



Joint Committee of the Planning Board and Planning, Licenses & Development Committee

Tuesday, October 15, 2024

6:30 PM

City Hall, 2nd Floor Council Chambers

A. AGENDA ITEMS

1. Roll Call
2. Approval of Meeting Minutes – July 8, 2024
3. Continued Public Workshop:
 - a. **Ordinance – O-2023-16B – 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.
4. Discussion regarding possible future zoning amendments to promote housing
 - a. Residential district lot size requirements
 - b. Housing Opportunity Zone
 - c. Maximum height and setback requirements
5. New Business
6. Next Meeting – **Tuesday**, November 12, 2024

B. MORE TIME ITEMS

1. Minimum Parking Requirements
2. Short Term Rental Properties
3. Neighborhood / Activity Core areas (“Neighborhood Nodes”)
4. Private Roads

C. ADJOURNMENT

1 **City of Keene**
2 **New Hampshire**

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5 **JOINT PLANNING BOARD/**
6 **PLANNING, LICENSES AND DEVELOPMENT COMMITTEE**
7 **MEETING MINUTES**
8

Monday, July 8, 2024

6:30 PM

**Council Chambers,
City Hall**

Planning Board

Members Present:

Harold Farrington, Chair
Mayor Jay V. Kahn
Councilor Michael Remy
Armando Rangel
Kenneth Kost
Michael Hoefler, Alternate
Stephon Mehu, Alternate

Planning Board

Members Not Present:

Tammy Adams, Alternate
Roberta Mastrogiovanni, Vice Chair
Sarah Vezzani
Ryan Clancy
Randyn Markelon, Alternate

Planning, Licenses &

Development Committee

Members Present:

Kate M. Bosley, Chair
Edward J. Haas
Andrew Madison

Planning, Licenses &

Development Committee

Members Not Present:

Philip M. Jones, Vice Chair
Robert C. Williams

Staff Present:

Jesse Rounds Community
Development Director

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11 **I) Roll Call**
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13 PLD Chair Bosley called the meeting to order at 6:30 PM and a roll call was taken. Michael
14 Hoefler and Stephon Mehu were invited to join the committee as voting members.

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16 **II) Approval of Meeting Minutes – June 10, 2024**

17 Kenneth Kost offered the following correction:

18 Page 5 of 15 – “all street” parking should be changed to off street parking.
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20 A motion was made by Mayor Kahn to approve the June 10, 2024 meeting minutes as amended.

21 The motion was seconded by Andrew Madison and was unanimously approved.
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III) Continued Public Workshop:

a. Ordinance – O-2023-16B – 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. Mr. Rounds noted there is agreement on the Proposed Definition for Charitable Gaming Facility under O-2023-16A, and this item has not been altered since then.

Use Standards were changed: Standard a: “Only one Charitable Gaming Facility shall be permitted per lot”

Standard b: He referred to altered areas on a map as discussed at the prior two meetings – like West Street.

Mr. Rounds referred to land along Kit Street, Winchester Street and Key Road – commercially zoned properties fronting on those streets. Chair Bosley referred to item ii. and noted she does not see Kit Street and it is not adjacent to Winchester Street and Island Street and has land with frontage on Kit Street under item vi.

Councilor Remy referred to a scrivener's error: Kit Street not Kit Road.

Mr. Rounds referred to land with frontage on Ashbrook Road – this is unchanged since it was presented the last time.

South Main Street – staff made a determination that the area stops at the area that cuts off to the left.

Chair Bosley stated for consistency to call out “north of” “south of” if there was a street.

Chair Bosley referred to Manchester Street and asked if the smaller lots on Manchester Street residential lots. Mr. Rounds answered in the affirmative. It was indicated a facility will be prohibited 250 feet from any residential use. The Mayor asked whether it was Mr. Rounds opinion that this eliminated any location in this area. Mr. Rounds stated these two parcels could be combined and created into a large enough lot that you could put a building which would meet all set back requirements. He stated he did not want to limit the possibility by saying a parcel is too small because once it is combined it could be large enough. He did not feel it was his place to make those limitations except through discussion.

62 The Mayor asked if the wording was sufficient to cover the commerce district in this location.
63 Mr. Round stated this is their proposal; it is protecting the uses as they exist now, but allowing
64 for future changes as they arise. Chair Bosley suggested adding “north of Silent Way”

65 Standard c: Mr. Rounds stated there was quite a bit of conversation on this item “.... no
66 charitable gaming facility shall be located within 500 feet...” He stated this was the one
67 question that existed last time whether it was going to be 250, 500 or 1000 feet and the
68 committee decided on 500 feet.

69 Councilor Remy suggested another arrow that is labeled 500 feet between the “other charitable
70 gaming facility” and the lines of this item.

71 Standard d: Minimum square footage question – The committee decided on 10,000 square feet
72 inclusive of everything.

73
74 Standard e: It was agreed the existing code covered this item. The place where there was a lot of
75 conversation was on the number of parking spaces per gaming position, as well as the number of
76 electric vehicle charging stations. What was decided was .75 parking spaces for each gaming
77 position and the change that was proposed is 2% or two of the required parking spaces,
78 whichever is greater; originally it was five and 5%.

79 Mr. Kost noted if any one of these gaming facilities goes into an existing storefront that is vacant
80 and is 10,000 square feet; there is already a lot of parking available from the prior use which
81 parking was meant for probably retail and asked how the parking would be calculated for this
82 use. Mr. Rounds felt it would be site specific because of the variety of parking regimes that have
83 existed over time. He stated what the city would do is if you have a developer that has multiple
84 tenants, during the planning process would note the number of parking spaces per use without
85 impacting the other parking spaces. He stated there are ways to reduce this requirement either
86 through the Zoning Board process or going before the Planning Board to get a parking reduction.

87 This concluded Mr. Rounds presentation.

88 Councilor Remy asked if there was a very large application that came forward - over 20,000
89 square feet; would the city want that application to go through some additional review or would
90 it be allowed by right. Chair Bosley asked in the Form Based zoning style in the commerce
91 district whether there were height requirements for buildings. Mr. Rounds stated the commerce
92 district has the same height restriction as the rest of Keene outside of the downtown which he felt
93 was three stories. In terms of review, it would have to go through site plan, any of these would
94 have to go through site plan; it is not specific to this use. At that point the planning board has the
95 ability to add conditions and the Planning Board has a lot of leeway in terms of those conditions.
96 The Chair asked whether the Joint Committee wanted to discuss restricting what Councilor
97 Remy is raising or is this a scenario the committee wanted to see play out if someone was
98 interested in building.

99 Chair Farrington noted a Las Vegas based casino is building a site in Nashua 180,000 square feet
100 in size and what the committee is discussing now is not beyond possibility. Chair Bosley stated

101 she is not sure what the state had in mind when it created this opportunity for charitable gaming
102 and what actually is happening. In their mind they thought that one facility might get built,
103 instead what we are see is this widespread smaller boutique style facilities. Keene is one of the
104 few major cities in the state where there is a license issued for this type of use. She further stated
105 she had had a discussion with Director Rounds earlier regarding the House Bill that has been
106 passed and signed and the moratorium on historic horse racing has been extended indefinitely.
107 New applications are not being accepted for historic horse racing and in order to get a facility of
108 that size you have to have that license. Chair Bosley added Keene already has someone who is
109 licensed here and they can sell that license and this large conglomerate could certainly try to
110 build something like that. Hence, felt this is our opportunity if the city wanted to put some sort of
111 restriction.

112 Mr. Kost stated he is envisioning something of that scale - 180,000 square feet of gaming floor
113 but he sees restaurants, maybe hotel space, other kind of things that are all tied to that project. A
114 mixed use development.

115 Mr. Hoefler asked whether Keene has other uses with upper limits for example a 100,000 square
116 foot grocery store etc. Chair Bosley and Mr. Rounds stated they could not think of any such use.

117 Councilor Madison stated Keene has enough safeguards in place already. Keene is not Nashua.
118 Keene is very far from Nashua and something like that happening in Keene is exceptionally
119 miniscule. He stated his is eager to move this ordinance forward.

120 Chair Bosley stated her desire tonight would be to find a way to vote on this project.

121 Councilor Haas compared an 180,000 square foot building to two Home Depot sites and that is
122 what a facility would look like. He did not feel such a site could happen for instance on
123 Manchester Street where the area is too constrained.

124 Chair Bosley asked for public comments next.

125 Mr. Jacob Favolise of 229 Main Street addressed the committee and stated he supports the
126 original thrust of this ordinance, which was keeping casinos out of the downtown, largely
127 because he did not want parking downtown to be monopolized as a result of a business where
128 people spend long hours inside. He stated he has become a little more skeptical of supporting the
129 overall ordinance because of the additional restrictions placed on charitable gaming facilities
130 beyond just where they can be located. He stated he is also particularly skeptical about the
131 10,000 square foot minimum. He stated he would also like to have some explanation as to the
132 need to impose an electric vehicle charging station mandate. He stated he agrees with Councilor
133 Madison that this item needs to be moved forward. Mr. Favolise in closing stated the more
134 restrictive this ordinance has become the less supportive he is of this ordinance.

135 With no further comment, the Chair closed the public hearing.

136 Councilor Remy stated he just did some calculation; Target and Dick Sporting Goods sites
137 together are 170,000 square feet; Home Depot is 150,000 square feet in size.

138 A motion was made by Councilor Madison that the Planning Licenses Development Committee
139 recommend that the Mayor set a public hearing on Ordinance – O-2023-16B. The motion was
140 seconded by Councilor Haas and was unanimously approved.
141

142 A motion was made by Councilor Michael Remy that the Planning Board find that Ordinance –
143 O-2023-16B is consistent with the Comprehensive Master Plan. The motion was seconded by
144 Kenneth Kost and was unanimously approved.

145 **IV. New Business**

146 Mr. Rounds stated HB 1400 has been passed which would affect the City’s parking regulations
147 throughout the city. He indicated these are a complicated set of regulations and the City would
148 be under those regulations. He stated the city would eventually need to change its regulations to
149 come into compliance. Staff would be back before the Joint Committee with those proposed
150 changes.
151

152 Chair Bosley stated there is another Bill going before the Committee regarding fire regulations
153 which she would like to get an update on.

154 Councilor Haas asked whether this new Bill regarding parking would tie into the parking study
155 that was just completed. Mr. Rounds stated this is a grant funded study which grant closed out as
156 of June 30th and the Bill is a change to any future parking requirements and the City would have
157 to assess on street parking requirements at some point.

158 Councilor Haas complimented Mayor’s Kahn’s performance at the 4 on the 4th event.
159

160 The Chair noted the August meeting will be canceled due to Council vacation and the Joint
161 session will resume on September 9th.
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163 There being no further business, Chair Bosley adjourned the meeting at 7:10 PM.
164

165 Respectfully submitted by,
166 Krishni Pahl, Minute Taker
167

168 Reviewed and edited by,
169 **Jesse Rounds, Community Development Director**



CITY OF KEENE NEW HAMPSHIRE

ITEM #J.1.

Meeting Date: September 19, 2024
To: Mayor and Keene City Council
From: Planning, Licenses and Development Committee, Standing Committee
Through:
Subject: **Relating to an Amendment to Land Development Code – Charitable Gaming Facility Ordinance O-2023-16-B**

Council Action:

In City Council September 19, 2024.

Report filed as informational. Voted with 8 in favor and 7 opposed to amend Ordinance O-2023-16-B by deleting paragraph vi. from section e. Parking and Traffic. Voted with 13 in favor and two opposed to refer the ordinance back to the Joint Planning Board and Planning, Licenses and Development Committee.

Recommendation:

On a roll call vote of 4–1, the Planning, Licenses, & Development Committee recommends the adoption of Ordinance O-2023-16-B. Councilor Jones voted in opposition.

Attachments:

1. O-2023-16-B_Referral

Background:

Chair Bosley recalled that there had already been a public hearing on this matter, so there would be no further public comments accepted at this meeting.

Chair Bosley welcomed the Community Development Director, Jesse Rounds, for an introduction. Mr. Rounds explained that in November 2023, there was an original proposal to create a definition of a charitable gaming facility in Keene’s Land Development Code that followed the NH RSA definition of a charitable gaming facility. Quickly, through conversations with the Joint Planning Board/Planning, Licenses, & Development Committee and the City Council, Mr. Rounds said it was clear that was not the best way to handle this issue. After 3 or 4 Joint Committee meetings, the Committee arrived at an altered definition, as well as some use standards and new zoning district restrictions. He thought that work—surprisingly—allowed for a lot more flexibility, even though there are now use standards. Now, there is an opportunity for charitable gaming facilities in the community in a way that the Joint Committee felt respected the community’s interests.

Next, Mr. Rounds listed the specific areas in the Commerce Zoning District where charitable gaming facilities would be permitted if the City Council adopts Ordinance O-2023-16-B: West Street between the bypass and Island Street, Winchester Street south of Island Street and north of Cornwell Drive,

Main Street south of Route 101 and north of Silent Way, and commerce land along Key Road, Kit Street, and Ashbrook Road. The Joint Committee worked to identify those areas that have a lot of activity already. Mr. Rounds listed the use standards for charitable gaming facilities listed in O-2023-16-B: no facility shall be within 500 feet of an of another charitable gaming facility or within 250 feet of a place of worship, school, daycare facility, single- or two-family dwelling, or residential zoning district. He explained that one factor that informed those use standards was that there are a lot of single- and two-family houses in non-conforming, non-traditional residential zoning districts, which is a significant restriction. For example, off West Street, there are a lot of areas that are zoned Commerce but have single-family homes, just through the vagaries of zoning, thus restricting where charitable gaming facilities could be located. In addition, there are a few spots with more intense residential development in Commerce Zones, further restricting charitable gaming facilities in those areas per this draft Ordinance. He explained, however, that a charitable gaming facility cannot be placed near a multifamily home in a Residential Zoning District but can in a Commerce Zone if the charitable gaming facility meets all other dimensional standards for the Commerce Zone. Lastly, Mr. Rounds explained that in O-2023-16-B, there are a number of parking restrictions for charitable gaming facilities due to the heavier traffic expected, including larger vehicles like busses. The parking requirements include: 0.75 parking spaces per gaming position (which would be a new definition in the Zoning Code) and 2%—or two parking spaces—are required to be equipped with electric vehicle charging stations.

Chair Bosley noted that sometimes the Council will start what seems like a simple process and through educating itself, as in this case, the process becomes more complex. However, that education and hearing from educated members of the public and members of the NH Gaming Commission, helped guide the Joint Committee toward this “B” version of the Ordinance. She thought the Council did the right thing in sending this back to the Joint Committee for more workshopping and compromising with the Planning Board—other members of our community—to ensure good choices were made to arrive at this version. Chair Bosley thought they had arrived at a solid Ordinance.

Mr. Rounds mentioned a question during the public hearing about Bingo and whether this Ordinance would prohibit churches or other charitable organizations from holding bingo in their buildings. In speaking with the City Attorney and other City staff, Mr. Rounds said the agreement was that Bingo would be an accessory use for those organization, and therefore would not be regulated through this Ordinance at all and would be allowed to continue as it always had.

Vice Chair Jones asked if the definition should be codified in the Zoning Code before this Ordinance is adopted. The City Attorney replied no, citing the unlikely scenario that the definition would be adopted, and the Ordinance would not be, the definition would then be orphaned in the definitional section, so it was prudent to ensure that the charitable gaming Ordinance is in place first.

A motion by Councilor Madison to adopt Ordinance O-2023-16-B was duly seconded by Councilor Williams.

Vice Chair Jones recalled that he was against this since this beginning, so he would be voting in opposition. He reiterated his position that the City should not be separating gaming out as this malicious device. He said it is just a form of entertainment, no different than having a movie theater, a penny arcade, or anything else. Vice Chair Jones was opposed to putting these specific restrictions on an issue that other cities were using to bring more money into their communities, so he would be voting no.

Councilor Williams respectfully disagreed, stating his belief that gambling in general is very bad news. He said there had been an explosion of gambling across the country with the legalization of sports betting. Casinos are everywhere now, and he said a lot of people are getting harmed; people

are gambling away theirs and their savings and their kids' college funds. He said it is not always obvious because it happens in the dark of a casino behind closed doors. The statistics Councilor Williams read indicated that about 1% of adults have a serious gambling problem every year, which he said would include people in our community, who would be harmed by this. If Councilor Williams could vote to prohibit casinos in Keene, he would, but since this Ordinance was the option, he would vote in favor.

Councilor Madison agreed with Councilor Williams that gambling is a clear problem, citing lottery ticket sales as an example. Councilor Madison thought the Joint Committee had well parsed out the areas of the community and levels of parking, etc., in this Ordinance to allow this to happen in a business and family friendly way. So, he supported the Ordinance.

Chair Bosley spoke anecdotally. Having a teenager away at school, Chair Bosley attested that children who are too young to be gambling, are gambling. It is happening online and on college campuses. She had heard of students who were thousands of dollars in debt to bookies and she called it a real problem. She thought that the more questions the Council asked, the more they would hear these stories and see the effects of online gambling, let alone brick and mortar. She agreed that there is a component that is entertainment; some people limit the money they spend at casinos to the same as they would to see a movie, but she said that is not the case for many gamblers. Chair Bosley thought the Joint Committee did a very good job of crafting an Ordinance that does not prohibit charitable gaming facilities but does create really good boundaries around what we want to see in this community.

Councilor Haas said he tended to agree with Vice Chair Jones, stating far be it for City Councilors to judge other people's behaviors and desires. However, Councilor Haas said there were clear community feelings around the how neighborhoods should evolve. So, he said he saw this as one step forward, and maybe one step sideways; the City would see how it develops over time. He thought this was a great starting point to respect personal responsibility and independence, as well as growth of business, while containing a potential problem.

On a roll call vote of 4–1, the Planning, Licenses, & Development Committee recommends the adoption of Ordinance O-2023-16-B. Councilor Jones voted in opposition.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Three

AN ORDINANCE Relating to Amendments to the Land Development Code, Permitted Uses in the Downtown Core and Commerce Districts

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

That Chapter 100 of the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended by deleting the stricken text and adding the bolded and underlined text, as follows.

1. Amend Section 8.3.2. of Article 8 to add a definition for “Charitable Gaming Facility” under the category of Commercial Uses, as follows:

I. Charitable Gaming Facility

1. Defined. Charitable Gaming Facility – A facility licensed in accordance with the requirements of RSA 287-D, and operated by a Licensed Game Operator as defined by RSA 287-D:1, VII; or any facility operated by a person or entity licensed by the lottery commission under RSA 287-D:7 to operate games of chance on 5 or more dates per calendar year. Charitable Gaming Facilities may offer Lucky 7, as defined in RSA 287-E, as long as their use complies with all licensure and operation requirements under RSA 287-E and rules published by the New Hampshire Lottery Commission. This use includes facilities licensed to operate Bingo or bingo style games as Commercial Halls (287-E:1, V-a) or as Host Halls (RSA 287-E:1, X).
2. Use Standards
 - a. Only one Charitable Gaming Facility shall be permitted per lot.
 - b. Charitable Gaming Facilities, as defined, are permitted on parcels greater than 1.25 acres in the following areas of the Commerce District:
 - i. Land with frontage on West Street west of Island Street. The principal entrance of such businesses shall face West Street or be in a plaza where the storefront faces the parking areas that have a common boundary with West Street.
 - ii. Land with frontage on Winchester Street south of Island Street and north of Cornwell Drive. The storefront of such a business shall face Winchester Street or be in a plaza where the storefront faces the parking areas that have a common boundary with Winchester Street.
 - iii. Land with frontage on Main Street south of NH Route 101 and north of Silent Way. The storefront of such a business shall face Main Street.

- iv. Land with frontage on Key Road.
 - v. Land with frontage on Ashbrook Road.
 - vi. Land with frontage on Kit Street.
- c. All Charitable Gaming Facilities shall be subject to the following distance requirements, measured in a straight line, without regard to intervening structures from the property line of any site, to the closest exterior wall of the Charitable Gaming Facility.
- i. No Charitable Gaming Facility shall be located within 500 feet of another Charitable Gaming Facility either existing or for which a building permit has been applied.
 - ii. No Charitable Gaming Facility shall be permitted within 250 feet of any place of worship, child daycare center, or public or private school.
 - iii. No Charitable Gaming Facility shall be permitted within 250 feet of any Single-Family or Two-Family dwelling.
 - iv. No Charitable Gaming Facility shall be permitted within 250 feet of a residential zoning district.
- d. Minimum Square Footage. The gaming floor of the facility, defined as the area within a gaming location authorized by the State of New Hampshire, shall have a minimum area of 10,000 square feet.
- e. Parking and traffic.
- i. Commercial loading zones shall be screened from public rights-of-way and abutting residential properties in accordance with Section 9.4.4 of this LDC.
 - ii. A traffic study shall be required which demonstrates that the project will not diminish the capacity or safety of existing city streets, bridges or intersections.
 - iii. Proposed uses or development shall comply with the City's Noise Ordinance in the City Code of Ordinances and the Noise Limits in Article 18 of this LDC.
 - iv. Bus and truck loading and parking is required to be screened from the public right-of-way and any abutting residential properties in accordance with Section 9.4.4 of this LDC.
 - v. Off-street parking shall be provided at a ratio of not less than .75 parking spaces for each gaming position.
 - vi. Two percent or two of the required parking spaces, whichever is greater, shall be equipped with electric vehicle charging stations.
2. Amend Section 8.4.2.C.2.a, "Specific Use Standards" of Article 8 to remove drive-through uses as a permitted use by Special Exception in the Downtown Core District, as follows:
- a. Drive-through uses shall only be permitted by right in the Commerce and Commerce Limited Districts and by special exception from the Zoning Board of Adjustment in the Downtown-Growth Districts.

3. Update Table 8-1 “Permitted Principal Uses By Zoning District” in Article 8 and Table 5.1.5 “Permitted Uses” in Article 5 to display “Charitable Gaming Facility” under Commercial Uses as permitted with limitations.
4. Amend Table 9-1 “Minimum On-Site Parking Requirements” in Article 9 to display “Charitable Gaming Facility” under Commercial Uses with a minimum on-site parking requirement of 0.75 spaces per gaming position.

Jay Kahn, Mayor

In City Council September 19, 2024.
Voted 8 in favor and 7 opposed to amend
Ordinance O-2023-16-B by deleting paragraph
vi. from section e. Parking and Traffic.
Referred to back to the Joint Planning
Board and Planning, Licenses and
Development Committee.


Patricia Castle
City Clerk