

City of Keene
New Hampshire

AD HOC LAND USE CODE UPDATE STEERING COMMITTEE
MEETING MINUTES

Friday, July 26, 2019

4:00 PM

**2nd Floor Conference Room,
City Hall**

Members Present:

Mayor Kendall Lane
Jim Phippard
Gary Spykman
Maggie Rice
Councilor George Hansel

Staff Present:

Rhett Lamb, Community Development
Director
John Rogers, Zoning Administrator
Tara Kessler, Senior Planner

Members Not Present:

Councilor David Richards
Katie Cassidy Sutherland
Doug Barrett

1) Call to Order

Mayor Lane called the meeting to order at 4:04 PM.

2) Minutes of July 12, 2019

Councilor Hansel moved to approve the minutes of July 12, 2019, which Ms. Rice seconded, and the Ad Hoc Land Use Steering Committee carried unanimously.

3) Continued Discussion on Form Based Zoning Draft Subdistrict Dimensional/Form Standards

Staff heard strong feedback at the previous meeting that the proposed design standards built into the form based zoning would limit design quality and creativity. With the project goals in mind, City staff proposed a new approach, recognizing it would not allow for the same degree of streamlining of the approval process. Ms. Kessler explained that today, all development projects are potentially subject to Planning Board (PB) Site Plan Review. The current regulations include thresholds that determine which projects would require review and approval by the Planning Board and which could be approved administratively by City staff. Staff are proposing to revise these thresholds and to build in an alternative path of review in the form of a technical review committee. State statute would allow the Planning Board the ability to designate some of its review authority to this committee, which would be composed of City staff. This review committee would potentially meet more frequently than the Planning Board and notice would be given to abutters of the proposed project. These meetings of the technical review committee would be open to the public; however, they would not be public hearings.

In developing the draft thresholds for site plan review, staff reviewed those of other communities in New Hampshire. These proposed site plan thresholds would retain administrative review by the Community Development Director but provides more guidelines for their discretion authority. Minor projects would go to the technical review committee and all major projects would go before the Planning Board. At all levels of review proposed, the applicant has the option to go directly to the Planning Board and the Community Development Director can shift any project to the next level of review.

Mr. Phippard expressed concern that timing could be an issue for abutters and applicants when minor projects are reviewed by a technical review committee. He cited examples of challenges with abutters and asked who, under this scenario, will be responsible for hearing abutter concerns and appeals. Mayor Lane also questioned the abutter objection/appeal process; staff agreed that applicants can appeal staff decisions to the Planning Board. Mr. Spykman suggested any abutter objections could automatically trigger Planning Board review. Councilor Hansel thought this technical review board process could potentially put staff in a tough position. Mr. Phippard recalled that the Planning Board, at a previous point in time, heard Consent Agendas. There had been a Planning Board subcommittee that would review site plans of a certain size and provide recommendation to the Planning Board for action. The Planning Board would vote to approve or deny the Consent Agendas, for which there could be more than 10 projects monthly. Mr. Lamb said that is an interesting option. Many communities in NH are already using a staff technical review board, which Mayor Lane liked the idea of because so many projects are already reviewed by staff before being passed to the Planning Board. Mr. Lamb agreed this could streamline applications so the Planning Board can focus on larger scale development work. Councilor Hansel suggested the Planning Board Chair (or a designee) should be a part of the technical review board to ensure there is a buffer between the public and staff; Mr. Spykman agreed and said that staff consult with the Planning Board Chair in advance of meetings already.

Mr. Lamb said that the Planning Board already gives a lot of authority to the Community Development Director and staff has tried to use that jurisdiction over small projects more aggressively over the last few years, with the goal of streamlining an approval process; all while in communication with the Planning Board, which is key. He thinks there is great potential for a technical review board to work well, especially with a Planning Board liaison. The primary difference from staff review today is that abutters will be noticed; currently, the public is not aware when staff approve minor projects. However, Mr. Phippard said public notification has always been a brainstorming challenge, which these proposed criteria for minor projects could alleviate.

Staff recommend that the proposed traffic threshold for major project review by the Planning Board remain the same as it is today. Ms. Kessler discussed the change from square feet (sf) to gross floor area (gfa). The regulations currently require that any new construction of 1,000 sf or greater go before the Planning Board for approval. This threshold is focused on the size of the building footprint not the gfa. The new proposed metric is total gfa, to account for more than just one-story building impacts and massing. Mr. Spykman said he thinks of site plans as footprints for how much dirt will be disturbed; he said impacts are use dependent. For example, a warehouse or storage facility will have less impact than an office building. Mr. Lamb said this is less about the specific impacts on the site, but the reality of a bigger building. He said 1,000 sf might not be dramatically different than 10,000 gfa. Gross floor area is commonly used in other communities in the state. Councilor Hansel said the change seemed appropriate and asked if the 100 trips per day is a traffic standard, referring to the traffic threshold for

site plan review. Mr. Phippard confirmed it is a long-held NH Department of Transportation standard and a trigger to ensure a professional performs the traffic estimate. The Committee discussed examples.

Ms. Kessler said staff needed more research on the proposed percentages of gfa of existing principal buildings for additions: *greater than 25% for major projects, between 10-25% for minor projects, and under 10% for administrative review*. Staff needs to work on the math more to ensure than the percentages are logical for the variety of buildings that have appeared before the Planning Board. Mr. Lamb said a percentage is more logical to staff than sf for additions; a 1,000 sf addition downtown has a more significant impact than the same addition at Monadnock Marketplace, for example. The Committee agreed on a percentage for additions to existing buildings.

Ms. Kessler discussed the proposed thresholds for modifications to sites or buildings, and whether to have standards for each category of a site than can be altered (e.g., lighting, landscaping, façade, alteration, installation of ground mounted equipment, etc.). Mr. Lamb said he tries to use his discretion to use his authority sparingly and where it really matters; this can be challenging without thresholds for this category. Ms. Kessler said it will be helpful to have some internal guidelines for staff review of applications to ensure each case is treated fairly. Ms. Rice said it is good for the Community Development Director to use their discretion for this category as new technologies and interests change in the future for things like lighting and landscaping. Mayor Lane agreed but said the Committee should keep in mind that Mr. Lamb's tenure as Community Development Director and deep understanding of the City will end in the future. When that time comes it will be helpful to have some established guidelines in this category. Mr. Lamb agreed it is important to have some internal system that will help transition phases of staff. Mr. Spykman agreed that the fewer discretionary things the better. Mr. Lamb agreed and said staff will work to build that internal checklist. Mayor Lane said these proposed standards make more sense than those at the previous meeting.

Mr. Phippard posed the example of adding 15,000 sf to an existing building, but the addition will not add jobs, traffic, or runoff. He argued such additions should not go before the Planning Board because there is no impact and there is nothing to review. Mr. Lamb said that if the addition were less than 25% of the existing building gfa, it would be a minor project for the technical review board or administrative approval. He said that is the example of a project that staff hopes to streamline so to not trigger the Planning Board.

4) Review of Draft Site Plan Development Standards

Ms. Kessler recalled major changes at the last meeting with a reduction from 19 to 11 PB standards, and the intent to remove any further standards that can be addressed through an application or initial review process. Mr. Spykman supported reducing the number of standards for Planning Board review, especially those that be answered with a yes/no question on an application. Ms. Kessler said it is important to staff to ensure any standards eliminated from Planning Board review are still somewhere in the code if important. Ms. Kessler listed the changes, which can be found on page 19 of 28 in the meeting packet.

Regarding lighting standards, the Committee discussed how warmth of light can vary; when Mr. Spykman wants bright light, he uses 5-6,000 kelvin. Mr. Phippard finds 3,000K very low based on his

experience, while Mr. Spykman finds 3,500K very warm. The Committee discussed subjectivity of lighting standards. Ms. Kessler said the research she conducted on lighting regulations call for 3,000K or lower, which staff increased to 3,500K to increase flexibility. These numbers are maximums based on lighting standards from other communities, International Dark-Sky Association, the Illumination Engineer Society of North America, and industry guidelines. Michelle Chalice, a previous City Planner, also conducted a lot of research with lighting providers in Keene. Mr. Phippard said all lighting companies now offer free services to designers; he can send a site plan to a lighting engineer and they will quickly create a photometric plan to review and specifies fixtures. He said lighting gets very specific as the technology is changing daily. The Committee discussed challenges related to lighting including location, height, uniformity, and distortion. Mr. Phippard and Ms. Kessler will contact Ken Sweeney of Charron, a lighting company, who does on-site demonstrations at different light levels. The Committee discussed challenges to uniformity ratios. Mr. Phippard described examples of how lighting has evolved over time and noted many building/property owners he works with are unwilling to invest in expensive light fixtures. Mr. Lamb hopes to write standards to accommodate the future as much as possible.

The Committee also discussed changes to horizontal light on the ground under canopies at gas stations and an increase in foot candles. Staff tried to simplify these standards, especially for commercial parking levels. These proposed standards with one average illumination level do not increase flexibility significantly, staff think it is right to maintain uniformity in this scenario. Mr. Phippard said he has been involved with a lot of commercial property owners being sued for neglect over insufficient lighting that results injuries. These issues arise with insurance companies and owners change lights to increase levels (which is easier with LEDs today) without consulting the City.

Ms. Kessler said updates to standards for architecture and visual appearance are still under review. Staff heard Committee concerns about controlling massing through the dimensional requirements, while maintaining a focus on massing in these standards. She said materials are challenging and staff is working to build them into the standards without limiting creativity and diversity.

Ms. Rice asked if the standards on landscaping and plant selection can require native plants and preservation of the local ecosystem as much as possible. Staff said it was a good point, but complicated because there is no true native species list for NH to refer to. Mr. Phippard thinks there should be exceptions for creativity in landscaping to best suit the location; also, some native plants do not thrive in densely urban environments. In this regard, Ms. Kessler noted edits to eliminate shallow statements like, "you shall do this whenever feasible," to provide flexibility for what people want their yards to be. Mr. Lamb hopes to develop a guidance document to parallel these standards and inform developers of preferences.

Mr. Phippard felt the edit to driveway and curb cut standards were appropriate: *Wherever possible, the number of curb cuts or driveways on public streets shall be limited to one per lot.*

Mayor Lane referred to a landscaping standard: *The majority of green space required by zoning and the majority of site landscaping shall be located on the front portions of the lot, visible from public streets.* Mr. Lamb said that standard is a reference back to when landscaping was connected to parking lots. In the Downtown Core, parking must be at the rear and most parking standards have been moved

to the zoning ordinance. This standard might best apply to properties where parking is not possible at the side or rear. Staff will review the need for this standard or how to clarify.

Councilor Hansel asked if the landscaping standards can build in incentives for irrigation; he said commercial developments with irrigation provide a nicer aesthetic experience. Mr. Phippard countered that small businesses will not want to pay for irrigation, or some businesses might believe in preserving water. Councilor Hansel thinks it significantly improves the City when there is quality, irrigated landscaping at commercial buildings. Staff will look into incentives to promote irrigation versus requiring it, and develop a list of landscaping categories to promote those goals in the regulatory environment.

Ms. Kessler briefly discussed the proposed Neighborhood Redevelopment subdistrict. Staff proposed taking this subdistrict out of the downtown and spending more time studying the best steps for those areas in the future. Adding another layer of downtown regulations may be irrelevant in those areas. Staff is concerned there has not been enough outreach in these corridors to take action there. Mayor Lane agreed the areas in question are largely residential and questioned if/when they will transition to something else in the future. This was intended as a downtown zoning update that should not include strictly residential areas. Because the Comprehensive Master Plan does not target these areas as shifting from residential to mixed-use, staff proposed maintaining these zones as High Density. The Committee agreed these neighborhoods essentially got wrapped into this zoning update and the desire to draw straight lines around downtown; the Committee cannot envision a future shift in these neighborhoods clearly enough to justify rezoning. There is also a lot of residential flux in the community with new developments and changing college populations.

With Committee consensus, staff will remap the downtown eliminating the Neighborhood Redevelopment zones.

- 5) **Next Meeting – August 2, 2019**
- 6) **Adjourn**

Hearing no further business, Mayor Lane adjourned the meeting at 5:24 PM.

Respectfully submitted by,
Katie Kibler, Minute Taker
July 31, 2019

Reviewed and edited by Tara Kessler, Senior Planner