

City of Keene
New Hampshire

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

Monday, March 14, 2022

6:30 PM

**Council Chambers,
City Hall**

Planning Board

Members Present:

Pamela Russell Slack, Chair
David Orgaz, Vice Chair
Mayor George Hansel
Councilor Michael Remy
Emily Lavigne-Bernier
Roberta Mastrogiovanni
Armando Rangel, Alternate

Planning, Licenses &

Development Committee

Members Present:

Kate M. Bosley, Chair
Michael Giacomo
Philip M. Jones
Gladys Johnsen
Raleigh C. Ormerod

Staff Present:

Interim Community Development
Director, John Rogers
Asst. City Manager, Rebecca
Landry
Mari Brunner, Senior Planner

Planning Board

Members Not Present:

Harold Farrington
Gail Somers
Tammy Adams, Alternate

I) Roll Call

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

II) Approval of Meeting Minutes – November 8, 2021

A motion was made by Councilor Phil Jones to approve the November 8, 2021 meeting minutes. The motion was seconded Mayor George Hansel and was unanimously approved.

III) Adoption of 2022 Meeting Schedule

A motion was made by Councilor Johnsen to adopt the 2022 Joint Planning Board and Planning, Licenses, and Development Committee meeting schedule. The motion was seconded Mayor George Hansel and was unanimously approved.

IV) Public Workshop

Ordinance – O-2022-02 – Relating to Zone Change. Petitioner James Phippard, on behalf of owner Sandra R. Henry Trust, proposes to amend the Zoning Map of the City of Keene by changing the zoning designation of the property located at 19 Whitcombs Mill Rd (TMP 237-018-000-000-000) from Rural and Agriculture to Low Density 1. The total area of land that would be impacted by this request is 12.29 ac.

Mr. Jim Phippard of Brickstone Land Use Consultants addressed the Joint Committee on behalf of the owner, Sandra R. Henry Trust. He indicated the request before the Committee is to amend the zoning map. He called the Committee's attention to Whitcombs Mill Road, Arch Street (top of the page on the map) Route 9 (bottom of the page) and the Cheshire Rail Trail. In close proximity to this property is Langdon Place. The subject property lies in the Rural zone today but a corner of the property is zoned Agriculture. The proposal is to change the zoning to Low Density 1 (LD-1).

Mr. Phippard stated the reason he chose LD-1 is because this property is located on the outside fringe of City utilities and it is a vacant piece of land. He indicated if the zoning is approved, the plan is to extend the sewer line that comes into Langdon Place into this property. Because of the possibility of being able to be on City sewer, City staff suggested the LD-1 zone. The long-term goal of the applicant is to construct ten single family homes and a duplex on this site.

With respect to extending City water to this site, Mr. Phippard noted that City water does exist on Arch Street and goes up to Felt Street and loops to the north but not to the south. Mr. Phippard stated that back in the 80's when he owned this property and researched extending water to this site, the volume did not exist to be able to service this site. However, things have changed since that time – a water tower was constructed to support the Corporate Park area, which benefits all of west Keene. A hydro flow study was done on Arch Street and Wildwood Road that showed the existing water line has a pressure of 60 psi and a volume/rate of 2,900 gallon per minute, which he indicated was a good flow that is adequate fire flow for most facilities. He felt this is a big improvement compared to what existed.

However, in order to connect to water, the owner or developer would need to extend the water line from Felt Road, down Whitcombs Mill Road into the site (1,000 feet to the site drive way and 750 feet into the site). This would create 1,750 feet of dead-end water line. Mr. Phippard added the City Engineer would ask him to loop the water line. However, to do such work would be at a cost of approximately \$645,000. Mr. Phippard felt just because the pressure is adequate they should not be required to tie into the City water line that is 1,000 feet away. He felt a much larger development would be required to justify this type of expense. He indicated that if the City would pay for the cost to extend the water line, the applicant would be agreeable to that.

Mr. Phippard then went over the request to change the zoning from Rural to LD-1. The subject property is currently in the Rural zone where five acres are required for each single family dwelling. Properties in the Rural zone that are on City sewer and water can have reduced lot sizes of two acres. If the property were to be retained in the Rural zone, one option the

owner/developer could pursue would be to connect to sewer (but not water) and seek a variance from the Zoning Board of Adjustment to allow for 2-acre lots that only have access to City sewer. That would allow for six houses in all – this would justify extending the sewer line (1,500 feet of sewer at a cost of \$150,000). With LD-1, they could build 12 homes with 12 wells and City sewer. With LD-1, tying into City water is only required if it is deemed to be available.

Mr. Phippard noted the City Master Plan recommends more housing and there are several areas where it is recommended where utilities need to be expanded to accommodate more housing. With respect to traffic, according to the ITE Manual this expansion will add 114 trips per day, with nine vehicle trips during the AM peak hour and 12 vehicle trips during the PM peak hour. Mr. Phippard felt this was not a significant increase to traffic.

Mr. Phippard further stated the City required a sewer capacity analysis on Arch Street. The existing sewer lines run between 8 inches to 20 inches. It was concluded from the study the system was running at 4% capacity and adding 26 homes that number would increase to 8%.

The change to LD-1 reduces the number of uses compared to the permitted uses in a Rural District. LD-1 anticipates where there is access to sewer but not necessarily City water. He felt LD-1 was the best use of this property and there is a current need for housing in this area. This concluded Mr. Phippard's presentation.

Councilor Remy asked why the applicant would not consider 26 homes at a cost of \$645,000, 14 additional homes at that price would be a good investment. Mr. Phippard stated part of the reason is the land area. He referred to an existing conditional survey map. There are about 1.8 acres in the center of this site that are jurisdictional wetlands. To construct 26 homes in the LD-1 zone, you will only still be allowed single-family homes or duplexes, and there isn't space for 26. He referred to a concept plan with 12 homes – with this plan there is not that much land left over. He added they would like to construct this as a Conservation Residential Development (CRD) – with designated open spaces and 12 homes which can then be sold; creating 26 homes would be difficult in this area.

Chair Bosley noted their discussion is not about what the applicant would like to construct. The Committee is looking at whether it would make sense to change the zoning to LD-1. She added LD-1 would not preclude the applicant from constructing 26 homes as long as they ran City water. She felt in her opinion because the water is located so far away the connection will not be easy and hence a change to LD-1 which requires sewer connection would be the better option.

Councilor Johnsen asked whether a well would be required because there will not be connection to City water. Mr. Phippard stated there would at least need to be one well constructed, or it could be a well for each unit and these wells would be owned by the property owners.

Councilor Giacomo stated he likes the idea of more housing and felt this would be great location for housing. He stated his concern is if this site is turned to LD-1 there would be spot zoning and this area would not be connected to any other LD-1 zone. Mayor Hansel in response stated he used to live in the only other LD-1 property which is close to this site which also used to be a gravel pit. The Mayor added he always felt LD-1 was a good option to add density to areas such

as this. He noted the only other LD-1 parcel is similar to the one before the committee today. Councilor Giacomo asked in an effort not to create spot zoning whether there would be an opportunity to talk to other property owners who currently connect to LD-1 to the north. Chair Bosley felt this conversation needs to be pursued with staff. She further noted her understanding of LD-1 is that it is a sub category of Low Density with the only difference being that water is unavailable and therefore this district was created for lots such as this.

Councilor Jones asked whether this parcel would not be affected by the Surface Water Ordinance which exists in this area because of White Brook. Mr. Phippard stated the Surface Water Ordinance requires a 30-foot buffer in the Rural Zone. John Rogers, the Interim Community Development Director, noted the buffer is 75 feet.

Councilor Johnsen asked with respect to the wells, whether one well company would be responsible for digging all the wells. Mr. Phippard stated once the property is sold it would be up to the developer how they want to develop this property.

Chair Russell Slack asked how Mr. Phippard came up with the traffic number based on 12 homes and each home having at least two vehicles. Mr. Phippard stated that according to the most recent ITE Manual for single and two family homes, it is no longer 10 trips per day rather that number has been reduced to a little less than 9 trips per day for a total of 114 vehicle trips per day. For peak hour it was 9 additional AM trips and 12 for the PM peak hour.

Senior Planner Mari Brunner addressed the Board next. Ms. Brunner stated this Ordinance proposes to amend the official Zoning Map of the City of Keene by changing the zoning of one specific parcel of land located at 19 Whitcombs Mill Road from the Rural District (a small corner is in the Agricultural District) to LD-1. She noted in the rezoning decision, the Board should not consider the Petitioner's intended use of property, but rather consider all the potential uses allowed in the district.

She went on to say the Committee should also be looking at the consistency of the proposed rezoning request with the Master Plan, existing and proposed zoning requirements, the surrounding land use and zoning patterns, and possible resulting impacts.

She noted the subject property has access to City sewer via an easement on the Langdon Place of Keene property located at 136 Arch Street and, if the applicant chooses to develop the site, extending the sewer line to the property would be at the expense of the land owner.

Ms. Brunner then addressed the topic of Master Plan Consistency.

Community Vision: Within the Community Vision section of the Master Plan, the focus area "A Quality Built Environment" is what relates most closely to this rezoning request. This item addresses the need to provide quality housing and balance growth and the provision of infrastructure. This area of the City does have access to City sewer, which would be required for LD-1. This site could have access to City water if the developer chooses to pay to extend service, at their own expense. The proposed zoning change would provide the opportunity for more housing in that it would increase the number of dwelling units that would be allowed on this lot.

Under the current zoning for a conventional subdivision, a property owner can fit two units, but perhaps with a CRD that number could be increased to three units. Under the proposed zoning it can be 12 units and if City water is extended that number could be increased to 26 units (theoretically). With respect to road and bridge infrastructure, while this site has access from both Arch Street and NH Route 9 for light duty vehicles, heavy duty vehicles such as fire trucks and school buses would need to access the site from Route 9 due to the weight limits on the 1-lane bridge over White Brook.

With respect to the Future Land Use Plan, this property is located in an area that is identified within the Future Land Use Map as being on the edge between a “Conservation Residential Development /Rural / Low Density Residential / Agriculture” (CRD) Area, and a “Secondary Growth Area/Low-Medium Density Residential” Area. Ms. Brunner noted that the CRD category includes areas for continued preservation of open space, agriculture, and rural residential uses, whereas the secondary growth area is identified as consisting of single-family, low- to medium-density development. The proposed zoning change would allow for single-family development, or if the land is developed as a CRD subdivision, it could be developed as single-family or two family homes.

With respect to the Housing Chapter of the Master Plan, this item identified a need for housing as a “*fundamental challenge for the community as costs of community services continue to increase and Keene’s reliance on property taxes places a growing financial burden on its residents and businesses.*” The Housing Chapter discusses the importance of providing a balanced and diverse housing stock. In keeping with the Master Plan this zoning change would create more housing opportunities.

Chair Russell Slack asked who was responsible for repair to the bridge. Ms. Brunner stated her understanding is that it is a City of Keene’s bridge and would be the City’s responsibility. The Chair asked staff to get more information on the age of this bridge and the last time it was repaired. She further stated she is in favor of housing but what she is not seeing is opportunities for workforce housing which is needed throughout the State.

Ms. Brunner next addressed the intent of the existing and proposed Zoning Districts. The current zoning is Rural and the intent of the Rural District is to provide for areas of very low density development, predominantly of a residential or agricultural nature. These areas are generally outside of the valley floor, beyond where city water, sewer and other city services can be readily supplied. The proposed zoning is LD-1 which is intended to provide for low intensity residential development, which is primarily detached single-family dwellings on lots of 1-acre or larger in areas on the outer edge of available city water and sewer service. All uses in this district shall have City sewer. City water is required if sufficient volume and pressure is available as determined by the Public Works Department. Staff feels this proposed change is consistent with the intent of the LD-1 Zoning District, as the parcel has access to City sewer.

With respect to uses, this change would create less opportunity for the types of uses that could occur. She called the Committee’s attention to the permitted uses in the LD-1 District, which are residential only (including small group homes). She also called the Committee’s attention those principal uses allowed in the Rural and/or Agriculture District, which are not allowed in Low

Density 1, such as Bed and Breakfast, Event Venue, Greenhouse/Nursery, Kennel, Recreation/Entertainment Facility – Outdoor, Cemetery, Farming, Golf Course, and Gravel Pit.

With respect to Dimensional Requirements Ms. Brunner stated under the Rural District the minimum lot size is five acres but for LD-1 the lot size drops to one acre for parcels that only have access to City sewer, and hence a higher density will be permitted.

Ms. Brunner noted that, from a visual perspective, the proposed change could be seen as spot zoning – in other words, one area of LD-1 surrounded by other zones (Rural on three sides and Agriculture on one side). Ms. Brunner stated however, in staff's opinion this wouldn't be considered spot zoning as it fits the intent of the district the applicant is proposing to change it to. The intent of LD-1 District is provide opportunity for residential development on the outer edge of available City water and sewer. Her understanding is that the LD-1 District was created specifically for lots like this one that could connect to City sewer and possibly City water, but are on the edge of the City's sewer and water infrastructure. However, this proposed change could result in a relatively large increase in the density of development that would be allowed in this area of the City.

The other impact to consider would be to traffic. The one-lane bridge would limit access for emergency vehicles and other large vehicles' access to the site.

Chair Bosley noted there is no signage on this bridge and asked when it would be prudent to perhaps locate a "Yield" sign on one side of the bridge. Ms. Brunner stated this would be a determination made by Public Works and is an item that could come up at the Planning Board at its review if and when development is proposed on this site.

Asst. City Manager Rebecca Landry noted the CIP on page 83 does have information regarding this bridge. It is on the City's Red List for Bridges at #8 (not the worst) and could be eligible for grant funding from the State. Chair Russell Slack stated she is glad to hear it is not considered to be the worst but adding 114 more vehicle trips on this bridge is of concern to her.

Councilor Jones stated his concern with traffic is at the intersection of Whitcombs Mill Road and Route 9 which is now going to have too many left turns. He also noted Whitcombs Mill Road to the bridge is now a dead end street because of truck access and asked whether this extends past the City's dead end limit. Ms. Brunner stated it probably wouldn't be considered a dead-end street under City Code because it does connect to Arch Street, however, she does understand the Councilor's point as it relates to heavy trucks not being able to go over the bridge. The Councilor noted it is referred to as a dead-end street if fire apparatus can't get over a road and that would be the case with the bridge access. Ms. Brunner stated that, when this application eventually goes before the Planning Board, this is something that would be reviewed by the Fire Department.

Councilor Johnsen asked about flooding issues in this area. Ms. Brunner stated a small piece of this site is in the floodplain and referred the question to Mr. Phippard. Mr. Phippard referred to a very small sliver of land which is located in the flood plain; 99% of the property is above the 100-year flood plain.

Chair Bosley asked about the availability of water and added LD-1 for this site makes sense to her but not low density. Mr. Rogers stated in his role as also the Zoning Administrator he would be looking for the Public Works Director to make the determination of the availability of water and the proximity of this site to water.

The Chair asked for public comment.

Mr. Phippard referred to page 8 of the Staff Report and referred to those lots located on the south side of Arch Street, starting at lot 10 through lot 36 – these lots are all less than five acres in size and even though they are in the Rural zone they are considered to be non-conforming due to lot size. He indicated these lots are most likely on City water as City water runs right in front of these lots. He noted these lots don't reflect the character of the zone they are located in and felt they would fit better in LD or LD-1. Mr. Rogers indicated these types of density factors are being reviewed by the City.

Councilor Giacomo stated he is in approval of this project.

Councilor Jones felt anything but LD-1 would not be enticing for this site because of the water issue. He further stated if the City wanted to address its housing needs, LD-1 was the best option.

A motion was made by Mayor George Hansel that the Planning Board find the proposed Ordinance O-2022-02 consistent with the Community Goals and Master Plan. The motion was seconded by Councilor Michael Remy and was unanimously approved.

A motion was made by PLD Chair Kate Bosley that the Planning Licenses and Development Committee request that the Mayor set a public hearing on this item. The motion was seconded by Councilor Phil Jones and was unanimously approved.

V) Update on the Land Development Code

Economic Development Director Med Kopczynski was the next to addressed Committee. Mr. Kopczynski stated completion of the Land Development Code was an important step for the City. He explained what was done is a revision of the Central Business District and a reorganization. Mr. Kopczynski stated what staff is proposing at this time is to move forward with the two Economic Development Plans accepted by the City Council. This is also consistent with the outcome of the Strategic Governance exercise the Council just completed. He noted staff is not looking for any action today, this is just an update of what staff is proposing to do going forward, also because of some glitches identified in the Code. What staff is also noticing in the Code is some minor language changes which would make the Code clearer.

Staff plans on bringing back an amendment to the Code in about six months addressing the glitches that have been identified. Mr. Kopczynski talked about the transition districts which were not addressed at the time of the Code update; Blake Street and Grove Street areas. This item will be brought forward to the Joint Committee in July with a possible filing of an amendment to the Code in September.

Mr. Kopczynski then introduced new Planner Evan Clements to the Joint Committee.

Mr. Kopczynski went on with his presentation – he indicated staff has identified districts based on the current lot size requirements which likely could be changed to permit additional units. The districts are High Density, Medium Density and Rural.

With respect to CRD the premise is to leave much of the land area in open space and concentrate the density. CRD doesn't always allow for duplexes or multi-family units and this is something staff will be looking into. Chair Russell Slack asked whether Accessory Dwelling Units factor in here somewhere. Mr. Kopczynski stated this is an allowed use in any district that allows single family. Another discussion that might be undertaken is whether multi-family homes could be permitted in the Commerce District.

PLD Chair Bosley felt keeping the Code updated is an important task for the City.

VI) Next Meeting – April 11, 2022

VII) Adjourn

There being no further business, PLD Chair Bosley adjourned the meeting at 7:52 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by,
Mari Brunner, Senior Planner