

**CITY OF KEENE
NEW HAMPSHIRE**

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

Monday, June 11, 2018

6:30 PM

Council Chambers

Planning Board Members Present

Gary Spykman, Chair
Doug Barrett, Vice-Chair
Michael Burke
Councilor George Hansel
Martha Landry

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

Councilor Philip Jones
Councilor Bart Sapeta Chadbourne
Councilor Margaret Rice
Councilor George Hansel

Planning Board Members Not Present

Mayor Kendall Lane
Chris Cusack
Pamela Russell-Slack
Nathaniel Stout

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

David Richards, Chairman

Staff Present

Rhett Lamb, Planning Director
Tara Kessler, Planner
Mary Brunner, Planner Technician

1. Roll Call

Chair Jones called the meeting to order at 6:30 pm and a roll call was taken. Chair Jones asked whether the agenda was advertised as a public hearing. Mr. Lamb stated it is not advertised as a public hearing, but it is a discussion and taking public comment is at the Chairman's discretion.

2. April 9, 2018 meeting minutes

A motion was made by Councilor George Hansel that the Joint Committee accept the April 9, 2018 meeting minutes as amended. The motion was seconded by Bart Sapeta and was unanimously approved.

3. Land Use Code Update Discussion

a) Review of Summer/Fall Joint Committee Schedule

The Chairman stated this is a very rigorous schedule and the Committee will be working during the City Council's vacation period as well. Chair Jones stated the topic of Implementation of the Comprehensive Master Plan has been on more time for the Committee. He asked for an update on this item. Mr. Lamb agreed it has been a long time since staff looked at this item and stated until the Land Use Code project has been completed, it is not likely this topic will be addressed.

Med Kopczynski, Director of Special Projects, was the first to address the Joint Committee. He stated staff started working on the Land Use Code project approximately 15 years ago when they started seeing inconsistencies and barriers within the zoning code. He provided an overview of the general scope of the project and the importance of the Committee staying focused on the task at hand

and the timeframe. He stated that staff intend to have a draft of the Land Development Code for review in early spring of next year.

b) Overview of Project Outreach

Ms. Kessler addressed the Committee next and stated that staff will soon be doing a public launch of this project. The City will be working with the media channels to share information and to share the schedule. Some of the ways staff plans on sharing information is by holding neighborhood meetings in the City's wards. There will be at least two community forums, topic-based focus groups, monthly round tables with development professionals, a staff presence downtown to share information about the project, and a website. Mr. Kopczynski encouraged the Committee members to be involved in the outreach efforts. A schedule will be posted on the project website, once it is launched.

Councilor Hansel asked whether the votes being taken throughout the process would be consensus votes and if the vote for approval of the draft Land Development Code (Unified Development Ordinance) would happen at the end. Mr. Kopczynski stated this is his understanding.

c) Preparatory Review of Areas of Proposed Improvements to Zoning Districts

Ms. Kessler explained what a zoning district is and reviewed 14 of the City's districts. She noted that a zoning district divides a city into geographic areas that prescribe what uses can happen and identifies dimensional requirements for the placement, spacing, and size of land and buildings.

She stated the focus for this meeting is to review the areas that staff have identified as needing improvement and/or edits. Staff are seeking consensus from the Joint Committee that there is support for making the proposed improvements, before making these changes.

She began by stating that one change proposed is simplifying the structure of the code to place most of the important information related to each zoning district in one area. Currently, a property owner seeking information on what is and is not allowed on their property and what the dimensional setbacks and height requirements are, need to navigate through multiple sections of the Zoning Code. She stated that staff propose consolidating information for each zoning district into one place, and utilizing graphics and visualizations to better communicate this information. She provided a visual example of how staff might accomplish this using the Rural District. This information as presented could easily be transformed into a handout that could be shared with a property owner or applicant when they visit the Planning Department, or online.

Ms. Landry asked whether staff envisions each district being located on one page as is being described by staff. Mr. Kopczynski stated staff's goal is to make this as simple and as understanding as possible.

Mr. Sapeta felt if this information is in a certain format, the new software which is available for assessing might be able to pull this information up when someone is clicking on a parcel. He hopes the consultant will be talking about open language, which can be used in the future. Mr. Kopczynski stated this is not within the scope of work for the planning consultant that has been selected.

Ms. Kessler went on to talk about the Intent Statements of the zoning districts. Each zoning district has an intent statement. This statement identifies the purpose and goal for the creation of the district and provides the Zoning Administrator and others with an idea of what type of development and land uses should be preserved, promoted or avoided in each district.

Ms. Kessler noted that staff propose making adjustments to some of these statements that would improve clarity and ease of reading. She provided examples of existing intent statements. She noted that with respect to the rural zone, the term “scattered” in the intent statement could imply irregular or random patterns of development. Staff may consider replacing this with a similar term that conveys the same intent but does not imply lack of planning or thoughtfulness.

The intent statement for the Medium Density District is somewhat redundant in that it repeats the title of the district in the first sentence. The High Density and Low Density zones have similar descriptions. She noted that staff propose changing the wording of this first statement to be more precise and less redundant. Staff also suggest making changes to terms that are out of date or could cause confusion such as the adjective “normal” before commercial/industrial uses in the second to last sentence. There is an opportunity to update the language to be less subjective without impacting the overall “intent” of these statements. Staff also aim to reduce the length of these statements where possible. She stated that if staff find that a district’s intent statement needs to be changed significantly, they will revisit the Joint Committee with the proposed changes for further discussion and review.

Mr. Kopczynski asked whether the Committee agrees this is the process it would like to pursue. Chair Spykman urged staff to be more succinct and get rid of any extra language which is not necessary.

Councilor Sapeta stated all these districts are driven by density and density in relation to natural resources. He asked whether thought should be put into these zoning districts as to what the future will bring.

Councilor Hansel asked how much legal review would need to happen with change of terms. Ms. Kessler stated staff has been working closely with the city attorney with this item, but there is a need to still bring in a land use attorney to look over the draft of the Unified Development Ordinance, which would happen sometime in the late fall.

Ms. Kessler went on with her presentation. She explained that for each zoning district there is also a table to uses. She stated Mr. Kopczynski will explain what a permissive code is. He stated the zoning code is set up as a permissive code, which means the code contains a list of things that are allowed each district. The manner in which the code is written ties one’s hands as to what can be done in each district; this is what permissive means. That is, in the absence of a variance or special exception, uses of land are prohibited unless they are expressly permitted as primary uses (typically in the use table) or can be found to be accessory to a permitted use.

Ms. Kessler stated that the terms in the use table seem to be inconsistent across districts. She used the term Home Occupation as an example. In some tables it appears as “home occupation as incidental to main use,” in others it appears as “home occupation,” and in one it appears as “home occupation, live/work.” Another example is Nursery/Greenhouse, which appears in different forms throughout the code.

Ms. Kessler stated there are number of terms that do not have definitions (37 uses not defined). There are also some terms that are outdated and some that are too specific.

Mr. Kopczynski stated the term group home is very different to how it was written to what it means today. In a group home people are not likely living in individual units and trying to for

instance figure out parking at one half space per unit is not possible, when it is likely you have 15 to 18 people living as a unit.

In the Medium Density District's use table, which was presented on the slide, there are a range of residential uses which are allowed. This is consistent with the intent of the district. However, there are a couple of more specific uses listed, such as "noncommercial raising of farm animals." This use is not defined in the definitions section. Per the nature of a permissive code, a property owner in this district could raise farm animals as a primary use, but they could not have a lesser impact use such as a "noncommercial nursery/greenhouse" as a primary use, as it is not listed in this table.

Ms. Kessler then referred to the permitted uses in a rural district. This is a residential district that allows for some agricultural and less dense uses. This district allows for "orchards and vineyards" as primary use, but it does not specify if it is commercial or non-commercial.

Hence, staff is recommending updates to the use table to find the balance between maintaining the intent of the district and allowing for flexibility.

Ms. Kessler noted that there are conditions that some uses are subject to, which are listed in the use table. Some uses are subject to Special Exceptions. Some are subject to Conditional Permits. However, some are subject to site impact / performance standards that are listed in the use tables.

These conditions can be very specific, while others are addressed in other areas of the code. With the exception of Special Exception or Conditional Use Permits, it is confusing to have extra conditions listed in the use table.

An example of a use that is allowed by Special Exception but also lists very specific site and operational conditions is "Bed & Breakfast with Meeting and Dining Facilities" in the High Density District. There are 7 conditions listed that range from parking requirements to minimum lot size to hours of operation. Some conditions that are listed would be very difficult to enforce such as the requirement that "attendance by registered guests, invited guests or participants in functions/meetings only." Some conditions should be placed in other sections of City Code such as the requirement that "a semiannual special license will be required for any activity involving more than 60 people..." Chapter 46 of City Code addresses City licenses and license requirements.

Ms. Kessler noted that in some of the tables, accessory uses are listed under primary uses. Mr. Kopczynski stated an Accessory Use is similar to the primary use but at some point they have grown big enough that they are no longer primary. Mr. Kopczynski stated for instance in the Zoning Code in some places a parking lot is referred to as a use, a structure and at time an accessory use. Mr. Kopczynski stated definitions for accessory use and incidental use. He explained the main difference between these two uses is the fact that the use needs to be outlined in the table for incidental uses. Mr. Kopczynski went on to say accessory uses are permitted in all zones but the use cannot exceed 25% of the primary use. These uses cannot be placed at the front of the site unless the front set back exceeds the front of the building. At the rear of the site, these uses can be placed no closer than ten feet of the rear lot line on residences.

Ms. Kessler then talked about districts such as Corporate Park and Regional Health Care, which were developed with specific uses in mind. Regional Health Care was developed with Cheshire Medical Center in mind and is specific to this entity (it encompasses three parcels). Corporate

Park is specific to Blackbrook off Route 12. She noted that staff intend to review these districts to ensure that still meet the needs of these developments and potential future development in these areas.

Ms. Kessler then addressed Conservation Residential Development (CRD), which is a form of subdivision. In addition to a zoning district, there are Planning Board Regulations pertaining to it. This is an alternative to a conventional subdivision but it should not be a base zoning district. Staff will be coming back before the Committee at a future meeting with a proposal for addressing this topic.

Ms. Kessler addressed the topic of institutional uses. This is treated as an allowed use in the zoning use table and there are only certain district and streets that permit this use. Staff is looking to see if there is better way to address institutional use but there is no proposal to do so yet.

Chair Jones stated he had a problem with institutional use since he came on Council and felt it was similar to spot zoning and the city seems to be looking at the project and not the uses.

Councilor Hansel asked about mixed-use development. Mr. Kopczynski felt a conversation about mixed-use development is prudent to make sure the city knows what mixed-use really is. He noted the largest number of vacancies these days are in mixed-use buildings where the bottom floor is supposed to be retail and the upper floors were supposed to be residential.

Councilor Sapeta stated the rate of development and technology is much faster these days compared to what it was perhaps 30 years ago and things that couldn't happen in the past are much easier to access today, such as access to water, sewer etc. and if the city can be aware of this and this can get written into the code than the city would be that much ahead.

Council Sapeta asked if there is a possibility of aligning definitions of building codes and zoning codes, which would help developers not be confused, Mr. Kopczynski stated staff is going to attempt to do this, but cautioned the committee that building and fire codes do change.

Ms. Kessler went on with her presentation and noted that staff recommends restructuring the dimensional table, which is currently one master table for all districts, to be district specific. The dimensional table is where setbacks, lot coverage and other dimensional restrictions are outlined for the different zones.

d) Review of Planning Board Lighting Standards

Ms. Kessler noted that prior to this meeting the Planning Board had two discussions on this topic, one in January and a follow-up in March. She stated that the presentation this evening will review recommended changes / updates to the Planning Board Development Standard on Lighting. Lighting standards also appear in the City's Code of Ordinance in Section 70-128 with respect to street lighting. For the purposes of this project, staff will focus on the Planning Board Development Standard for lighting, which staff has heard over the years that there is a need to update in some sections.

Mr. Lamb added the Council has been approached in the past about adopting standards related to city-wide outdoor lighting. He reiterated that the discussion for the evening does not involve writing any standards for outdoor lighting.

The Planning Board Development Standards are used by the Planning Board and Staff in their review of Site Plans. These are the standards that need to be met as part of the site plan process.

Ms. Kessler explained that the site plan review process applies to privately owned land, and to uses/structures that are commercial (including multifamily development of 3+ units). Single and two-family residences are exempt from Site Plan Review.

Ms. Kessler went on to say the reason exterior lighting is regulated is to ensure safety, minimize light trespass, prevent degradation of night sky, protect the adjacent natural environment, complement architecture and to encourage energy conservation. Staff compared its standard to various NH communities and the take away from this comparison is that Keene standards were pretty thorough, however, terms are not defined and vertical lighting is prohibited.

In addition to looking at other communities, staff also reached out to lighting contractors and applicants on their experience using the City's lighting standards. Their feedback is as follows:

- Update structure and improve clarify to applicants
- "Exceptions" section is out of date – LEDs are more prominent now
- Illumination section needs to incorporate LED fixtures
- Uniformity Ratios are too strict and could be more flexible
- Gas canopy light limits are outdated
- Minimum pedestrian light levels are too low
- "Shielding" glare and "up-lighting" is not well specified and lacks flexibility

Ms. Kessler noted that staff is proposing to streamline the purpose statement and remove intent sections, thereby reducing redundant language. Councilor Sapeta felt the item missing from the intent statements is the character and look of the spaces being lit. Ms. Kessler stated she would look into adding this to the purpose statement.

Ms. Kessler identified some areas where updates could be made to the Lighting Standards. At the end of the lighting standards there is a section on Exceptions. Staff propose removing this section and ensuring that the standards speak to all forms of technology. LED has become common practice and is no longer the exception. The last statement of this section on Exceptions makes it unclear as to how these newer technologies will be considered and evaluated by the Board and staff.

The term "full cut-off" is seen as outdated. Staff proposes including the requirement that all lights be "Dark Skies Compliant". This is a label that manufacturers use on their specification sheets. This requirement would not be more onerous than what is currently required. It may provide more flexibility with how an applicant meets the current standards.

With respect to Illumination, the current standard addresses the color of light and color rendering index (CRI) threshold. CRI is a measure of a light source's ability to show object colors "realistically" or "naturally" compared to a familiar reference source, either incandescent light or daylight. It is viewed as a difficult metric for incandescent replacement light bulbs to match (while maintaining high efficiency) and is often ignored. CRI value does not readily appear on LED product specs sheets. This standard needs to be reviewed to see if it adequately addresses LED technology which emits a blue light (not white) light, and has a different color rendering index from incandescent bulbs.

The lighting standards address Hours of operation – when lights can be on or at full display. The section notes that “normal illumination shall be allowed during the activity and for not more than one hour AFTER the activity CEASES. Recently, an applicant for a fast food restaurant sought to have normal illumination for one hour before the activity began, as it is dark during the early morning shift for restaurant workers. Staff recommends changing this section to state “not more than one hour after or before the activity.”

Ms. Kessler directed attention to the section of lighting standard related to existing lighting arrays. It is unclear from the use of the term “Lights” whether this standard applies when 50% or more of the existing light bulbs, fixtures, and/or poles are modified, extended, expanded, or added to. Staff proposes clarifying whether this applies to light fixtures and/or light poles.

Ms. Kessler moved on to review existing language in the lighting standard with respect to flood lighting, which is prohibited unless certain standards are met. In order to allow for flood lighting the applicant needs to meet the standards as well as receive approval from the Planning Board. Staff proposes that approval of flood lighting may be granted by the Planning Director via administrative review if the applicant meets the standards that are listed.

Ms. Kessler stated there are specific lighting standards for certain uses such as parking lots, gas station / gas station canopy, and walkways. Based on feedback received from applicants, staff proposes reviewing / potentially updating these specific standards. With respect to parking lot lighting, staff has heard that the U:Ratio is too strict and difficult to meet, especially with LED technology. Staff proposes investigating this specific standard further as well as revisiting the table for recommended footcandles for certain levels of activity. Staff may find that the U:Ratio should be maintained at 4:1, however it is important to explore options for improving this standard, if possible.

As it is unlikely there would be a parking lot that is for vehicles only and not pedestrians as well, staff proposes removing the section of the table specific to vehicles only. However, staff recommends examining the table to ensure it is consistent with IESNA recommendations for light levels.

Ms. Kessler noted that with respect to Gas Station Island and Canopy Lighting, staff has received numerous waiver requests from meeting the standard, which requires that the footcandles for this lighting be between 1 and 5. In the field readings of existing canopy lighting ranges from 9 footcandles to 53. Staff proposes exploring whether there is a way to increase this standard without jeopardizing the intent of the standards/regulations/master plan.

With respect to Walkway lighting, it has been noted that these light levels are fairly low. Staff proposes reviewing options for increasing these light levels while still maintaining the intent of the regulations.

This concluded Ms. Kessler’s presentation.

Chair Jones asked for public comment, with no comment, the Chair closed the public hearing.

Councilor Sapeta suggested to referring to outside organization standards.

Mr. Lamb stated at the last meeting there were changes made to the subdivision site plan review for abutter notice and asked the Planning Board to sign off on these changes.

4. Adjourn

The meeting adjourned at 8:40 pm

Respectfully submitted,

Krishni Pahl,
Minute Taker

Reviewed and edited by, Tara Kessler, Planner.