

**City of Keene**  
**New Hampshire**

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

**Monday, March 11, 2024**

**6:30 PM**

**Council Chambers,  
City Hall**

**Planning Board**

**Members Present:**

Harold Farrington, Chair  
Roberta Mastrogiovanni, Vice Chair  
Mayor Jay V. Kahn  
Councilor Michael Remy  
Sarah Vezzani  
Armando Rangel  
Ryan Clancy  
Kenneth Kost  
Michael Hoefler, Alternate  
Randyn Markelon, Alternate

**Planning Board**

**Members Not Present:**

Gail Somers, Alternate  
Tammy Adams, Alternate

**Planning, Licenses &  
Development Committee**

**Members Present:**

Kate M. Bosley, Chair  
Philip M. Jones, Vice Chair  
Raleigh C. Ormerod  
Robert C. Williams  
Edward J. Haas

**Planning, Licenses &  
Development Committee**

**Members Not Present:**

*All Present*

**Staff Present:**

Jesse Rounds, AICP, Community  
Development Director  
Evan J. Clements, AICP, Planner

**I) Roll Call**

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

**II) Approval of Meeting Minutes – January 8, 2024**

A motion was made by Councilor Jones that the Joint Committee approve the January 8, 2024 meeting minutes. The motion was approved by Councilor Ormerod and was unanimously approved.

**III) Public Workshops**

- a) **Ordinance – O-2023-16A – Relating to permitted uses in the Downtown Core, Downtown Growth, and Commerce Districts. Petitioner, City of Keene Community Development Department, proposes to amend Section 8.3.2 of Article 8 of the Land Development Code (LDC) to add a definition for “Charitable Gaming Facility” and amend Table 8-1, Table 4-1, and Table 5.1.5 to display “Charitable Gaming Facility” as a permitted use in the Downtown Growth District and Commerce District. In addition, the petitioner proposes to amend Section 8.4.2.C.2.a of Article 8 of the LDC to remove drive-through uses as a permitted use by Special Exception in the Downtown Core District.**

Community Development Director Jesse Rounds addressed the committee first. Mr. Rounds referred to language staff had proposed for Charitable Gaming Facilities when they came before the committee the last time. The Council felt more needed to be done on this item and hence the reason it is back before Joint Committee tonight. Staff, however, does not feel there is a reason to change the drive thru question but are open to discussion on that item as well. He went on to say at the time this item was proposed staff had suggested that this use only be confined to Downtown Growth and Commerce. The reason for that is Keene already had a casino in Downtown Growth and has had a casino in Commerce in the past.

Councilor Bosley stated there was a public hearing held on this item and Council also had the opportunity to talk to the lottery commission. She noted there are many licenses involved with this use and many are co-dependent on each other. Some have moratorium placed on them by the state. The Councilor noted the licenses offer different opportunities for these uses to be profitable or not and the experience dictate that these facilities never get smaller. Council was very focused on new potential licensees but what they became aware of is that the City already has a licensee who is operating in the community. Councilor Bosley stated she did not feel there was too much attention given to where a 20,000 square foot gaming facility would operate in Keene. She noted that if another license is never issued by the state there is already a facility in Keene who have expressed an interest in growing. The Councilor stated the direction she would like the Planning Board and staff to consider is what the best zoning for a larger facility such as this as well as the use standards tied to a use such as this.

Mr. Clancy asked why the Downtown Growth (eastern portion) was allowed in seek an exemption, even though it abuts neighborhoods to locate this type of use. Mr. Rounds stated the idea is because the existing casino is located in Downtown Growth, he felt it would be bad policy to make it a non-conforming use from day one. Downtown Growth is also for growing uses, larger uses and this is going to be a growing use.

Mayor Kahn clarified an existing use in Downtown Growth will be grandfathered. Mr. Rounds agreed and the City’s regulations allows it to grow as well. The Mayor felt the area the committee could come to some agreement is the commercial zone which has compatible features that can go along with this use.

Councilor Ormerod stated he was amenable to that suggestion because the Downtown Growth could incorporate many different uses which are more consistent with the Downtown Growth area. He felt charitable gaming facility that expands to fill its space may not be for many within their vision. He left space should be reserved for things that might be within the master plan.

Mr. Kost stated the last time this item was discussed the definition of Downtown Growth was referred to – “...*new construction and infill that complement the walkable urban form of Keene’s downtown* - the intent of it is to be the next downtown. The commercial area has a lot of empty storefronts, many parking lots that could be built on, there is plenty of room for this type of use. Mr. Kost felt Downtown Growth has huge potential for much higher uses for the City.

Councilor Haas noted there is also the overlap of the Historic District into Downtown Growth which could further complicate things.

Councilor Williams stated he is in agreement with everything that has been said and his concern about locating this use in Downtown Growth is because of the conflict with residential uses; no one wants to live next to a casino nor is it good for neighborhood to be in walk distance to a casino which is a good way to create poverty and would have concerns about locating one of these uses in east Keene. He felt along Route 101 or the Target shopping complex might be a better location but would not like to see it in the Downtown Growth District.

Councilor Bosley stated she too is not comfortable with locating this use in the Downtown Growth district and hearing Mr. Clancy’s testimony and having the maps indicate this area abuts residential neighborhoods. The Councilor referred to the area on Optical Avenue in the industrial zone and asked whether there was anything that would prohibit this use from locating in that area. Mr. Rounds stated industrial park is one of the city’s limited areas but noted that is the point of this discussion; because of the uses that already exist here it could be difficult but added what is outlined as uses is just a guide. Mr. Clements noted to the uses that are allowed in the industrial district; office as a commercial use, research and development, daycare as institutional, industrial uses, light industrial and data center, open space for conservation, infrastructure such as small, medium and large scale solar and telecom. This area has a four acre minimum zoning, but relatively favorable build out and impervious surface at 25% building coverage and 70% impervious.

Mr. Clements went on to say the purpose of the industrial park reads as follows: *The Industrial Park District is intended to provide for relatively low intensity manufacturing and research and development firms that are employee intensive, clean and nature and promote and attractive industrial park environment. Service operations and sales activities are excluded from this district except for minor sales that may be accessory to the primary use.*

Mr. Clancy stated while the city is looking at the master plan and zoning as whole it is important to look for this discussion; industrial versus commerce and whether there is a benefit to actually having industrial zones.

Mr. Kost stated there is a lot of land in commerce that is not used. However, with respect to industrial, if Keene starts to attract more manufacturing and high tech there is not much land with good access available.

Chair Farrington asked what comparable cities in New Hampshire are doing in positioning these types of uses. Mr. Rounds stated there is not much consistency – some are locating them downtown, some are moving them to the edge (highway based development). Keene has

discussed use standards to be able to limit areas which a lot of communities are doing as commerce is peppered throughout the community. He added his concern with the parking lot discussion when you activate those parking lots in the evening and co-locate in an area like Target with a casino on weekends you have a perfect storm of everyone being there all at once. This does not mean a very large parking lot could not handle that type of traffic but felt this is a conflict the committee should think about as they move forward.

Councilor Jones stated when Mr. Rounds was referring to the commerce activity it reminded him of nodes, village type commercial activity and agreed we don't want this activity in those places. He added he felt those nodes should have its own zoning.

Ms. Mastrogiovanni stated she agrees in locating these gaming facilities away from neighborhoods and more into commercial areas but not infringing on other commercial uses. She noted however, if there is a 20,000 square foot gaming facility in the city it will bring in a lot of business throughout the city and could be a benefit to the city.

Chair Bosley in response stated most casino operators don't want their patrons to leave their site and would often have all the uses their patrons need on their own site. She indicated there are some very small nuances the council is just learning about when it comes to casinos and what some of the unintended consequences are when it comes to casinos. She indicated she would be open to staff bringing back a draft with appropriate use standards to keep these out of those pocket commerce nodes or to accompany it with a potential new ordinance that redefines those nodes into their own district. She stated she would also like to see what staff think would be appropriate for use standards for this type of use.

The Chair invited public comment next. He reminded the public this is not a formal public hearing but a workshop.

Mr. Peter Hansel of Bradford Road addressed the committee and stated he liked the discussion taking place on this topic tonight. Mr. Hansel stated he likes the idea of looking at all the downtown zones as something special and is not an area where a gaming facility should be located and encouraged moving forward in that direction.

With no further comment the Chair closed the public hearing

A motion was made Councilor Remy to continue this public hearing giving time for staff to come back with a draft that aligns with what has been discussed this evening and avoiding the commerce districts that are located in neighborhood nodes as well as use standards for gaming facilities.

The motion was seconded by Councilor Jones.

Councilor Haas stated he would like to emphasize that use standards need to be applied to any new occupancy that is considered in the city.

Mr. Clancy stated he wanted to hi-lite Councilor Bosley's comment about parking. He stated when we look at parking and the time frame as to how long they stay in a parking spot

downtown isn't the best argument in determining proposals or what businesses are allowed. He felt downtown is the heart of this community and people should be allowed to enjoy the community and the city can't dictate how they use their time in the community. He did not feel this use belonged in any downtown zone.

The motion made by Councilor Remy was unanimously approved.

- b) Ordinance - O-2024-01 – Relating to amendments to the City of Keene Land Development Code – Zoning Regulations – Cottage Court Overlay District Conditional Use Permit. Petitioner, City of Keene Community Development Department, proposes to amend sections of Chapter 100, the Land Development Code (LDC), of the City Code of Ordinances to add a new Article 17 “Cottage Court Overlay District Conditional Use Permit”; Amend Article 3 to allow “Dwelling, Two-Family,” “Neighborhood Grocery Store,” “Office,” “Restaurant,” “Retail Establishment, Light,” “Day Care Center,” and “Community Garden” as allowed uses with a Cottage Court Overlay (CCO) conditional use permit in all residential districts in Article 3, and that Tables 3.1.5, 3.2.5, 3.3.5, 3.4.5, 3.5.5, 3.6.5, 3.7.5, and 8-1 be updated to reflect this change; Amend Article 3 to allow “Dwelling, Two-Family” and “Dwelling, Above Ground Floor” as allowed uses with a CCO conditional use permit in the Rural, Residential Preservation, Low Density 1, and Low Density districts, and that Tables 3.1.5, 3.2.5, 3.3.5, 3.4.5, and 8-1 be updated to reflect this change; Amend Article 3 to allow “Dwelling, Multi-Family” as an allowed use with a CCO conditional use permit in the Low Density 1 and Low Density districts, and that Tables 3.3.5, 3.4.5, and 8-1 be updated to reflect this change; Amend Articles 17 through 28 of the Land Development Code, and all subsections and references thereto, to reflect the addition of a new Article 17.**

Mr. Clements addressed the committee and introduced Bill Eubanks who was joining the session virtually.

Consultant Bill Eubanks addressed the Committee and stated the purpose of this ordinance is to address specific housing needs in the community with emphasis on senior housing and workforce housing. This is being done through an overlay ordinance which would utilize a conditional use permitting process. Mr. Eubanks stated the city completed a housing assessment which indicated that even though the population was shrinking the number of households was increasing; 40% of the population lives alone, there is also large number of displaced workforce; people having to travel to Keene for work. There is also a lot of households that are cost burdened which means 30% of their income is going to housing related costs. This number increased to 39% for seniors and the number for rentals is higher at 43%. The study indicates Keene is going to need new 1,400 new housing units over the next ten years.

Mr. Eubanks stated the purpose of the ordinance is to promote infill and redevelopment, encourage efficient use of land and to expand the range of housing choices that are available with the changing demographics and provide for flexibility in such a way that it also helps strengthen existing neighborhoods. To encourage development in areas that are already pedestrian scaled, safe and affordable.

Where will this be applicable? This would generally be any land located within the overlay and would be subject to this article and would be permitted in R, RP, LD, LD-1, MD, HD and HD-1 through a conditional use permit.

There will also be certain non-residential uses that would be permitted. Certain commercial uses will be permitted as long as they are on a corner, as long as they have a maximum of 1,000 square feet and they have a residential use above them. Daycare on the ground floor with a maximum of 2,000 square feet and must have a residential use above it. There are also ancillary uses to the residential uses that are allowed, things like laundry buildings, storage buildings, common use buildings, such as kitchens, meeting areas, exercise areas, picnic pavilions, attached or detached garages are also allowed, and they may have a unit above them.

Mr. Eubanks went on to say projects may be developed on a single parcel of land, either with property management entity if it is rental, or a homeowner's association or condominium association if the product is for sale. It may also be developed as a subdivision with units on individual lots, in which case there would also need to be some type of property management entity or homeowners association or condominium association.

When storm water is looked at it will be looked at for the entire development, not individual lots, because of the manner in which they will be clustered. If there are condominium or HOA involved in this, they have to meet all applicable state statutes.

Dimensional Standards - There is no minimum tract size. The minimum frontage is 30 feet. Perimeter setbacks of buildings can match what exists on either side of them instead of meeting the setback requirements of the underlying zone. There is no minimum lot area. Minimum frontage on internal roads is 26 feet. No minimum or maximum density requirements as well. In lower density residential districts, the requirement would be a maximum height of 2 1/2 stories or 35 feet. The underlying zoning allows two stories and a 35 foot height. In HD and HD one it would be a maximum of three stories or 50 feet. If the building is not located in a flood zone the bottom floor counts as a story. If you are in a flood zone, first floor is measured from base flood elevation plus one foot.

With respect to perimeter of setback – Mr. Eubanks stated the underlying zoning would more than likely have a 15 foot required setback. However, if there are existing buildings on that street that had setbacks of less than 15 feet, the proposed development would be allowed to match that existing setback instead of having to go back to the 15 feet.

There is no minimum unit size required, although there is a maximum average square footage of 12,150 square feet of a floor area excluding garages. Maximum footprint is 900 square feet per unit, excluding porches and garages unless it is age restricted, then the number is increased to 1,000 square feet.

Parking is a minimum of one space per unit or .75 if it is designated as workforce housing or age restricted housing then it will be a maximum of 1 space per bedroom. Those parking spaces may be surface spaces, in garages or carports. They can also be located off site - 500 feet from the furthest unit unless the housing is designated for age restricted.

Building separation is simply determined by applicable fire and building codes. Driveways that provide access to three or more units have to be a minimum width of 20 feet and a maximum of 24 feet. Where feasible driveways should incorporate design features that give them the appearance of a street.

Internal roads have to meet existing city standards, although there is a statement included which states *variation from those standards, if deemed appropriate may be achieved through a waiver process as described in Article 23.*

Screening – From adjacent uses with of semi or opaque fence and also that the Planning Board can approve a landscape buffer that provides similar or greater screening.

Mr. Eubanks next referred to architectural guidelines. The Planning Board will be responsible for reviewing these projects for their architectural merit. Mr. Eubanks stated they have developed a list of things that would be easier to approve and things that would be more difficult to approve. For example, if you are putting the narrow frontage of the building to the street, that is going to be easier to approve than putting the wide frontage to the street. If your parking is screened from the frontage, that is going to be easier to approve than parking visible from the frontage. Mr. Eubanks referred to images of buildings to illustrate this example.

Building based differentiated versus building being monolithic – a lot of discretion will be required here. The building needs to be looked at in totality (height, mass, and scale).

Taller ceiling heights versus shorter ceiling heights – Mr. Eubanks stated they would prefer taller ceiling heights. He stated his firm does a lot multifamily units and one of the reasons for taller ceiling is it is much more gracious which also allows for 3 x 6 windows as a standard instead of 3 x5 windows which provides for more natural light ventilation.

Natural and Integral Materials versus Composite and Cladding – He noted to a rendering where the buildings on the left consisted of brick and wood which are natural and integral materials versus the buildings on the right which are composites and cladding (synthetic stone etc.) which is not something that would be encouraged.

Structural Expression versus Surface Expression – The rendering for this example showed the images on the left to have some structural expression with open eaves versus the one on the right consisted of stone.

Thicker wall depth versus Thinner wall depth – Mr. Eubanks noted to the images on the left the windows have some shadow and the images on the right don't have that depth. He noted they prefer the depth and seeing that shadow.

Simple Clear Massing versus Complex Massing - Whether it is a traditional structure or a more modern structure; masses that are easily readable, clear, concise, are going to be easier to approve.

Vertical Fenestration versus Horizontal Fenestration – This plays into ceiling height, orientation of the building to the street. Mr. Eubanks stated they prefer vertical fenestration on a building as opposed to horizontal.

Repetitive Fenestration versus Mixed Fenestration – This again has to do with the overall massing of the building. Repetitive Fenestration tends to read a little bit clearer.

Contextual Materials versus Unrelated Materials – What would fit in the community.

Landscape Unifies versus landscape Unorganized – Home on small lots or homes on a common regime and share common open space, landscape can go a long way to make it feel unified. The concluded Mr. Eubanks presentation.

Mr. Clements addressed the committee and stated staff made a decision in regards to the submittal requirements specific to site plan review. Staff set a threshold of a cottage court development that includes five or more dwelling units, will have to go through full site plan review. Every one of these projects is going to have to come to the Planning Board, but if it is a smaller development, staff is not necessarily looking for instance a traffic study, storm water analysis, comprehensive lighting plan; staff doesn't want to discourage smaller projects by front loading all this unnecessary engineering, site plan review. Mr. Clements asked if this threshold was appropriate or should it be more units that are essentially exempt from full site plan review or should it be fewer? The city would also then have to make sure this matches up with its existing regulations for current more traditional multifamily projects.

Chair Farrington asked Mr. Eubanks what type of feedback was received from Keene residents and any changes that were made to the original plan based on that. Mr. Eubanks stated they had a good turnout at both public meetings. Everyone was in favor of this idea and were enthusiastic. He stated he could not think of any specific changes that were made.

Councilor Williams stated he liked everything about this plan – the only item he could think of was the requirement of housing on top of a daycare center. He did not feel this was necessarily compatible; there could be issues with security concerns. There could also be situations where someone might want to turn their house into a daycare center. He stated however, that he likes housing above storefronts. Mr. Eubanks responded by saying the purpose of this overlay is to provide housing and if daycare is allowed it is an addition but it is not at the expense of housing. He added daycare is operated during the day when most residential users will be at work and didn't see a conflict between the two uses. This is an overlay to provide housing. The Councilor added daycare crisis is just as bad as the housing crisis.

Mr. Clancy asked whether there are any condo development restriction in the City of Keene. Mr. Clements stated the city regulations view it as an ownership model not as a development style.

Councilor Remy stated he was getting stuck trying to differentiate between this overlay and a manufactured housing park. Maybe a manufactured housing park is a cottage court, but a cottage court isn't necessarily a manufactured housing park. He asked why the city doesn't expand the zones where manufactured housing parks are allowed and what the differentiation is. Mr.



Clements stated manufactured housing is actually defined in state statute as being a housing structure that is permanently affixed to a chassis where the dwelling can be hitched up and moved. Currently within the City of Keene you could use a different term “modular home”. It is fundamentally the same thing. However, there is no chassis, and it is permanently affixed to a foundation that is currently allowed by right in the City of Keene. If someone wanted to place a modular dwelling on their lot they would just need to get a building permit. This is the difference between manufactured housing and cottage court.

Councilor Ormerod stated one thing he has noticed about many neighborhoods in Keene, especially in low density zone is that some lot sizes are pretty small and you really can't build out but can build up but we are limiting it to 2 1/2 stories where three story Victorians are very much in common with the character of the area. He asked hence, under what circumstances could you construct a three-story Victorian. Mr. Eubanks stated he had a lot of conversation with staff on this. He explained the reason they settled on 2.5 stories instead of three stories is because of pushback from existing neighborhoods and felt 2.5 stories could be more palatable. Councilor Ormerod stated he was specifically looking for the Victorian style which could make it attractive to buyers.

Mayor Kahn noted to section 17.5.2, where it indicates in the high density a maximum height of 50 feet would be limited to three stories with parking underneath, potentially being one of those stories. He felt a parking structure doesn't need to be more than 7 feet; ten feet for each story, plus pitched roof – you could easily get four stories and questioned the restriction on height. Mr. Eubanks asked staff to confirm what the high restriction was for HD and HD1. Mr. Clements stated high density has it at two stories above grade and max building height of 35 feet. HD1 has it at three stories above grade and max building height of 50 feet.

Ms. Vezzani referred to what Councilor Remy stated and noted with the manufactured homes typically in Parks, you don't own the land and clarified with these multifamily homes whether you will own the land or whether it will they be some sort of Association. Mr. Clements stated the City is not limiting ownership models; the entire project could be owned by an entity that rents out the units like an apartment building, but they will all be detached. They could also be townhomes and it is a condo association where you have common land around and you just own the building. He added one of the overarching goals of this proposal is to reduce limitations so that any housing product can be appealing. So that someone can use this overlay guidelines to mold the product that fits into an existing neighborhood.

With reference to height, Ms. Vezzani stated it was interesting you could have a grade situation where you are parking below and then there could be some living in the rear of the property. She felt reducing those limitations does allow for wider flexibility.

Councilor Bosley stated there is no language in this ordinance that addresses lots that contain prior structures. If there is a lot with the prior structure on it could it be converted to a cottage court to allow for infill development. She asked how this ordinance address prior structures and new structures; under the site plan review, when you refer to major site plan review and minor site plan review – does it consider the total of structures that someone is adding or a total of structures that will now exist inside the cottage court. She also asked if for instance a 1,500

square foot unit already exist on a triple size lot would the existing 1,500 square foot unit be factored into that calculation.

The Councilor then referred to ownership structures; how can the City restrict these units to be potentially not used as Airbnb's. Council had concern as to how the Airbnb market might have an impact on this type of potential development. She noted what the city is trying to not promote is a cottage court district that is highly densified for the purpose of getting housing turning into a mini hotel situation.

She added she also had reaction on the list of items that are easier to approve and not so easy to approve; when driving around Keene how some of those things might not really apply here.

Mr. Eubanks responded to the Councilor and stated with reference to the list it is not a "you shall" "you shall not" sort of list; there is a range of interpretation. It provides guidelines but with a lot of flexibility. The Councilor stated she loves the idea of a list but for instance Natural and Integral Materials are preferred; she stated personally she does not see an issue with these buildings using composite or clad siding as this is not something that would stand out in our community. However, this level of detail might be something that could be for the historic district if this type of development was to be located in the historic district; same would be true for the other items that were also listed.

Mr. Eubanks agreed and next addressed short-term rentals and stated he completely agrees with what the Councilor raised as a concern and this is something staff and council would also agree to not creating. He went on to say in his opinion however, not addressing short term rentals only for the cottage court overlay instead of the entire city would be a mistake. He felt the City of Keene needs a short-term rental ordinance which would address this concern. However, addressing it only for the cottage court overlay would be a mistake.

With respect to average unit sizes and prior structures; this is something that would be flushed out through that site plan review. If someone has a house on a lot and wanted to turn it into one unit or divide it into multiple units – this would be part of that site plan review process. If that is a 1,500 square foot structure that is going to remain one unit, then the other units would have to be small enough that you achieve the average. He added this gets back to providing smaller living options than what exists in Keene right now. The main purpose of this ordinance is to provide smaller housing units. Mr. Clements stated it would be very easy to add one word to that 1,250 square foot average and say *all new dwelling units in a cottage court overlay shall have that average of 1,250 square feet.*

In regards to the site plan threshold, Mr. Clements felt the existing structures should be counted towards the threshold for site plan review because if you have an existing three family home and then you want to add two more units with the cottage court overlay, there is an intensity that is involved on the lot which should be evaluated in a more comprehensive manner as opposed to a single three family structure on the lot.

Mr. Rounds added with reference to the short-term rentals – Council has indicated a desire to figure out how to address short term rentals and staff will be back before Council with ideas.

However, staff agrees with Mr. Eubanks that any restrictive use with cottage court will negatively affect that overlay and hence would like to apply it to the city as a whole. Mr. Clancy asked what Mayor Kahn had indicated to staff just now. Mr. Rounds stated the Mayor had wanted to know if New Hampshire had any restriction as it pertains to short-term rentals.

Councilor Bosley stated she agrees with what Mr. Clements had stated and added having the new structures when looking at the average size to count those at 1,250 square feet would make sense and also agreed with the suggestion regarding site plan review.

Mayor Kahn felt the Wright Estate is an example of something that is being described; a huge structure with buildout without needing to disturb the mansion on the site.

Mr. Kost felt if vehicles could park parallel on some of the streets it could save on building space but according to this overlay regulations, this is not something that would be permitted. He felt this is something that should be considered. Mr. Clements stated this is good point if this is going to be a public right of way and is something owned by the city. He stated there is no waiver authority in the cottage court overlay for the Planning Board as they wanted to keep it as light as possible and then let the existing site plan regulations dictate which is what the Board is more used to. The city does allow off-site parking, which might be a way to address that, but in regards to keeping it as internal drive aisles, the main thought about that is reducing the amount of impervious surface. If there are more narrow drive aisles, and people start parking on the shoulder, it becomes an emergency access issue.

Mr. Kost stated these type of housing is great for entry level housing and felt some incentives could be built into it and asked that this is something that is also considered

Councilor Remy stated he likes the idea of a list but wasn't sure as a Board how to balance this list. The Councilor asked whether 508 Washington Street would be considered an example of cottage court. Councilor Bosley referred to the development on Green Street – which is a four unit building and stated this is an example of cottage court.

Councilor Ormerod stated it is true that short term rentals are an issue for the city, but with cottage court developments which are particularly attractive, and you don't have to tear down or renovate and felt something needs to be included for short term rentals for cottage court because of how attractive they are. He also added when we talk about the short-term rentals that we don't rule out the places for traveling nurses, traveling physicians, etc. who do a lot for our community. He felt the appropriate distinction needs to be made for these traveling professionals.

Councilor Haas referred to ground floor parking which is ideal for development in flood zones which could open up new areas and felt this should be written into the ordinance. Mr. Eubanks stated this is specifically addressed – parking in flood zones versus parking under a building, not in a flood zone. The Councilor asked whether there are any preferred first floor occupancies the city should be aware of that would attract developers. Mr. Eubanks stated there is nothing specifically stated but it has been left fairly open. They felt what could be strengthening for neighborhoods, are things like a sandwich shop, a coffee shop, which would be compatible with the neighborhood. The Councilor asked with the setbacks requirements, whether zoning requirements are being waived to match up with the existing buildings – he added at times it is

nice to have different setbacks which adds a bit of attraction to neighborhoods and also can act as a traffic calming measure. Mr. Eubanks stated he does not disagree with the Councilor but what they are doing here is only allowing the possibility of meeting those existing setbacks – it is not being required, it is a setback line not a built to line. Councilor Haas stated an applicant might want to take full advantage of the least setback possible, but it might be preferable to have the setback, but he leaves that up to staff.

Mr. Clancy thanked Councilor Haas was raising the issue of setbacks – he indicated we are looking at a time where traffic calming measures are definitely something we should consider and felt that conversation should be open to anyone that is willing to develop one of these. In terms of the short-term rental concern, this concern wasn't raised when ADU's were discussed. He added if the city is going to make this a point of conversation, short term rentals should be a separate item and not something that should delay adoption of cottage court. Cottage courts are important for the city in terms of development of affordable housing or any type of housing. With reference to easier to approve and not easy to approve items, Mr. Clancy stated he appreciates Mr. Eubanks bringing this to the committee's attention. He stated he would like to see this as a separate item as well and applied to the entire city but not just for the cottage court overlay district.

Councilor Jones asked Mr. Eubank when the City did its land development code, it deleted the use of a private roads and was mostly because Public Works requested it due to the issue of delineating between the public and private roads. However, from a housing perspective, wouldn't it help with the cottage court if it allowed for private roads. Mr. Eubanks stated there are a lot of jurisdictions that prefer private roads because they don't want the additional maintenance. He indicated Keene Public Works did not want private streets. In most jurisdictions, private streets still have to be built to public standards - the conversation that was undertaken with Public Works was talking about differences in some of those standards to accommodate more narrow rights of ways etc. which might be appropriate for this. Public Works was not keen on that idea either, which is why there is language in the ordinance about applying for a waiver.

Mr. Clements addressed the road standard waiver process. He indicated the Public Works Department views the concept of a waiver from their road standards very differently from what the Planning Board would consider a waiver from their site development standards. What Public Works indicates is that they would be potentially open to negotiating a narrower right of way with a less amount of pavement required but still retaining it as a public street. They were not comfortable with adding any of that language specifically in this ordinance. He added staff's concern is that this injects an element of uncertainty into the development process that staff was hoping to avoid. Mr. Eubanks added the majority of the parcels that are going be used for this will be fairly small. The likelihood of one of these projects needing a new internal public right of way is slim. He stated it will be more in the realm of things that would be considered such as driveways that are not public rights of way. He did not feel this is going to be a problem that is going to come up. Mr. Clements agreed and added the city has a development scheme for that, which is the Conservation Residential Development Subdivision. If there is a parcel of land of sufficient size to put in a new public road it would probably be a better option for everybody involved.

Mayor Kahn stated we continue to say any parcel using this overlay must have city water and sewer. He stated he wanted to raise this issue again and used the City of Dover where a cottage court overlay exists and a septic field which is shared. He felt the lack of city water and sewer should not prohibit this type of development. Mr. Rounds stated he had done some research on this item – the Dover development is on public water and a couple of units that are on a shared septic, but the majority of it is on a forced main where you have to pump water up to the public system, which is what people saw as a shared septic system. He stated his understanding from talking to Dover was that the full development is on public water and sewer.

The Mayor clarified it is pumping from the site into the sewer system – Mr. Eubanks stated it is a pump station so it is a sanitary sewer system not a septic system.

The Clements stated the reason for wanting to tie in this proposal with City utilities is because of feedback from residents that we should be increasing housing opportunities where those services exist. He stated he would be concerned with larger parcels in the rural zone and then basically letting somebody come in and pack them in really tight. That is not really what this proposal was intended for, and one of the ways to limit the location for this kind of development was to tie it with water and sewer.

Councilor Bosley noted adopting the Land Development Code took years with a lot of public comment. Post adopting the Code the City changed the acreage requirement for the rural zoning district. As part of that, the City also adopted an ordinance that allowed for these Conservation Residential Developments (CRD) and if someone chose a CRD there are mechanisms to significantly increase density and to build those out in a way that protects things like watersheds, wetlands or topographical areas that are not buildable and allows you to densify certain areas that are more appropriate for development on those larger sites. The Councilor noted rural and agriculture are pretty much the only ones that don't have access to City water and sewer. Also, LD-1 has to have sewer and city water or a private well.

The Councilor went on to say what is being discussed here is major densification potential with no minimums associated which could impact that part of the City negatively (unintended consequence) if you let people run free with no setback or density requirements.

Mr. Clancy recalls a rural district on Old Walpole Road which has City water and stated he agrees with the Mayor that he could not see a good reasoning for restricting different districts. We are a city in need of housing and could not see this being something that people are going to be clamoring to do. He did not feel the City should restrict a district just because they don't have sewer and water. There are many ways develop and it is up to the developer to decide.

Ms. Vezzani felt it shouldn't be encouraged but if there was an opportunity for a developer to use a sewer system that made sense for that particular area, could the developer then decide to come with the plan with a variance for that particular development. Mr. Clements stated that was a good point; they could go to the Zoning Board of Adjustment to get a variance from any of the provisions in this ordinance. He added the hardship test would be interesting. He also noted there is nothing preventing a potential developer from extending water and sewer lines to a potential lot at their cost if they choose to do so. Mr. Clements stated that the intent of the Ordinance was

to provide lower cost dwelling units and that private wells and septic are expensive and not to say that hooking into City services is not expensive. However, having city utilities is cheaper in the long run than having private well and septic.

Councilor Remy felt this overlay needs to be restricted to where there is or can be water and sewer. He stated he could not imagine a 100 unit development on a 10 acre lot in the middle of nowhere because there is no minimum lot size. He noted the city has a CRD process, which had a lot of thought put into it around protecting land around it and using the density in the right way.

The Chairman stated there are a number of items that have been discussed with respect to the proposed ordinance: height, number of floors, whether or not daycare was appropriate to have included as one of the commercial items, setbacks, architectural standards, short term rentals to be included or not, how to address existing structures (clarification around that), city water and sewer restricting it to just that area. He stated he would not mind continuing this discussion and asked whether the committee had other areas they would like to discuss.

Councilor Remy asked what the expected outcome from tonight's meeting is. The Chair stated this is a workshop so the outcome is one of three things: it moves forward and the PLD Committee calls for a public hearing, Planning Board indicates it is consistent with the Master Plan, or the committee continues it to next month.

Mr. Clements stated at some point it could become an A version and it could come back to this Body, which will delay the adoption by a month.

Councilor Haas in an effort to expedite this item, the changes being proposed tonight don't seem to be too onerous and asked whether a public hearing could be scheduled through the PLD Committee and move those comments to staff for revision.

Councilor Bosley in response stated the process of how these ordinances are adopted through Council is very lengthy and it starts and stops in different places. If a public hearing is conducted and there is additional feedback, and the PLD Committee recommends it sends the ordinance back to the Joint Committee, it will have to go to another public hearing. She added every A version and B version gets brought back through a formal public hearing process, and it has to have a first reading and a second reading at full council, and has to go back to the PLD Committee for final recommendation. She added if anyone else has any items that are not the list Chair Farrington outlined they feel very strongly about it could be perhaps voted on to see if there needs to be an A version and suggested that a vote be taken tonight.

Mr. Clancy stated since the rural district is being included in this, but there is very limited options and there is some concern about perhaps a 10 acre parcel being developed with many small units, whether there was any way language could be included to say that a maximum lot size be developed with cottage courts. Take the minimal acreage for a rural district property and include that language and as the maximum for cottage court overlay. He felt cottage court should be permitted anywhere in the city.

Councilor Bosley noted this is a difficult process because of the way the two Bodies meet at the Joint Committee process. She noted that the two Bodies have very different roles. The Planning Board ultimately is going to look at this ordinance and decide if it meets the master plan. It is Council's objective to try to craft language inside this ordinance that they feel will benefit the community as a whole. She indicated she has seen the Joint Committee modify ordinances but it goes to Council and gets lost because Council doesn't support something in it. She stated her concern about the rural district is that this is an item that has come up before and could delete the entire item.

Mr. Clancy stated he has raised this at a previous Planning Board meeting – he stated the Board is given something that works for what is being proposed and not looking at the entire plan. He stated when he looks at the master plan he sees the need for affordable housing in this community. From the Planning Board perspective, he felt this cottage court overlay district should be open to the entire city to address all forms of housing. He stated he is willing to work with those concerns that the city had when reducing the rural district size and his proposal is not to allow it beyond the minimum lot size for the rural district.

Councilor Jones stated from what Mr. Clancy and Councilor Bosley have stated, continuing this item would be a much better process and moving it on to a public hearing.

Councilor Williams stated he agrees with Councilor Bosley with respect to the concerns raised in the past with the rural district. He added there was much public input when the lot size was increased in the rural district and would be concerned about adding this type of density to the rural district.

Mr. Kost stated anything to not make this a longer process would be helpful.

Mr. Eubanks stated he hears the concerns being raised and felt some of these things, such as wanting to locate this where there is septic or locate it in a rural district might not be something that comes up a lot. He stated he would hate to see this item getting tabled for a circumstance that might never happen. He felt ordinances can always be amended, he felt it was good to keep this momentum moving forward as there are developers waiting on this to happen. If it gets delayed as the city's consultant he was not exactly sure what path the city would want him to go as far as changes. He suggests Section 17.5.3, C. to add the word *building and fire code*.

Section 17.5.3, A add the word *new* in front of *units*, then let this move forward and if the city finds out there are developers in the rural area that are on septic who are interested in this – the city looks at maybe revising the ordinance.

Councilor Ormerod felt delaying one more month would be better rather than delaying it by four months by going through the entire cycle and coming back. He stated he appreciated the Chairman's list.

Councilor Remy asked the Chairman to review his list again: Height of the building and number of floors restriction. Councilor Remy asked what the discussion about height was. The Chair stated the Mayor suggested we might be able to include another floor.

Daycare as something that would be one of the permitted commercial uses with residential above it. Councilor Williams clarified this item was in reference to whether housing should be required above daycare uses.

Councilor Remy asked the Mayor if he would be amendable to voting on this as is and go back and adding a floor. The Mayor stated the change is clear enough to be voted on tonight. He felt it would be big deal to a developer to be able to put parking underneath and still put three floors above – but did not feel it was a huge change in this ordinance.

Chair Bosley stated from what she has heard the City Attorney say in the past, at some point when you make enough changes and they are substantial enough it automatically creates an A version and the process needs to restart. Mr. Rounds stated his recollection of an A version is that if there are concrete changes, continue the meeting and staff comes back to the next meeting with those changes for the A version, then the process continues as the A version.

The next time on the list was Setbacks – Councilor Haas clarified the concern was whether to follow the existing zoning requirements. Councilor Remy asked whether this can be voted on as is and changes made later is necessary. Councilor Haas responded that the setback was not a deal breaker for him.

Next item on the list is architectural standards – Councilor Remy stated this was an issue he raised; he does not like the lists but it is not a roadblock for him. He rather just have a “good” or a “bad” list. Ms. Markelon asked whether this list is something the Planning Board would use for approval or whether it is something the developer would use. Mr. Clements stated they are just guidelines; not hard yes’s or hard no’s’, but ultimately an element of the product that is going to come before the Planning Board is whether this design would fit in within neighborhood character. The list is designed to guide a developer to use things that promote a harmonious citing into a neighborhood. If they choose to not do that and you choose to go outside of neighborhood character, they may receive opposition from the neighborhood itself. They may receive opposition from individual Planning Board members who want a more traditional New England style as opposed to something more dramatic. Those lists are a guidance to a developer. Ms. Markelon stated this is where she is stuck on – the list is for the developer while the Board has its own guidelines. Mr. Clements stated there will be some give and take between the developer and the Board when it comes to what is included in this list.

Mr. Eubanks stated it is really important to note that this list is a general guidance to the developer of things he needs to be thinking about before he/she goes to the Planning Board. They could ignore everything on the list and come up with a great building but the Board still has total authority to make a ruling on this based on how they feel about it and if it fits the context or not. He added this list works in the City of Charleston, South Carolina.

Mr. Hofer stated personally he does not have a concern with the architectural guidelines as presented, although he may express concern about wall depth. He felt on the whole having the concept of having some leeway back and forth is a good thing and felt the item should be moved forward, should everyone agree to do so.



Next item on the list was short term rentals – The Chair stated it was agreed this would be a citywide issue not just pertaining to this ordinance.

The next item – existing structure or unit on a lot – The Chair noted inserting the word “new” was going to be solution proposed and same was true with inserting the word building in the building and fire code sentence.

The next is whether city water and sewer would be a requirement for this project.

A motion was made by Councilor Remy that the Planning Board finds Ordinance O-2024-01 – adjusted for the two scribes errors to add “building” in Section 17. 5.3 and add “new” in Section 17.5.3A in the appropriate locations consistent with the master plan. The motion was seconded Kenneth Kost.

Councilor Tobin asked with respect to building and fire code, is this something that would be maintained if it is a managed property. Chair Farrington stated the Planning Board would address the proposal and approve it or not approve it based on that language. Once it is built, the city has an enforcement department that would address those concerns. The Councilor asked if there is opportunity to include this language. Councilor Bosley stated similar to the Airbnb conversation, what needs to be discussed here tonight is the language inside the ordinance. The city has its own language for enforcement, and Council is working on that. She indicated staff is working on different housing standards in different areas in the land development code where those standards live and what the enforcement mechanisms are. Things outside of this ordinance need to get worked on for the whole city and not just for this one particular item. She indicated Councilor Tobin’s points are well taken and staff is aware of some issues that Council will like worked on.

Councilor Ormerod noted the proposed motion does not include items from the Chairman’s list, and would like to propose a way to deal with that. He indicated if it is amenable to Mayor Kahn on the height – it could be a citywide issue and could be beyond the scope of what we are trying to accomplish tonight.

With no further comments, the Chair closed the public hearing.

The Mayor stated he would like to direct people to the map and notice how much of that map is in the light yellow and yellow are areas without water and sewer and hence cuts out a lot of territory in the city. He reiterated he wants to see this go forward but to note that there are significant territories in the city not being able to take advantage of the density this ordinance is proposing. He felt this is an item that needs to be reconsidered.

The motion made by Councilor Remy was approved 6-2 by the Planning Board.

A motion was made by Councilor Jones that the Planning Licenses and Development Committee request the Mayor set a public hearing for Ordinance O-2024-01. The motion was seconded by Councilor Williams and was unanimously approved.

**IV) New Business**

Councilor Jones noted the three commercial nodes previously noted. They are all in West Keene:

- (1) Upper Court Street where the American Legion, Dunkin Donuts and Savings Bank of Walpole are located
- (2) Where Summit Road and Park Avenue fork off next to the Irving station, Laundromat, and a Chinese restaurant etc.
- (3) Lower down on Park Avenue where Jack's True Value hardware and Park Market Avenue Deli

He noted the new Licensing Board that was approved last year has the potential to approve certain things that could go into those areas. He suggested in the future looking at delineating those commercial areas.

**V) Next Meeting**

There being no further business, Chair Farrington adjourned the meeting at 9:08 PM.

Respectfully submitted by,  
Krishni Pahl, Minute Taker

Reviewed and edited by,  
Evan J. Clements, AICP, Planner  
Jesse Rounds, Community Development Director