedback on. Tara Kessler added that the presentations before the Joint Committee are intended to educate the Committee and the public on the existing regulations, and to share recommendations proposed by staff to update the regulations.

Ms. Kessler began the presentation by noting that the topics of focus this evening are all related to water. Prior to reviewing the sections of code related to water, she provided an overview of the hydrologic cycle and how development impacts this cycle. She noted in a developed area like Keene only approximately 5% of water infiltrates into the ground and into the bedrock and about 55% is surface runoff. She explained the importance of infiltration of water into the ground for the purposes of drinking water, flooding, etc. She noted that an important source of drinking water comes from aquifers and stratified

drift aquifers where water is easily recoverable. One of the largest aquifers in the Monadnock Region is located under the Swanzey airport. Much of Keene's development is located on top of these aquifers.

Where does Keene's drinking water come from? Two of the major sources of drinking water come from wells where water is drawn from. However, when water doesn't infiltrate into the ground excess runoff is caused. The effects of excess runoff causes flooding, soil and streambank erosion, excess pollutants enter streams and economic impacts. Ms. Kessler noted that Keene has had a long history of flooding and referred to various images of Keene's major flooding events.

Ms. Kessler explained that the location of Keene in the valley floor and the number of subwatersheds that are present within the City contribute to the occurrence of flooding. She showed a map of the 100 year floodplain. Ms. Kessler referred to different scenarios of flooding elevations in Keene. She explained that 100 year floodplain boundaries are used by FEMA to designate special hazard areas. However, flooding is not always contained to these boundaries. For instance, the 2005 and 2012 flooding events went well beyond the 100-year floodplain.

Ms. Kessler noted that the City has standards related to stormwater management in three different sections of regulations. The City's Zoning Ordinance stated that no increased runoff can be permitted as a result of any development. The Planning Board Development Standard on Drainage states there cannot be increased runoff or velocity onto adjacent properties because of development and that low impact development must be incorporated onsite. Chapter 70 of the City Code Ordinances relating to street design standards, which is specific to roads and parking lots, states that Storm drainage systems shall be designed to handle a storm equivalent of 2" / hour for a duration of 1 hour for the drainage area encompassed by the proposed development (equivalent to 10 YR storm event). It was noted that the city's roads are designed for ten year storm events but this does not take into consideration water that comes from private sites onto the roads.

Mr. Lamb stated these are regulations that deal with development on private property and the city cannot expect the changes to correct an existing problem. The best the city can do is to allow new development to occur and make sure existing issues don't get worse.

Ms. Kessler reviewed the goals for local storm water regulation, which include water quality protection, flood reduction, and protection of public safety. Ms. Kessler noted that staff have been reviewing options for how it can better address stormwater management. Currently, there are three different standards, that are not being applied consistently. These standards are applied when new development or roads are constructed, and when a site is modified or redeveloped. Changes to the regulations would not require existing development to meet the standards; however, changes or modifications to a site may require compliance with the standards.

Some of the questions being reviewed by staff with respect to stormwater management include whether to develop separate standards for redevelopment and greenfields development, whether to apply stormwater standards to residential development, and how improved/innovative stormwater management practices can be incentivized. Ms. Kessler reviewed each question and described ways that other communities are addressing similar questions. Ms. Kessler noted that some of the methods communities are adopting to address stormwater management are outside the regulatory context. She noted that some communities across the country are establishing a stormwater utility, which is a user fee model where property owners in a storm water district would be charged a fee for the amount of impervious surface area they have and this fee would go into a dedicated fund which would be used to maintain the city's storm water infrastructure. Ms. Kessler noted that staff are not proposing to implement a stormwater utility through the land use code update, but thought it is important to show that there are tools beyond regulations that can be used to address this topic. Communities like Dover, Nashua, and Portsmouth have looked into this idea but none have adopted it so far in New Hampshire.

Dr. Cusack asked staff to address permeable pavement and how this item fits into this discussion. Mr. Lamb stated permeable pavement can be a good option for low impact development. As far as maintenance, some sites have been more successful than others and referred to the site in front of the Franklin School. Because of rapid discharge of water and salt there has been degradation to this system. Public Works Director Kurt Blomquist agreed the overuse of salt on the school property is the cause of the degradation of this permeable surface.

Councilor Hansel stated what needs to be discussed are what standards developers need to be held to as far as what they design for and asked whether there are other federal standards the city could use as a guidance. Mr. Lamb stated there are other standards, such as a state standards for sites greater than 100,000 square feet known as the Alteration of Terrain Permit where a range of storms events are used for their design. He indicated staff was not ready to address these other options at this time.

Mr. Blomquist noted living in the valley floor what each of us does affect our neighbor.

Mr. Burke asked why a 25-year floodplain is considered for a single family home but for roads the standard is a 10-year standard. Mr. Lamb stated these are the inconsistencies that need to be fixed. Mr. Blomquist stated the roads are designed for safety and are designed to handle the 10 or 15 year storms but not on a regular basis. However, because we allow private water to flow onto roads, this now takes up more capacity. The stormwater from the private realm that flows onto the road surface is not factored into the stormwater design of the road.

b) Floodplains

Ms. Kessler stated the floodplain is designed for a 100-year storm events and is created by FEMA (Federal Emergency Management Agency). For a community to participate in the National Flood Insurance Program there needs to be an ordinance in place that addresses risk to new construction in the flood hazard areas. The purpose of the City's Floodplain Ordinance as outlined in Chapter 54 of City Code is to: Reduce flood hazard threats, Protect occupants of floodplain, Protect and enhance the capacity of the floodway, Minimize damage to public facilities, Avoid increases in flood intensity, height, intensity, extent or duration.

Ms. Kessler then went over some proposed updates to Chapter 54. There are some sections that are outdated and are no longer applicable, for instance the Ash Swamp Brook Special Flood Hazard area. Mr. Lamb explained with the construction of the Monadnock Market Place, the applicant, with the city's permission, applied to FEMA to modify the map so that certain areas could be filled and changed the manner in which flood waters flow. Chapter 54 however, did not get updated to capture this change.

The definitions section needs to be updated. There are also some sections that need added clarification. There is also a need for changes to the compensatory storage requirements and closer alignment with the building code. In addition, the exceptions section can be confusing and needs to be modified.

Mr. Lamb stated Keene has adopted compensatory storage requirements since the early 80's in order to preserve the capacity of the flood plain. If an area is filled due to development, the standard requires an equivalent amount of fill to be removed from that property so there is no increase in that flood elevation. Compensatory storage must be done on a foot-by-foot basis, it cannot be done at a higher elevation.

Mr. Lamb used the Fairfields Auto Sales site as an example. When this site was being modified, the building size increased, fill was required, which triggered the need for compensatory storage. The developer had difficulty finding storage on their property and could not find it on an adjoining property because of the three feet depth requirement. The issue was brought before staff with a suggestion of adding depth to comply with the compensatory storage requirement. The change was not made and the applicant found another way to sort through this issue, but this item is going to be considered again.

Mr. Lamb then went on to talk about Freeboard Elevation, which calls for the lowest floor including the basement to be one foot above the 100-year base flood elevation. Commercial and residential buildings

have the option of flood proofing or finding other ways to meet this requirement. Mr. Lamb noted there were some flood events in Keene (2005, 2012), which were bigger than the 100-year flood event and flooded areas which were not mapped on the 100-year flood plain. The question now is whether there should be a standard which calls for one-foot above the base flood elevation for new buildings constructed in these areas. FEMA also maps what is called the 500-year flood plain which is a floodplain with 0.2% chance of flood occurring.

Chair Spykman felt any member of the community who has been flooded would appreciate having this option.

Ms. Kessler went on to say the City has also adopted a State Building Code which is the 2009 International Building Code which addresses construction standards in floodplains and the city is considering out referencing to these standards, rather than having standards specific to Keene, to keep things more current and consistent.

c) Surface Water Protection

The purpose of the Surface Water Protection Ordinance is to preserve and protect the functions and values of wetlands and surface water and their buffers, with the aim of preserving water quality, storm water retention, flood plain storage, wildlife habitat and aquifer recharge. This ordinance was adopted in 2012 and came out of the 2010 master plan.

This ordinance calls for a 75 foot buffer in the rural, agricultural and conservation zones and a 30 foot buffer in all remaining districts. Ms. Kessler explained the importance of a vegetative buffer, which slows down surface runoff and helps water infiltrate into the ground and prevents sedimentation going into water bodies.

Ms. Kessler noted the water bodies that are exempt such as man-made ditches and swales, detention basins and ponds, irrigation ponds, fire ponds and cisterns, manure lagoons, and silage pits.

As long as best management practices are applied there are things that are permitted, such as agricultural activities, forestry, trails, fishery management etc. However, there are activities that require a conditional use permit from the Planning Board. These include construction of a new structure or expansion of an existing structure, construction of new roadways and driveways, construction of new storm water management facilities, and construction of compensatory flood storage facilities.

Ms. Kessler stated this ordinance has served the City well in that it has helped achieve some of the master plan goals but noted there are opportunities to improve this Ordinance. She noted the criteria identified for issuing a conditional use permit can be made clearer and streamlined.

Ms. Kessler stated that a project, which would help improve the application of the Ordinance, but would not fall under the context of the land use code update, is a city-wide delineation/mapping of wetlands. She felt the completion of a city-wide wetland mapping would help administer this ordinance much easier and lessen the burden on an applicant having to identify where wetlands are located in the city. Mr. Lamb stated this is discussion that came up in 2012 and in 2016 infrared photography became available to the city.

Ms. Kessler stated that the Conservation Commission had spent a number of years studying ways to update the Ordinance, following its adoption. In 2016, the Commission brought proposed changes before the City Council. At that time it was noted that these proposed changes could be reviewed as part of the land use code update.

One of the changes proposed was a change to the definition of *buffer*.

The current definition is as follows:

“An area that is designed to remain vegetated in an undisturbed and natural condition to protect adjacent surface water functions and values from adverse impacts and provide habitat for wildlife.”

The proposed change would read as follows

“An area that is designed ~~to remain vegetated in an undisturbed and natural condition~~ to protect adjacent surface water functions and values from adverse impacts and provide habitat for wildlife.”

The second change is under the list of exemptions. The recommendation is to delete silage pit, tax ditches, manure lagoons and to consolidate a few other items on this list.

Councilor Hansel noted the surface water ordinance has been in existence for many years and asked whether there was any way to look at it more closely to see if it has the effect it was intended for.

Staff concluded their presentation and asked the Committee for questions or comments.

Vice-Chair Barrett asked what the variables are that differentiate the 100-year floodplain from the 500-year floodplain. Mr. Lamb stated what FEMA looks at is a hydraulic model. The model produces flood elevation for different cross-elevations. Then they use a horizontal extent of a topographic map to produce the horizontal edges as to where this water would end up.

Mr. Kopczynski stated the city has to pick a design number for each of these subjects and also what is exempt from them otherwise over-regulation would come into play. The issue Keene has with water cannot be fully fixed with any of these standards. He felt a conversation needs to happen to make sure what exists in Keene can be made better.

Mr. Kopczynski asked the Committee for its input. Vice-Chair Barrett stated because the 2005 flood went beyond the 100-year elevation, perhaps it makes sense to define the floodplain as a 500-year flood event, which would encompass a larger area and would protect more properties.

Mr. Tom Lacey of Daniels Hill Road addressed the Committee and stated he used to be a member of the Conservation Commission who proposed some of the changes to the Surface Water Protection Ordinance. He indicated the reason for proposing these changes were the elderly housing being considered near the Harrison Street area. The project has since been completed, but there had been concerns about the avoidance of the Surface Water Ordinance when the project was being permitted. Mr. Lacey went on to say the individuals, who at the present time are subject to the Ordinance, are random and hence the Commission felt some of these exemptions could be removed. He felt having a natural buffer is not practical.

Mr. Lacey stated during the 2005 flooding he noticed the brooks in the rural zone were not flooded. He noted having open space would go a long way to help control flooding and letting people using it as open space is important to prevent development from happening. He felt having one buffer size for the entire city is important.

Public Works Director Kurt Blomquist noted anyone in the city is eligible to purchase flood insurance and added this program is changing; reducing payouts that go out. Mr. Blomquist stated during the last storm the average payout was approximately \$23,000 and for those who had their basement flooded and who had physical property damage, this number doesn't do as much. He indicated anything the city can do to mitigate this economic disruption is critical going forward, because the things people think are available won't exist for much longer.

Mr. Stout asked whether the unified development ordinance was the way to modify an ordinance. Mr. Lamb stated this ordinance is being modified as it is being reorganized; a unified development ordinance is an envelope for codes, it is more of an organizational technique.

Chair Spykman stated the only concern he has is adopting this big book of changes and may not take time to look at some of the substantive changes because there is this very broad range of subjects. Mr. Lamb stated beside the form based zoning staff will be bringing forward, which the consultants are currently working on, there won't be other new subjects brought before the council.

Councilor Hansel felt it would however, be necessary to dig deep into these regulations and figure out how they have been applied and whether they have created they desired effect. If they haven't then adjustments would need to be made.

Chair Spykman asked whether there is anything about this new unified code that would make it an easier process for revisions to be made in the future. Ms. Kessler stated this is something staff is giving thought to as they move forward with this process; putting everything in one place would be a first step. Staff is also working with the consultants to make this document easier to work with. Mr. Kopczynski added when there are single subject ideas it is necessary to see how they affect the "whole" – to some extent staff is doing this right now.

4. Adjourn

The meeting adjourned at 8:25 pm.

Respectfully submitted,

Krishni Pahl,
Minute Taker

Edited by, Tara Kessler, Senior Planner

City of Keene, New Hampshire
• LAND DEVELOPMENT CODE •
DRAFT TABLE OF CONTENTS

I. INTRODUCTORY PROVISIONS

- A. Title
- B. Purpose & Intent
- C. Effective Date
- D. Applicability
- E. Minimum Requirements
- F. Relationship to Other Regulations
- G. Severability

II. RULES OF INTERPRETATION

- A. Definitions
- B. Number
- C. Tense
- D. Gender
- E. Lists & Examples
- F. Time
- G. Conjunctions
- H. Mandatory, Prohibitory, & Permissive Terms
- I. Delegation of Authority
- J. Current Versions & Citations
- K. Graphics, Illustrations, & Flowcharts
- L. Common Abbreviations

III. RULES OF MEASUREMENTS & EXCEPTIONS

- A. Lot Dimensions
 - 1. *Lot Area*
 - 2. *Lot Width*
 - 3. *Lot Depth*
 - 4. *Lot Line*
 - 5. *Building Line*
 - 6. *Minimum Frontage*
- B. Lot Coverage
 - 1. *Building Coverage*
 - 2. *Impervious Coverage*
- C. Building Setbacks
- D. Building Height
 - 1. *Building Height, Feet*
 - 2. *Building Height, Stories*
 - 3. *Building Height, Exceptions*
 - 4. *Story, above grade*
- E. Transparency
- F. Yard
 - 1. *Front Yard*
 - 2. *Rear Yard*
 - 3. *Side Yard*
- G. Grade Plane
- H. Gross Floor Area (GFA)
- I. Footcandle (FC)
- J. Pedestrian Access

IV. ZONING REGULATIONS

A. Establishment of Districts

B. Zoning Map

- 1. Establishment of Official Zoning Map
- 2. Interpretation of Map Boundaries

C. Matrix of Permitted Uses by Zoning District

D. Residential Districts

1. Rural - R
 - a) *Purpose*
 - b) *Lot Dimensions*
 - c) *Lot Coverage*
 - d) *Building Setbacks*
 - e) *Building Height*
 - f) *Permitted Uses*
2. Residential Preservation - RP
3. Low Density - LD
4. Low Density 1 – LD-1
5. Medium Density – MD
6. High Density– HD
7. High Density 1 – HD-1

E. Commercial & Mixed Use Districts

1. Central Business - CB
2. Central Business Limited – CBL
3. Commerce - COM
4. Commerce Limited - CL
5. Neighborhood Business - NB
6. Business Growth and Reuse - BGR
7. Office - O
8. Corporate Park - CP

F. Industrial Districts

1. Industrial– I
2. Industrial Park– IP
3. Industrial Park Limited – IPL

G. Special Purpose Districts

1. Agriculture – A
2. Conservation – C
3. Regional Health Care – HC

H. Overlay Districts

1. Downtown Historic District
2. Sustainable Energy and Efficient Development Overlay District (SEED)
3. Telecommunications Overlay District
4. Surface Water Protection Overlay District
5. Hillside Protection Overlay District

I. Uses

1. General
 - a) Classification of Uses
 - b) Use Determination
 - c) Permitted Use Table
2. Principal Uses Definitions & Standards
 - a) Residential
 - b) Public and Institutional
 - c) Commercial
 - d) Industrial
 - e) Open
3. Accessory Uses & Structures
 - a) General
 - b) Accessory Structures
 - c) Additional Standards for Specific Accessory Uses

J. Sign Regulations

K. Off-Street Parking

1. General Provisions
2. Required Parking
3. Design Standards
 - a) Driveways
 - b) Parking Lots
 - c) Parking Structures

- d) Bicycle Parking
- 4. Shared Parking
- 5. Off-Site Parking
- 6. Parking Exemptions
- 7. Storage

V. Subdivision Standards

- A. General Provisions
- B. Standards for Review
- C. Voluntary Merger
- D. Boundary Line Adjustment
- E. Minor and Major Subdivision
- F. Conservation Residential Development

VI. Site Development Standards

- A. General Provisions
- B. Stormwater / Drainage
- C. Sedimentation / Erosion Control
- D. Fill/Excavation
- E. Outdoor Lighting
- F. Utilities
- G. Snow Storage
- H. Hillside, Surface Water, Floodplain, Wetland
- I. Landscaping
- J. Screening
- K. Architecture and Visual Appearance
- L. Comprehensive Access Management
- M. Traffic
- N. Site Impacts
 - 1. Noise
 - 2. Dust and Air Pollution
 - 3. Hazardous Materials
 - 4. Glare and Heat
 - 5. Odors
 - 6. Vibration
 - 7. Electromagnetic Interference

VII. Historic District Standards

VIII. Right-of-Way Standards

- A. General Provisions
- B. Design Standards
- C. Sidewalk Standards

IX. Application Review & Approval Procedures

- A. Review Bodies & Administrators
 - 1. Establishment
 - 2. Powers and Duties
- B. Common Procedures
 - 1. Application Filing
 - 2. Notice Requirements
 - 3. Public Hearing Requirements
 - 4. Amendments to the LDC
- C. Zoning Approvals
 - 1. Zoning Interpretation
 - 2. Special Exception
 - 3. Variance
 - 4. Expansion of Nonconforming Use
 - 5. Change of Nonconforming Use
- D. Planning Approvals
 - 1. Conditional Use
 - I. Telecommunications
 - II. Surface Water
 - III. Hillside
 - 2. Subdivision
 - i. Voluntary Merger
 - ii. Boundary Line Adjustment
 - iii. Conventional Subdivision
 - iv. Conservation Residential Development
 - 3. Site Plan
 - i. Minor Project
 - ii. Major Project
- E. Historic District Approvals
 - 1. Minor Project
 - 2. Major Project
- F. Sign Permit
- G. Driveway Permit
- H. Temporary Use Permit
- I. Right-of-Way Approvals
 - 1. Encumbrance
 - 2. Excavation

J. Appeal Processes

X. Nonconformities

- A. Rules Addressing Nonconformities
- B. Illegal Structures and Uses
- C. Nonconforming Structures
- D. Nonconforming Uses
- E. Nonconforming Lots
- F. Nonconforming Site Elements
- G. Nonconforming Signs
- H. Creation of Nonconformities
- I. Previously Granted Approvals

XI. Enforcement

- A. General Procedures
- B. Fines, Penalties and Remedies

XII. Definitions of Terms

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