



Joint Planning Board & Planning, Licenses & Development Committee

AGENDA

May 11, 2020 at 6:30 PM

- This meeting will be conducted using the online meeting platform, Zoom. The public may view the meeting online by visiting www.zoom.us/join and enter the **Meeting ID: 925 7850 4206**.
- If you are unable to attend the meeting online, you may call the **toll-free # (888) 475-4499** and enter **Meeting ID: 925 7850 4206** to listen to the meeting.
- More info on how to access this meeting is available on the Planning Board webpage at ci.keene.nh.us/joint-planning-board-planning-licenses-and-development-committee
- If you encounter any issues accessing this meeting, please call 603-757-0622 during the meeting.

1. Statement of Authority to Hold Remote Meeting
2. Call to Order & Roll Call
3. Approval of Meeting Minutes – **March 9, 2020**
4. Public Workshop

Ordinance - O-2020-04 – Relating to Zone Change. Petitioner, AMERCO Real Estate Company, requests a zoning district change for the parcels at 472 Winchester St and 0 Krif Rd from Industrial to Commerce Limited. These two properties, which are owned by Clarke Realty Ltd. Partnership, total an area of 7.38-acres and are identified by the following Tax Map Parcel numbers:

- 0 Krif Rd (3.84-acres, TMP# 115-019-000-000)
- 472 Winchester St (3.54-acres, TMP# 115-020-000-000)

5. Next Meeting – **Monday, June 9, 2020**
6. Adjourn

Item on more time: Continued public workshop for Ordinances, O-2019-13 and O-2019-14, Relating to Social Service and Congregate Living Uses.

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**CITY OF KEENE
NEW HAMPSHIRE
JOINT PUBLIC WORKSHOP
PLANNING BOARD/
PLANNING, LICENSES, AND DEVELOPMENT COMMITTEE
MEETING MINUTES**

Monday, March 9, 2020 6:30 PM Council Chambers

Planning Board Members Present

Chris Cusack, Vice-Chair
Andrew Weglinski
Mayor George Hansel
Pamela Russell Slack
Gail Somers
David Orgaz
Tammy Adams, Alternate
Emily Lavigne Bernier, Alternate

Planning Board Members Not Present

Doug Barrett, Chair
Michael Burke
Councilor Michael Remy

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

Kate Bosley, Chair
Councilor Gladys Johnsen
Councilor Mitchell Greenwald
Councilor Philip Jones

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

Councilor Catherine Workman

Staff Present

Rhett Lamb, Community Development Director
Tara Kessler, Senior Planner

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1. Roll Call

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

2. January 13 meeting minutes

A motion was made by Councilor Phil Jones that the Joint Committee accept the January 13, 2020 meeting minutes. The motion was seconded by Councilor George Hansel and was unanimously approved.

3. Continued Public Workshop:

Ordinances – O-2019-13 and O-2019-14 – Relating to Social Service and Congregate Living

Uses. Petitioner, City of Keene, proposes changes to Chapter 102 – Zoning, Chapter 46 – Licenses and Permits, Chapter 18 – Building Regulations, and Appendix B – Fee Schedule of the City Code of Ordinances. The amendments proposed include the introduction of land uses categorized broadly as Social Service and Congregate Living uses as well as a conditional use permit and City operating license for some of these uses.

Senior Planner Tara Kessler began by reviewing the item before the committee, and providing a history on the proposed ordinance for the new committee members. She explained the city has a zoning code, which dictates where certain land uses are allowed. The current zoning code was last updated in the 1970’s and needs to be modernized. The City has received applications for congregate living social service uses (e.g. homeless shelters, residential care facilities, etc.) and the zoning code does not have these uses outlined. The City Council directed staff to develop an ordinance addressing these uses with some conditions and criteria attached to these uses.

35 The first public workshop on this item was in September 2019. Ms. Kessler stated when a zoning
36 ordinance is amended it first gets introduced to City Council and there will be a public workshop
37 with the Joint Committee - the role of the Planning Board in this setting is to vote if this ordinance
38 is consistent with the master plan and the PLD recommends a public hearing before City Council be
39 scheduled by the Mayor. The ordinance would go to the PLD Committee for a recommendation to
40 City Council and the final step would be adoption by City Council. The process, at its shortest,
41 takes about three months, but it could carry on depending on how long it will stay in the public
42 workshop phase.

43
44 Ms. Kessler stated that staff are proposing that this ordinance be folded into the Unified
45 Development Ordinance (UDO) project. She added the edits from today would be included in the
46 UDO and brought back to the Joint Committee at a later date.

47
48 Ms. Kessler referred to page 12, which refers to the uses being introduced with definitions. There
49 are nine of them, two are currently uses that exist; group homes and lodging house. There are
50 however, amendments being proposed for both.

51
52 The proposed Congregate Living Uses are:
53 Homeless Shelter, Domestic Violence Shelter, Residential Care Facility, Residential Drug and
54 Alcohol Treatment Facility, Group Home, Lodging House.

55
56 The amendment being proposed for Group Home is to place a cap on the number of residents,
57 which would be between 5 and 16 people. There will also be a limit for one Group Home or
58 Lodging House per parcel. This is an attempt to manage density.

59
60 Ms. Russell Slack asked whether there was a cap on Homeless Shelters. Ms. Kessler answered in
61 the negative. Chair Bosley asked whether this was unusual. Ms. Kessler stated they have not seen
62 this in other communities but haven't targeted their research to identify communities that place a
63 cap. Ms. Russell asked whether staff could look into this.

64
65 Ms. Somers asked whether there was also going to be a cap on the number uses in an area. Ms.
66 Kessler stated that staff have not proposed a cap on the number of uses allowed in a given area. She
67 noted that density is currently controlled by minimum lot sizes. In Keene's zoning code, a single-
68 family dwelling unit is for anyone related by kinship plus no more than four unrelated persons.
69 Depending on the zoning district, a lot must be a minimum size for a dwelling unit. For instance, it
70 must be at least 10,000 square feet in the Low Density District. In districts that allow for multi-
71 family dwellings, additional land area is required for each additional dwelling unit.

72
73 Chair Bosley asked about the number of uses per region and whether there was going to be a cap on
74 that. Mr. Lamb stated zoning does not place a number on certain types of uses.

75
76 Councilor Jones stated he was concerned about the area at Maple Avenue and Court Street, and also
77 where Park Avenue meets Summit Road. He feels that these areas should be zoned differently to
78 better reflect the nodes that are described in the Master Plan. He asked staff to look at this and felt
79 they should be zoned as something else. Mr. Lamb stated the Comprehensive Master Plan identifies
80 these areas as areas where unique area planning ought to take place, perhaps a more refined
81 commercial zoning. He stated this is an item that could be tabled to be discussed later.

82
83 Councilor Greenwald asked about abutter input. Mr. Lamb stated this is an issue that will be
84 discussed under the topic of approval and granting of license.

85 Ms. Kessler went on with her presentation and noted the other uses being proposed under Social
86 Services are Food Pantry, Drug Treatment Clinic, Group Resource Center (was known as Social
87 Service Center).

88
89 Ms. Kessler referred to a table included in the Board's packet that displayed the zoning districts
90 where the uses are proposed to be allowed, and the process by which they would be allowed. She
91 reviewed this table with the Committee.

92
93 Ms. Kessler referred to Page 40 of 43 of the meeting packet, which addresses the proposed
94 Conditional Use Permit Criteria. She stated that there appeared to be general consensus on the
95 proposed criteria at the last meeting. However, staff have added the statement that the Planning
96 Board may impose conditions to mitigate adverse effects on abutting properties.

97
98 Councilor Jones asked whether a conditional use permit carries over or whether it ceases with new
99 ownership. Ms. Kessler stated there is no end to it unless they are in violation of the conditional use
100 permit. Mr. Lamb added conditional use permits are like variances and those conditions carry with
101 the property. There is the possibility for site plan revocations as well as conditional use permits –
102 this is not a common occurrence but it can be done through code enforcement. Ms. Kessler stated
103 there is also an appeal process through the superior court within 30 days of the Planning Board
104 decision.

105
106 Ms. Kessler then addressed the topic of requiring an operating license for some of these uses. This
107 operating license would be issued by the City Council and would need to be renewed each year. The
108 discussion related to this item would be to remove the section of City Code relating to lodging
109 house licenses, which are currently required, and to replace this section with congregate living
110 social service operating license. This new section of code would apply to all the majority of the
111 congregate living / social service uses including but not limited to group home and lodging house.
112 Initially, staff proposed that this would be a license issued administratively through the Community
113 Development Department but there has been preference expressed by the Joint Committee this
114 should be done by the City Council.

115
116 Ms. Kessler stated that the primary intent for the operating license is to ensure that there is an
117 annual inspection conducted of the facilities to ensure they are adhering to the building, fire and life
118 safety codes. There is license application criteria that is proposed. Ms. Kessler reviewed this
119 criteria with the Committee. These licenses are proposed to go before the Planning Licenses and
120 Development (PLD) Committee for review, as lodging houses do now, and the Council will have 30
121 days to act on the license application. Ms. Kessler estimated that there could be close to 20 or 30 of
122 these applications before PLD Committee each year. Originally, the draft ordinance stated they
123 would expire on March 1 of each year but the City Clerk has requested this be changed to July 1.
124 Ms. Kessler stated staff would continue to recommend the operating license be addressed
125 administratively but ultimately it would be up to this Committee and City Council.

126
127 Mayor Hansel clarified the reason for the annual operating agreement is to make sure all the life
128 safety aspects are complied with. Mr. Lamb stated this is the primary element but also to verify that
129 the facility is in adherence with their submitted/approved operations/management plan. Chair
130 Bosley asked if someone was not adhering to the plan what the path of correction will be. Mr. Lamb
131 stated any enforcement action that would need to take place would come through the conditional
132 use permit process; enforcement is much better addressed through RSA 676.

133

134 Councilor Greenwald noted that prior experience tells him the revoking of an operating license is
135 never easy and felt it was important for neighbors to have a voice before the process starts.
136

137 Mayor Hansel stated he agrees with Councilor Greenwald and added that placing the emphasis at
138 the Planning Board level is important, giving everyone a chance to weigh the impacts of a proposed
139 use and impose the necessary conditions. The licensing is to make sure life safety regulations are
140 adhered.
141

142 Ms. Russell Slack clarified the abutters will be noticed only once. Ms. Kessler agreed that abutters
143 would be notified through certified mailing prior to the public hearing to consider the issuance of a
144 conditional use permit. Chair Bosley asked how an issue would be brought to the Planning Board.
145 Mr. Lamb stated it would be complaint driven in the form of a letter or a phone call to staff, which
146 will then be brought before the Board.
147

148 Vice-Chair Cusack asked whether there was an appeal instead of going through the court system.
149 Mr. Lamb stated the Council cannot override the decision of the Planning Board, it will ultimately
150 have to go before the superior court.
151

152 Ms. Somers clarified it was through the licensing the City would try to manage the day to day
153 operation and this won't impact the conditional use permit. Ms. Kessler stated the operating license
154 would focus on whether the applicant is adhering to what they have put forth as their operational
155 plan and life safety plan. The conditional use permit on the other hand would focus on whether this
156 use is appropriate for a certain location.
157

158 Ms. Kessler went on to address the topic of Group Homes – this use is currently allowed in High
159 Density, High Density 1, Low Density, Low Density 1, Medium Density and Rural. With this
160 proposal, it would be allowed in High Density, Medium Density, Office and Transition. She
161 explained the reason for this change is because allowing 5–16 unrelated individuals in a single
162 dwelling would be introduction of density in the more low density areas, which may not be
163 consistent with those zoning districts. Rural, Low Density, and Low Density 1 only allow for
164 single-family homes as a result Group Homes were removed from these districts. Today, a group
165 home could exist in any zoning district that allows for single family homes but it is limited to four
166 unrelated persons. A group home, as proposed, would allow for between five and sixteen unrelated
167 persons. This use being proposed in High Density, Medium Density, Office and Transition because
168 these districts currently permit multifamily dwellings in addition to single family homes. The Office
169 District (portions of which are proposed to become the Transition Subdistrict) allows for many
170 different type of uses, including multifamily. Staff have heard from residents of this district that
171 they are not in favor of allowing for group homes in this area. However, the density that residents
172 are concerned for is already allowed today.
173

174 Ms. Russell Slack asked where Group Homes are located now and how many the city had.
175 Ms. Kessler stated it was difficult to place a number as Group Homes are not currently licensed by
176 the State.
177

178 Ms. Kessler then talked about the location for Homeless Shelters – when this ordinance was first
179 proposed this use was to be located in Central Business Limited or Commerce Districts. She
180 displayed the area of these districts on a map. She noted that the proposal is to allow for this use in
181 the proposed Downtown Growth Subdistrict and Commerce District. She displayed these areas on a
182 map and compared the differences between Central Business Limited and Downtown Growth.
183

184 The Chair then asked for comments from the public.

185

186 Mr. Steve Bragdon of 51 Railroad Street asked how someone appeals the license. Mr. Lamb stated
187 the intent was there would be communication to the City Manager's office or the Community
188 Development Office and it will be raised as a compliance issue before the Planning Board; an
189 applicant has to have both approvals, the conditional use permit as well as the operating licensing. If
190 there are compliance issues with the operating license then it becomes an issue with the conditional
191 use permit. Mr. Bragdon felt this should be separated out. Mr. Bragdon raised concern with locating
192 group homes in Office Districts – group homes are there overnight but not offices.

193

194 Anthony Tremblay of 67 Summer Street addressed the committee next and stated at the offset of
195 this item he did not hear that abutters would not be notified during license renewal. Mr. Tremblay
196 stated he heard staff say notifying abutters would be onerous and he felt it would not be. He stated
197 this was a significant issue and did not feel abutter voice will be properly heard if they could only
198 be heard during the conditional use permit application process – abutters are the ones living with a
199 group home 24/7.

200

201 Steven Chambers of 17 Lamson Street stated he represents the homeless and stated there is a way to
202 house the homeless population and not let property values decrease.

203

204 Jan Peterson, Chair of the 100 Nights' Board of Directors, stated she was glad to see the
205 clarification between license and the conditional use permit. She thanked staff for all their hard
206 work. She stated she does not quite understand the due process for licensing. Ms. Peterson went on
207 to say if an entity was going to invest couple of million dollars constructing a facility they wouldn't
208 want to see the abutters complain about all different type of issues. She felt working on solving the
209 social problems that exist in our town was important.

210

211 Mr. Carl Jacobs, Board member for the Serenity Center, was the next speaker. Mr. Jacobs referred
212 to language, which calls for one lodging house per parcel and asked for clarification of that
213 statement. He stated he was not sure what was behind this statement. Ms. Kessler stated this has to
214 do with density; there are ways this issue could be addressed – one way would be to place a cap on
215 the number of people, which staff felt would be limiting. Hence, staff propose one unit per parcel as
216 long as the minimum lot size is met for that district. Mr. Jacobs asked whether this implies there
217 could only be one structure or whether there could be multiple structure on a parcel. Ms. Kessler
218 stated with respect to residential dwelling units, the city does not permit any multi-family units to be
219 detached buildings.

220

221 Mr. Tom Savastano of 75 Winter Street stated he has invested a lot into his property and did due
222 diligence when purchasing his property by finding out what zone his property was located in and
223 working within those guidelines (property is located in the Office District). He referred to Section
224 102-601 of the Zoning Code as it related to the Office District.

225

226 Mr. Savastano stated he has worked in social service and stated that group homes are not a bad
227 thing. He stated his main objection is the number of people being proposed; five or more unrelated
228 people but noted there is now a limit of 16, which he felt was far too many. He felt the number
229 should be five or less and referred to the guidelines for single-family homes that have been
230 discussed and felt the number being proposed will take away from the residential feel of this
231 district. Mr. Savastano felt group homes should also be considered in other districts not just the
232 proposed Transition Subdistrict.

233 Mr. Savastano reiterated this operation will be 24/7 and will change the character of the
234 neighborhood. He added he has paid more than \$100,000 in taxes since moving here five years ago
235 and was committed to this community and felt what is being proposed is a substantial change and
236 opposes it but will be in support if it was five or less individuals.

237
238 Councilor Bosley clarified the maximum of 16 being proposed is not a blanket number and will be
239 subject to fire and life safety issues and will be subject to the number the Fire Department proposes.
240 Ms. Kessler stated this number is proposed as the maximum for group homes based on building
241 code classifications. When a residential structure has an occupancy that exceeds 16 unrelated
242 persons, it moves from a residential to an institutional focus. The Chair clarified if there was a 1,000
243 square foot building would the same amount of density be permitted compared to if it was a 3,000
244 square foot building. Ms. Kessler stated the number of occupants per the Zoning code will not be
245 restricted based on the size of the building; however, there may be fire or life safety codes that limit
246 occupancy based on the size or configuration of a building. She added that multi-family home is an
247 allowed use in the Office District and that this use could promote the same type of density as a
248 group home with 16 residents.

249
250 Mr. Peter Espiefs of 29 Middle Street felt what is being proposed will turn this area into a “chicken
251 coop” district and will destroy this area. He did not feel the existing zoning was outdated and did
252 not feel the city could refer to the zoning as outdated by just announcing that it is outdated. Mr.
253 Espiefs felt when changes are made to this district the city will be affecting important locations such
254 as the newly constructed courthouse and library. He questioned whom the city will assisting with
255 “opportunities for use” – would it be developers, and felt it is not the developers the city should be
256 considering and that the Council should be assisting with keeping Keene the way it is.

257
258 Councilor Johnsen asked Mr. Espiefs if the number was reduced as was indicated whether that
259 would be acceptable. Mr. Espiefs stated he did not want this use, this district is fine the way it and
260 asked to be left alone otherwise indicated this could become a legal issue.

261
262 Ms. Russell Slack asked whether staff used comparison from other towns, which might have group
263 homes in an office district. Mr. Lamb stated the definition and density came from the consultant,
264 which is a nationally based firm who is also assisting with the UDO project. There was also
265 comparison made with other larger cities across New Hampshire and added most cities are
266 grappling with the same questions this committee is dealing with. Hence, there is no consistent
267 definition or size for this use. Ms. Kessler added the guidance has been where single family homes
268 exist is where group homes should exist.

269
270 Ms. Russell Slack stated having worked in group home settings felt 16 was a large number.

271
272 Councilor Johnsen stated she understands the number being five but asked where this maximum of
273 16 was coming from. Mr. Lamb stated it comes from experience the city has had with this type of
274 use; applications that have been received for this type of use. He referred to a Group Home
275 approved by the Planning Board in 2019 on Water Street – the Board authorized this use to be
276 approved and the maximum occupancy here is 16.

277
278 Ms. Adams stated it seems some people would like to limit these groups, which are beneficial to
279 this community. She stated this community needs to look forward and be more open to people who
280 need our help – these are our neighbors. She cautioned the committee about limiting the numbers if
281 there is a need.

282

283 Mr. Savastano in response stated his position is that he will be happy with group homes in the
284 Transition District as long as it accommodated five or less people and questioned why it could not
285 be located in other areas as well. Ms. Kessler stated the reason they are not being proposed in the
286 Core, Growth and Edge Limited is because Group Homes are intended to operate like a single
287 family home and single-family homes are not permitted in those districts. Chair Bosley clarified
288 Group Homes will also be permitted in Office, Medium Density, and High Density. Staff answered
289 in the affirmative. Chair Bosley noted those areas on the map, which refer to high density and
290 medium density and explained group homes will be permitted in those zones. Mr. Savastano felt the
291 larger size of group homes should perhaps be in those zones (Medium and High Density).

292

293 With no further comment, Chair Bosley closed the public hearing.

294

295 Ms. Somers asked whether any consideration has been given to limiting the number if it is a single
296 family home versus a multi-family home. Mr. Lamb stated people who operate these units are
297 intending this to be operated as a single family home with services (therapy, cooking, life skills
298 etc.). Ms. Somers asked whether it was during the CUP process that life safety issues will be
299 addressed. Mayor Hansel agreed it is during the CUP process that an applicant will be able to
300 address the management plan for their use, number of occupants and this is the time the abutters
301 will be able to voice their opinion. The annual operating license once a year is when the Fire
302 Department would be able to visit these homes and make sure life safety measures are being met
303 and being followed.

304

305 Ms. Russell Slack stated when she was talking about group homes she referred to homes that would
306 accommodate various types of people- not just ones who have a drug problem for instance. She
307 noted there are many types of group homes.

308

309 Vice-Chair Cusack recalled Mr. Savastano coming before the Planning Board during the library
310 expansion project; he spoke in favor of the expansion but asked that it not be expanded to another
311 abutting property because of the nature of that neighborhood which is a buffer. The Board agreed
312 with this interpretation and looked at this neighborhood as a buffer. The Vice-Chairman asked
313 whether the proposed Transition Subdistrict has units that are five or less could be considered and
314 as you move into the high density the number increases to 16.

315

316 Councilor Johnsen stated she is concerned about helping people who need this type of living
317 arrangement but did not want to upset people who are already living there; she stated she could not
318 support going from 5 to 16.

319

320 A motion was made by Mayor Hansel continue this public hearing to the June 8 meeting. The
321 motion was seconded by Pamela Russell Slack.

322

323 Vice-Chair Cusack asked for guidance for the June 8 meeting. Mr. Lamb stated the intent of moving
324 this item to June is so that everything that has been discussed so far could be merged into the UDO.

325

326 The motion made by the Mayor was unanimously approved.

327

328 **4. Adjourn**

329 The meeting adjourned at 8:15 pm.

330

331 Respectfully submitted,

332

333 Krishni Pahl,
334 Minute Taker
335
336 Reviewed and edited by Tara Kessler, Senior Planner
337

Staff Report - Ordinance – O-2020-04

The Ordinance

This Ordinance proposes to amend the official Zoning Map of the City of Keene by changing the zoning of two specific parcels of land from the Industrial District to Commerce Limited. The total land area that would be impacted by this request is 7.38 acres. The location, acreage, and Tax Map Parcel (TMP) numbers of the parcels affected by this request is listed below:

- 0 Krif Road (3.84 acres, TMP# 115-019-000-000)
- 472 Winchester Street (3.54 acres, TMP# 115-020-000-000)

These two properties are owned by Clarke Realty Ltd. Partnership. The Applicant for this proposed zoning amendment is Fieldstone Land Consultants on behalf of the Petitioner, AMERCO Real Estate Company.

In rezoning decisions, the Petitioner's intended use of the property should not be considered. Rather, the permitted uses allowed in the proposed district should be evaluated for their suitability on the site. Additionally, the Board should consider and review:

- The consistency of the proposed rezoning request with the Master Plan;
- Existing and proposed zoning requirements;
- Surrounding land use and zoning patterns; and,
- Possible resulting impacts.

Background

The two parcels that are the subject of this proposed zoning map amendment (0 Krif Rd and 472 Winchester St) are located to the south of NH Route 101, off NH Route 10 (Winchester St), in the Industrial Zoning District. The parcels are the site of the former Clark Distributors, a beverage distribution company, which ended operations at the Keene facility in 2017. Since this time, the current owner, Clark Realty Ltd Partnership, has had both properties listed for sale.

The parcel at 472 Winchester St is 3.54 acres and has on site a ~30,172 sf industrial warehouse building and a ~3,720 sf service shop. These buildings were built in 1972. The parcel at 0 Krif Rd is directly adjacent to 472 Winchester St and is 3.84 acres. The vast majority of this parcel is undeveloped open space, with the exception of a portion of land that is part of the parking lot for 472 Winchester St. Both parcels are entirely in the 100-Year Floodplain, as Ash Swamp Brook borders each to the south. In addition, a portion of each site is within the floodway.

Nearby businesses include Douglas Cuddle Toys (*to the east*), Ace Rental Center (*to the South*), Granite State Glass (*across the street to the west*), and Hamshaw Lumber (*across the street to the southwest*). The property located directly north of the subject sites is currently undeveloped open space.

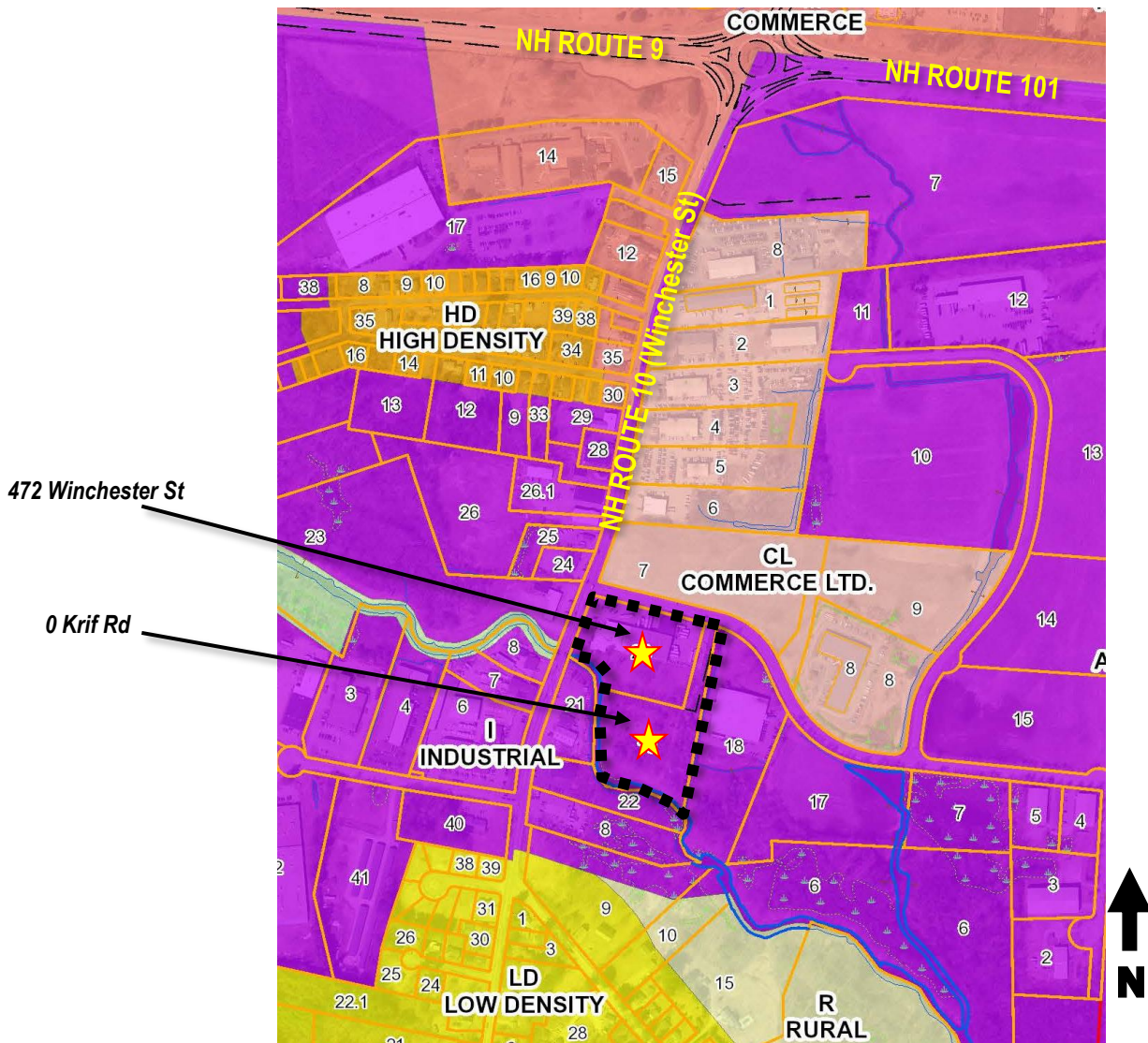
The proposed Ordinance would extend the Commerce Limited District south along NH Route 10 to Ash Swamp Brook, to include these two parcels. With the exception of the undeveloped parcel directly to the north of the subject sites, the adjacent properties/businesses noted in the above paragraph are currently in the Industrial Zoning District.

Commerce Limited is a relatively small zoning district that currently includes 10 parcels. These parcels support a variety of commercial uses including: four motor vehicle dealerships, offices for a heating fuel company, and a gym/fitness center. Other uses include a nonprofit organization and open space.

The Applicant notes that the reason the Petitioner is requesting this proposed zoning change is to expand the available land uses that would be allowed to occur on these properties, which have been listed for sale for a number of years. They anticipate that these properties would become more marketable with the expansion of land uses that the Commerce Limited District offers. The Petitioner for this application is AMERCO Real Estate Company, who is affiliated with U-Haul Moving and Storage of Keene. U-Haul intends to move their current operations at 199 Marlboro St to the subject parcels; however, retail services, which include truck rentals, would not be allowed in the Industrial District. Retail services is a use allowed in Commerce Limited. A more detailed comparison of the two zoning districts is included in the analysis below.

Despite the Petitioner’s expressed justification for the request, the Joint Committee shall base their evaluation of this proposed zoning amendment on the suitability of these parcels for the proposed district, based on the district’s intent, allowed land uses, and dimensional requirements; the City’s Comprehensive Master Plan; and the compatibility of the parcels with the existing district. The Petitioner’s intended use of the property should not be a consideration of the Joint Committee in deciding on this application.

The map below highlights the location of the two subject parcels as well as the boundaries of the nearby zoning districts.



The Petitioner met with City staff in early 2020 to discuss options for expanding the available uses allowed on the subject parcels. City staff noted that a zoning amendment petition would be the most appropriate process to pursue for this request. While the City is in the midst of an effort to update the downtown zoning districts, and to develop a Unified Development Ordinance as part of the Building Better Together project, these subject sites would not be impacted by this proposed rezoning effort. Nor does staff intend to propose changes to the Commerce Limited or Industrial District boundaries as part of the project. As such, the Petitioner felt it was in their best interest to pursue a zoning amendment, rather than wait for the Unified Development Ordinance to be adopted.

Characteristics of Zoning Districts

Intent of the Zoning Districts:

The proposal is to convert the two subject parcels at 472 Winchester St and 0 Krif Rd from the Industrial to the Commerce Limited Zoning District. A description of these districts from the Zoning Ordinance is included below.

- **Current Zoning – Industrial:** The intent of the Industrial District is to provide for manufacturing, processing, assembling, wholesaling; transportation-oriented activities and related services such as trucking, warehousing, refueling depots. Retail sales and offices are intended to only be accessory to the main uses in this district. (Section 102-631 of Keene City Code)
- **Proposed Zoning – Commerce Limited:** The intent of the Commerce Limited District is to provide for commercial uses that require larger land areas than the intense commercial uses in the Commerce District and do not have such intense customer vehicle traffic. Additionally, the District is intended for light industrial and combined commercial/industrial uses. Curb cuts shall be a minimum of 150 feet from any intersection. Curb cuts shall be a minimum of 450 feet apart, except that each lot shall be entitled to access either through its own curb cut or by a common curb cut shared with other lots. City water and sewer are required. (Section 102-571 of Keene City Code)

Based on the zoning district intent statements described above, the most recent use of the subject properties would be consistent with either the Industrial or Commerce Limited Districts. The two parcels had been used a warehouse and distribution facility with some office uses. It is likely that the former business (Clark Distributors) did not receive high volumes of customer vehicle traffic.

The Petitioner is proposing to purchase the property for use as a U-Haul Rental and Storage Facility, which would conduct retail sales and service, truck/van/trailer rentals, trailer hitch installs, U-Box rentals, and would have self-storage facilities. Retail uses would not be allowed in the Industrial District; however, this proposed use would be consistent with the intent of and the existing land uses in the Commerce District.

The Intent Statement for Commerce Limited specifies that curb cuts shall be a minimum of 450’ apart, and shall be a minimum of 150’ from any intersection. The parcel at 472 Winchester St



The above image displays the approximate locations of curb cuts for the property at 472 Winchester St and also for the shared curb cut at 452 Winchester St/446 Winchester St. The arrows in red indicate the approximate distances of select curb cuts from the intersection of Winchester St and Krif Rd.

has a curb cut on Winchester St (NH Route 10). This curb cut is approximately 55' from the intersection with Krif Rd, which is adjacent to the parcel's northern boundary. In addition, the parcel at 472 Winchester St has two curb cuts on Krif Rd, which are approximately 120' and 200' from the intersection with Winchester St. Only one of these curb cuts, meets the separation distances required in the district intent statement for Commerce Limited. The curb cut on Winchester St is nearly 500' from the nearest private curb cut in the Commerce Limited District, which is a shared driveway for Dead River Oil (452 Winchester St) and the Keene Mitsubishi Dealership (446 Winchester St).

City water and sewer are required for parcels in the Commerce Limited District. These services are available to both subject parcels. City water and sewer service is currently connected to the building at 472 Winchester St.

District Uses:

Table 1 below highlights the differences between the permitted uses of the Industrial District and the Commerce Limited District. These two districts support a similar mix of allowed land uses with the exception of the following differences.

Uses allowed in the Industrial District, which are not allowed in Commerce Limited, include:

- Asphalt plant, smelter, forge, tannery, explosive manufacturing
- Bulk storage & distribution of flammable materials
- College
- Historic site open to the public
- Institutional use
- Recycling plant

The Petitioner contends that many of these industrial/intensive uses listed above would not be suitable along NH Route 10, which serves as a gateway corridor into Keene, nor would they be suitable at the subject sites due to their highly visible presence along this corridor. The Petitioner notes that the subject sites would be better suited for the Commerce Limited District, which allows for a greater mix of commercial uses than the Industrial District.

Uses that are allowed in the Commerce Limited District and are not permitted in the Industrial District are listed below.

- Funeral parlor
- Greenhouse or nursery
- Motor vehicle dealership
- Office
- Parking area (lot)
- Private club, lodge, or fraternal activity where primary function is indoors
- Restaurant
- Retail sales/services

Table 1. Permitted Uses by Zoning District (P=Permitted, SE= Special Exception, - = Not Permitted)		
Permitted Use	Industrial	Commerce Limited
Asphalt plant, smelter, forge, tannery, brewery, rendering plant, explosives manufacturing	SE	-
Assembling	P	P
Bulk storage and distribution, excluding flammable materials	P	P
Bulk storage and distribution of goods, including flammable materials	P	-

College: undergraduate, graduate & industrial training programs	Access must be no more than one street removed from a state highway or arterial street; any one institution may occupy no more than 12,000 gfa; limited to institutions that have received permission to grant degrees by the state legislature; excludes residential facilities	-
Funeral parlor	-	P
Garage, business	P	P
Greenhouse or nursery	-	P
Health and fitness center	SE required for all outdoor activities	SE required for all outdoor activities
Historic site open to the public	P	-
Home offices of insurance companies, publishing companies, and manufacturing firms, including incidental warehousing, wholesaling, or retailing	P	P (<i>Would be permitted as Office</i>)
Institutional use	SE	-
Manufacturing	P	P
Motor vehicle dealership	-	No outside storage of dismantled vehicles or vehicle parts between building line & street. All outside storage must be screened from any adjacent residential use by a min 6' high fence, hedge or other impervious buffer along internal lot lines, which separate such use from adjacent residential use. No display or storage within 10' of a curb/curbline.
Motor vehicle repair garage, paint shop	No outside storage of dismantled vehicles or vehicle parts in the front yard area; All outside storage, except of registered vehicles with no more than minor damage, must be screened from view by a min 6' high impervious fence or hedge or similar buffer along internal lot lines.	See division 10 of article V of this Chapter pertaining to filling stations, service stations, repair garages, paint shops, vehicle body shops.
Noncommercial outdoor recreational activity	P	P
Nursery or child care facility	SE	P
Office	-	P
Offices for corporate, business or professional purposes provided that an office building occupied by a single office entity must be a minimum of 10,000 square feet in size. A building that includes one or more occupants which is primarily office in nature must be a minimum of 20,000 square feet in size, and each other entity occupying space in the building must be a minimum of 5,000 square feet in size	SE (...The applicant must prove that the office use is a nonretail office that will not have customers/clients entering and leaving in large numbers during business hours...)	P (<i>Would be permitted as Office</i>)
Parking area (Lot)	-	P

Private club, lodge, or fraternal activity where primary function is indoors	-	P
Processing	P	P
Research and development	P	P
Recycling plant	Visual screening shall be required for all outside storage.	-
Restaurant	-	P
Retail sales / services	-	P
Storage facility, self-service	SE (Outdoor storage is prohibited)	P (Outdoor storage is prohibited)
Warehousing	P	P
Wholesaling	P	P

Dimensional Requirements:

Table 2 below highlights the dimensional regulations required for the Industrial District and the Commerce Limited District. While the districts have some similar dimensional standards (e.g. height and minimum rear setback), there are significant differences of note.

Where the Industrial District has no requirement for minimum lot size, the Commerce Limited District requires a minimum lot size of 20,000 sf. However, both subject parcels are far greater in size than this 20,000 sf minimum. 472 Winchester St is 154,202 sf (3.54 acres) and 0 Krif Rd is 167,270 sf (3.84 acres).

The Commerce Limited District requires a 100-foot minimum front building setback, whereas the Industrial District only requires a 20-foot front setback. The existing building at 472 Winchester St appears to be situated roughly 70-feet from the front property line, and would not be in conformance with the Commerce Limited District’s front setback requirement. However, there are a number of properties in the Commerce Limited District that appear to have buildings located within this 100-foot front setback.

The Commerce Limited District requires a minimum road frontage of 100-feet, compared to the Industrial District, which requires a minimum of 50-feet. The parcel at 472 Winchester St has 255-feet of road frontage on Winchester St; however, the parcel at 0 Krif Rd only has 50-feet of road frontage. All of the parcels currently located in the Commerce Limited District has over 100-feet of road frontage.

The Industrial District limits the amount of impervious lot coverage to 80%, and allows for up to 80% of the lot to be covered with structures. The Commerce Limited District limits impervious lot coverage to 70%, and allows for up to 40% of the lot to be occupied by structures. The subject parcels appear to be conforming with the lot coverage standards for both districts; however, the parcel at 472 Winchester St appears to be very close to reaching the maximum impervious lot coverage of 70%.

Dimensional Standard	Industrial	Commerce Limited
Max building height	2 stories	2 stories
Max building height	35-feet (b)	35-feet
Min Lot Area	None	20,000 sf
Min lot width at building line	None	100-feet
Min front setback	20-feet	100-feet
Min rear setback	20-feet (d)	20-feet (d)

Min side setback	15-feet	20-feet
Max % of lot occupied by structures	80%	40%
Max % of lot covered by impermeable material	80%	70%
Min % of green/open space	None specified	30%
Min front setback of paved & unpaved parking & travel surfaces	None	(m)
Min side setback of paved & unpaved parking & travel surfaces	None	(m)
Min rear setback of paved & unpaved parking & travel surfaces	None	(m)
Required frontage	50-feet	100-feet
<i>(b) may be increased to 3.5 stories with a Special Exception</i> <i>(d) 50-feet, if it abuts a residential zone.</i> <i>(m) The setbacks for paved and unpaved parking and travel surfaces are as shown in division 4 of article VI of Chapter 102 and vary depending on the size of the parking lot.</i>		

Keene Master Plan Consistency

The proposed rezoning appears to be consistent with the 2010 Comprehensive Master Plan’s land use goals for this area of the City in that it maintains the opportunity for industrial land uses to occur on the subject parcels; while, expanding the types of land uses that would be permissible on these sites. The Comprehensive Master Plan identifies the area of the subject parcels and the Commerce Limited District as the “South of 101 Strategic Planning Area.” The Master Plan states that *“this area should receive a high level of planning and focus as it is an economic redevelopment area for commercial, manufacturing and industrial uses. Focus on the provision of high-quality, living-wage industries should prevail over expansion of low-wage retail and service development. The city and community should explore ways to create a mixed-use area for these industries, in conjunction with managing appropriate access and providing community connections via sidewalk, pathways, bridges and trails north towards downtown and south towards other regional trails or bicycle routes...Balancing development of this area with natural environmental features is also a high priority.”*

In addition, the Comprehensive Master Plan identifies Winchester St as a major corridor to the Downtown as well as a Regional Gateway. Objectives for these major corridors include improving traffic flow and their visual appearance. It also states the importance of providing convenient access to markets within and outside of the region through the preservation of regional gateways such as Winchester St. The Plan encourages the promotion and recruitment of industry that can build the City’s manufacturing base and industrial economy, in the area of Winchester St that is south of NH Route 101 and north of the Swanzeey townline.

The City is proposing a project for this area of Winchester St in the Fiscal Year 2021-2027 Capital Improvement Program (CIP) for construction in Fiscal Years 2025 and 2026. The CIP notes that this gateway has not been upgraded in over 30 years. The project proposes improvements to the eight intersections, reconfiguration of traffic lanes to improve traffic flow and the construction of sidewalks / improved bicycle facilities along the corridor between the Swanzeey Town Line and the roundabout at NH Route 101. In addition, there would be landscaping improvements to highlight the business corridor and the Winchester St bridge over Ash Swamp Brook would also be replaced as part of this project.

The proposed zoning change would not reduce the available land area for industrial activity/development, as the Commerce Limited District would continue allow for these types of uses, with the exception of more heavy industrial activities such as asphalt and recycling plants. This proposed amendment would not only preserve the opportunity for these subject parcels to be used for industrial uses, such as manufacturing, it would also expand/diversify the options for how these parcels could be used without compromising the surrounding land area.

As noted earlier in this staff report, the two subject parcels are located entirely within the 100-Year Floodplain and a portion of each site is within the floodway. Regardless of what zoning district the subject parcels are located within, any future development on the sites or substantial modifications to the existing buildings would be subject to the City's Floodplain Ordinance. The Floodplain Ordinance establishes standards for floodproofing structures and compensatory mitigation within the Floodplain and imposes restrictions on what can be developed in the floodway area of the Floodplain.

Recommendation:

Planning Board:

Recommend the Planning Board find proposed Ordinance 0-2020-04 consistent with the Community Goals and Master Plan.

Planning, License and Development Committee:

Recommend that the Mayor set a public hearing date.



APPLICATION TO AMEND THE ZONING MAP

Petitioner AMERCO Real Estate Company Date February 24, 2020

Address 499 Montgomery Street Chicopee, MA 01020

Telephone (603) 762-5535 Property Owner Clark Reality LTD. Partnership

0 Krif Road & 472 Winchester Street, Keene, NH 03431

Location of Property to be Rezoned (Tax Map 115, Lots 19 & 20)

Approximate Acreage 7.38 Present Zoning District I Proposed Zoning District CL

Validation of parcel ID# by
the Assessing Department

Assessing Department Staff

Michael Vain
Petitioner's Signature

Submittal Requirements, which must be complete at the time of submission to the City Clerk.

- A properly drafted Ordinance containing the full description of the property to be rezoned and the proposed amendment along with a typed or neatly printed narrative explaining the purpose of, effect of, and justification for the proposed change(s).
- A notarized list of property owners/agents within the boundary of the area or areas proposed for rezoning as well as the names of all abutters of the property. This list shall include the tax map number and address of each abutter and owner, and must be current with the Assessing Department's records within ten days of submittal. The list shall also include the name of any agent who should receive notice. Two sets of mailing labels shall be provided.
- Three maps showing the boundary of the area or areas to be changed, one at 8 1/2" x 11" and two at City tax map scale (24" x 36").
- \$100.00 application fee plus an additional \$10.00 per acre or lot for a total sum not to exceed \$500.00 as well as the publication and postage fees identified below. Check made payable to City of Keene.

Ordinance Number 0-2020-04 Date Received by City Clerk 3/2/2020

Application Fee @ \$100.00		\$ <u>100.00</u>
Area Fee @ \$10/00 per acre	(7.38 x \$10 = \$73.80)	\$ <u>73.80</u>
Publication of Notice in <u>The Keene Sentinel</u> @ \$90.00		\$ <u>90.00</u>
Postage Fees for property owners/ agents and abutters. Total # of notices <u>23</u> @ .50		\$ <u>11.50</u> (Total = \$275.30)

The petitioner is also responsible for the publication costs for the public workshop before the joint Planning Board and Planning, Licenses and Development Committee. Additional costs will be collected by the Planning Department for the mailing costs associated with the public workshop as well as the publication of the public workshop notice.

K://Council/Forms/1/Application_Amend_Zoning_Map.doc



PROPOSED ZONING MAP AMENDMENT

TAX MAP 115 LOTS 19 & 20, 472 WINCHESTER STREET

1 inch = 400 Feet



February 18, 2020



Street Names	Railroad	Railroad	Roadway	RURAL
PWater	Water	Right of Ways	COMMERCE LTD.	CONSERVATION
Property Line	Property Line	Water-poly	LOW DENSITY	AGRICULTURE
Public Road	Public Road	Edge Of Street	INDUSTRIAL	ZONING CHANGE

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CITY OF KEENE

O-2020-04

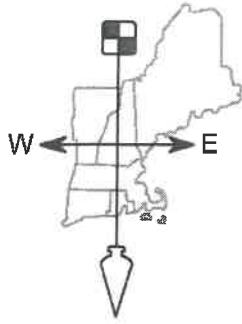
In the Year of Our Lord Two Thousand andTwenty.....

AN ORDINANCERelating to Zone Change – 0 Krif Road and 472 Winchester Street.....

Be it ordained by the City Council of the City of Keene, as follows:

That the Zoning Map of the City of Keene, as amended, is hereby further amended by changing the zoning designation of Tax Map Parcels 115-19-000 and 115-20-000, known as 0 Krif Road and 472 Winchester Street respectfully, from Industrial to Commerce Limited.

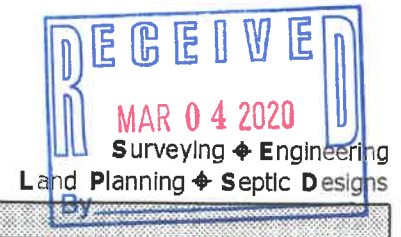
George H. Hansel, Mayor



FIELDSTONE

LAND CONSULTANTS, PLLC

206 Elm Street, Milford, NH 03055 - Phone: 603-672-5456 - Fax: 603-413-5456
www.FieldstoneLandConsultants.com



APPLICATION TO AMEND THE ZONING MAP

Tax Map Parcels 115-19-000 & 115-20-000

0 Krif Road & 472 Winchester Street – Keene, NH

February 24, 2020

Prepared For:

AMERCO Real Estate Company

Narrative:

This Ordinance proposes to amend the Zoning Map designation for Tax Map Parcel 115-19-000 and Tax Map Parcel 115-20-000 from Industrial (I) to Commerce Limited (CL). Both of these properties are owned by Clark Reality Limited Partnership. Tax Map Parcel 115-19-000 has an address of 0 Krif Road and is comprised of approximately 3.84 acres. Tax Map Parcel 115-20-000 has an address of 472 Winchester Street and is comprised of approximately 3.54 acres.

The properties together are situated along Winchester Street (NH Route 10) and they have been on the market for years. Some of the issues with marketing the site have been the use restrictions due to the current zoning of the property. Currently the Industrial Zone does not allow for retail sales, retail services, restaurants, motor vehicle dealerships, parking area (lot), greenhouse or nursery or funeral parlor. Many of these uses are prevalent along this section Winchester Street.

When you compare the Commercial Limited zones permitted uses to the Industrial zone there are many similarities. The Commerce Limited zone includes nearly all of the permitted uses outlined in the Industrial zone with the exception of asphalt plant, smelter, forge, tannery, explosives manufacturing, college, historic site open to the public, home office of insurance companies, publishing companies, institutional use and recycling plants. Many of these uses simply would not be suitable for the subject site given its location, its highly visible presence along Winchester Street and the existing improvements to the site.

When you consider the properties presence along Winchester Street and the objectives and goals of the City's Comprehensive Master Plan (CMP) we believe the subject properties would better serve the community if they were zoned Commerce Limited. The Comprehensive Master Plan clearly identifies Winchester Street as a key Gateway Corridor. We believe the permitted uses outlined in the Commerce Limited zone are more suitable along a Gateway Corridor and would better serve the community and the land owner.

The Petitioner for this application is AMERCO Real Estate Company who is affiliated with U-Haul Moving & Storage of Keene. U-Haul Moving & Storage of Keene hopes to move their current operations at 199 Marlboro Street to the subject properties on Winchester Street. With a full service

AMERCO Real Estate Company
Tax Map Parcels 115-19-000 & 115-20-000 – Keene, NH
Application to Amend the Zoning Map

Page 2 of 2

U-Haul Moving & Storage Facility there would be retail sales and service, truck, van and trailer rentals, trailer hitch installs, climate control and conventional self-storage and U-Box rentals. Under the current Industrial Zoning this proposal would require a variance for the retail service and truck rentals and special exception for the self-storage use despite the compatible uses that are currently situated along Winchester Street. This proposed use would certainly fit in with the many car dealerships, retail shops and car and equipment rental businesses along this stretch of road. In reviewing this proposal with City Staff it was recommended that the best avenue would be to seek a rezoning for the subject properties given the location of the zoning boundaries and the surrounding uses. So under their guidance we have elected this path rather than the option of going before the Zoning Board of Adjustments to seek the required relief.

It is also worthy of noting that the current proposed City regulation changes would permit the uses proposed with this application in the Industrial District. My client unfortunately can't wait for the adoption of these proposed changes as we understand this process could be rather lengthy and their option on the property is time sensitive. With this said we wanted to mention this as we believe it speaks to the compatibility of this proposal with the surroundings, what is best for the community and with the objectives and goals that the City staff that are currently undertaking.

Draft Ordinance:

That Chapter 102, the Zoning Ordinance of the City of Keene, New Hampshire, as amended, be and hereby further amended by changing the zoning designation on the Zoning Map of the City of Keene, as adopted by the Keene City Council on December 15, 1977, as part of Chapter 102 entitled, "ZONING", of the said Ordinances, from Industrial (I) to Commerce Limited (CL), on the following parcels so that the entire parcels will designated Commerce Limited:

115-19-000	0 Krif Road
115-20-000	472 Winchester Street

This information was prepared by:
FIELDSTONE LAND CONSULTANTS, PLLC



Chad E. Branon, P.E.
Civil Engineer / Principal



PROPOSED ZONING MAP AMENDMENT

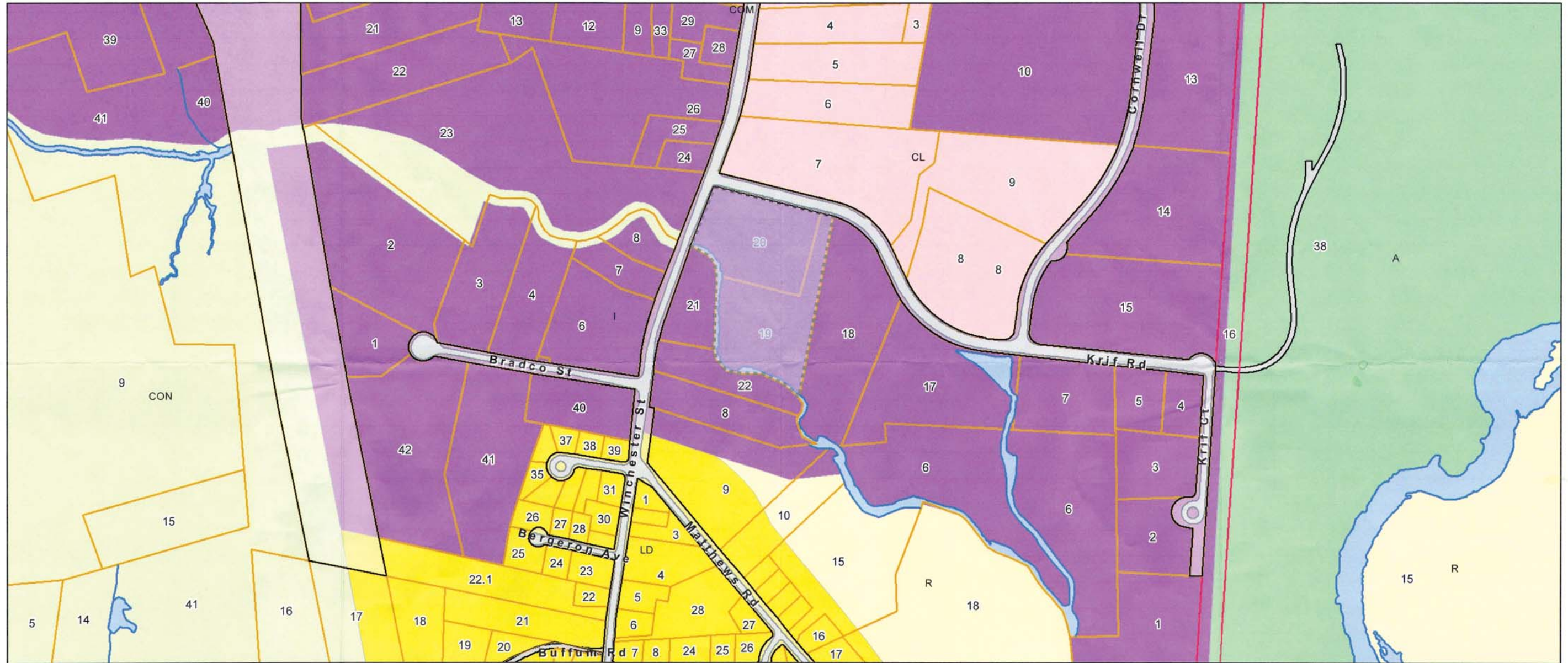
TAX MAP 115 LOTS 19 & 20, 472 WINCHESTER STREET



1 inch = 200 Feet

0 400 800 1200

February 18, 2020



Street Names	PWater	Water-poly	INDUSTRIAL
PWater	Private Road	Edge Of Street	RURAL
Private Road	Property Line	Roadway	CONSERVATION
Property Line	Public Road	COMMERCE	AGRICULTURE
Public Road	Railroad	COMMERCE LTD.	ZONING CHANGE
Railroad	Right of Ways	LOW DENSITY	

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