

City of Keene
New Hampshire

HISTORIC DISTRICT COMMISSION
MEETING MINUTES

Wednesday, March 17, 2021

4:30 PM

Remote Meeting via Zoom

Members Present:

Andrew Weglinski, Chair
Russ Fleming, Vice Chair
Sam Temple (Left Early)
Councilor Catherine Workman
Hans Porschitz
Tia Hockett, Alternate

Staff Present:

Mari Brunner, Planner
Tara Kessler, Senior Planner

Members Not Present:

Hope Benik
Joslin Kimball Frank, Alternate
Dave Bergeron, Alternate
Peter Poanessa, Alternate

1) Call to Order and Roll Call

Chair Weglinski read the executive order authorizing a remote meeting: Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04. Pursuant to this order, Chair Weglinski called the meeting to order at 4:33 PM, Ms. Brunner called roll, and members present stated their locations and whether calling alone.

2) Minutes of December 16, 2020

Vice Chair Fleming moved to approve the minutes of December 16, 2020, which Mr. Porschitz seconded, and the motion passed with a unanimous roll call vote in favor.

3) Public Hearings:

- a. Amendments to the Downtown Historic District Regulations – The Historic District Commission proposes to amend its regulations by incorporating them into Article 21 and Section 25.15 of the proposed City of Keene Land Development Code (see Ordinance O-2020-10A). Proposed amendments to these regulations include, but are not limited to, exempting buildings that are less than 50 years old from the regulations, amending the thresholds for**

major and minor project classification, and establishing standards related to artwork/murals on buildings and structures.

Chair Weglinski welcomed City of Keene Senior Planner, Tara Kessler, who began by providing some background for newer members on the Commission who were not privy to previous Staff presentations and discussions with the Historic District Commission (HDC) during the two and one half years of this Land Development Code project. The proposed new Land Development Code would be sent to City Council for public hearing during the next few months.

Ms. Kessler began by reviewing this multi-year process to consolidate all community development and land use regulations into one greater body of regulations called the Land Development Code. On October 15, 2020, the Land Use Ordinance application was submitted to City Council, which referred the Ordinance to the Joint Planning Board – Planning, Licenses & Development (PB-PLD) Committee. The PB-PLD public workshop phase began in November 2020 and concluded on February 8, 2021; workshops included proposal review, collection of public input, and the opportunity to propose changes. At the time of this meeting, the Planning Board (PB) and HDC were in the process of holding public hearings to review and vote on proposed changes to their specific regulations. Then, final changes would be incorporated based on their feedback to be presented for a City Council public hearing on the Ordinance. The City Council would vote on the proposed Ordinance after a second reading and recommendation from the Planning, Licenses & Development (PLD) Committee, which is anticipated this spring/summer. Ms. Kessler said that this was a unique process because traditionally, the HDC controls its regulations and has the authority to amend; the same was true for the PB and its respective site plan and development standards. By merging the HDC regulations into this Land Development Code, the City Council would become the new authority to amend the Historic District Regulations, after a vote by the HDC and the Planning, Licenses, and Development Committee.

Ms. Kessler said that Keene's land use regulations helped the City grow to what it is today and the high-level context for creating the unified Land Development Code was to update those regulations and enhance economic opportunities, while maintaining the City's unique character. These land use regulations determine what uses can occur in the City, where and how buildings can be placed on lots, and what activities can occur along the right-of-way (ROW), all of which shape how the City looks and feels as it varies from downtown, to residential, to rural districts.

It has been over 50 years since the City's current land use regulations were updated comprehensively. Piecemeal amendments have been made over time to address specific needs without a larger process to see how those amendments impacted all the others. The Land Development Code process was to ensure land use regulations – including the Historic District Regulations – were not only up-to-date, but also aligned with the Keene Comprehensive Master Plan and reviewed comprehensively for inconsistencies and barriers to navigation. Both Staff and developers were challenged navigating regulations housed in so many different codes and locations – Zoning Ordinance, PB Site Plan and Subdivision Regulations, Development

Standards, Building Regulations, Public Improvement Standards, Natural Resource Regulations, and HDC Regulations. All of the aforementioned standards and regulations relate to (re)development and use of land. Individuals making changes to their properties must navigate between many or all of these scattered rules to do so.

Ms. Kessler said that the guiding principles of the Land Development Code were simplicity (i.e., easy for most to read and navigate), efficiency (i.e., streamlined with the City's goals in mind), and thoughtful (i.e., reviewed and audited for compatibility, consistency, support of the Comprehensive Master Plan, and to promote quality future development).

After a long time of Staff trying to determine how to achieve these goals in the context of 50 years having passed since the last update, the City Council guided Staff to develop a unified development code, known as the Land Development Code, which combined all aforementioned regulations that address land use and development into one code/document. This effort also included reorganizing regulations and major updates in some areas, such as downtown zoning. The proposed Land Development Code was introduced to Council in fall 2020 and would include the HD regulations if the HDC were in favor of the proposed amendments and moving them to the Land Development Code, and should Council eventually vote in favor of the Ordinance.

Next, Ms. Kessler described proposed changes to downtown zoning, which had been reviewed in detail by the PB-PLD Committee. The purpose of updating downtown zoning was to encourage mixed-uses and modern uses, accommodate density and height (where appropriate), address infill development, establish transition/buffer zones, focus on form and not architecture, and to be complementary and not monotonous. Today, many zoning districts layover what many consider to be the downtown. An Ad Hoc Steering Committee worked with consultants on an exercise to map the downtown area that would be impacted by the zoning update to ensure that downtown zoning regulations support development patterns to preserve certain aspects – like the Historic District and Main Street – or encourage new patterns of development based on public visioning and design efforts like those for Gilbo Avenue over the past decade. The Land Development Code proposes six downtown zones to replace the Central Business District and Central Business Limited District, along with portions of the Office, High Density, and Commerce Districts which are located in the downtown area. For example, today there is no maximum setback in the Central Business District and therefore, if a historic building were demolished with HDC approval, then a new one-story building could be erected set back far from the sidewalk and adjacent buildings, which would look out of place but be allowed by current zoning standards. Now, downtown zoning would support the pattern of development that the HDC worked so hard to preserve and maintain in downtown Keene.

Ms. Kessler explained community outreach to date seeking public input on the Land Development Code, which has included presentations to community groups and organizations, meetings with individuals and small groups, community forums, development community roundtables, neighborhood meetings, downtown storefronts/open house, local media (radio, TV,

newspaper, social media), project website, City Council presentations, PB-PLD Committee presentations, Ad Hoc Steering Committee presentations, direct mailers (more than 5,000 in 2019, and to all 6,096 property owners in October 2020), PB-PLD Committee public workshops (November 2020—February 2021), and a PB public hearing in February 2021.

Ms. Kessler displayed a map to demonstrate the current Historic District boundaries. There was no proposal to change those boundaries in the Land Development Code effort.

Next, Ms. Kessler began explaining the proposed changes to the Historic District Regulations. Currently, the Historic District Regulations are located in three places: Chapter 18 of the City Code – Building Regulations, Chapter 102 (Zoning Ordinance), and the Downtown Historic District Regulations. In the proposed Land Development Code, all of the regulations related to the Historic District would be consolidated into one chapter. This way, someone navigating the regulatory network downtown could find what they need in one document and not across six different regulatory documents on different access platforms. Additionally, Historic District Regulations were streamlined and reorganized in the proposed Land Development Code. For example, all of the information on exempt activities were consolidated into one section versus having individual exemption sections for each standard. Ms. Kessler said that this streamlining also included removing guidelines and narrative/descriptive introductions from the regulations because they were merely suggestions to property owners and unenforceable by Staff and the HDC. Streamlining and reorganizing also resulted in separate application submission, review, and decision processes which are proposed to be in Section 25.15 along with all application procedures and board processes for any land use permit.

Next, Ms. Kessler described amendments to the Historic District Regulations proposed through the Land Development Code process:

1. One of the most significant proposed changes was to exempt buildings younger than 50 years from the Historic District Regulations.
 - a. Ms. Kessler believed that Staff consulted the HDC a few times on this proposal over the past 2 and a half years and there was support for this change, but she recognized that there were new HDC members since the last presentation on the matter. She said that today in the Downtown Historic District, there are four categories of resource ranking – Primary, Contributing, Non-Contributing, and Incompatible – and any buildings younger than 50 years old are either considered to be Non-Contributing, Incompatible, or have not been ranked yet. There are standards in the Historic District Regulations for new development and construction that are very specific to historic structure conformance, which were specific to either the surrounding area or too open-ended for the Commission to determine how a new development conformed to the surrounding area. Today, for a new building in the downtown Historic District, the HDC must review the application before it is reviewed by the PB for other site development standards, and the PB does not have a role of applying their architectural standards to new buildings in the Downtown Historic District in order to avoid conflict between the

HDC and PB. She said that in previous iterations, the Commission had struggled to apply their standards to new buildings, like Washington Park, MoCo Arts, and the Monadnock Food Co-Op, which are new and could be difficult to apply Historic District Regulations once developed. Through the Land Development Code, Staff proposed to amend that code so that new buildings younger than 50 years old would appear only before the PB instead of requiring new developments to appear before both the HDC and PB for review. As such, through the Land Development Code, there were proposed amendments to the PB architectural and visual standards, drawing from current Historic District Regulations related to form and placement of buildings as well as compatibility with the surrounding area. Downtown zoning changes were also proposed regarding size and massing to be more compatible with what was on the ground today. Ms. Kessler continued explaining that to create a more efficient review process, Staff supported this change because it maintained PB review of new developments downtown and honored current Historic District Regulations.

Vice Chair Fleming asked how broad this change would be; would any modification to buildings younger than 50 years old now not come before the HDC? Ms. Kessler said that was correct. Vice Chair Fleming cited a recent project the HDC reviewed for the former Friendly's property, which was within the Historic District and younger than 50 years old. Through that application, the HDC reviewed two things: construction of a new building on the property and modifications to the existing building. Therefore, with the proposed changes through the Land Development Code, Vice Chair Fleming asked whether the Commission would not have been able to consider whether that building would have been changed to a drastically different color. Ms. Kessler said that technically the Commission could not do that today because the HDC does not regulate paint color in the Historic District. More broadly, Ms. Kessler thought the point could be that it was important for the HDC to consider other architectural elements or building modifications that might not fall under PB purview. Vice Chair Fleming said he saw an opportunity to ruin the Historic District character through this change.

Ms. Kessler thought that perhaps there was an important distinction between the technical expertise of the HDC and PB. Ms. Kessler continued that one reason for this proposal was because the PB administers more robust or detailed standards and this proposal would merge Historic District standards into that PB review because today, the HDC was not offered enough space to evaluate everything they might want to. She saw two paths: 1) amend the Historic District Regulations so that visual and architectural standards for new construction provide better guidance to the Commission, or 2) place review of new buildings into the PB's purview, knowing they would have standards drawn from the Historic District Regulations and that proposed changes to zoning regulations would also control for density and massing concerns to some degree. The latter path would eliminate dual processes for new development applications. Ms. Kessler said that when these ideas were presented previously to Commissioners more than one year ago, some of those members expressed frustration when trying to review applications for new construction downtown, which contributed to this proposed amendment to remove these

Historic District Regulations for new buildings to the purviews of zoning and planning versus creating more clear and objective Historic District Regulations. Ms. Kessler added that once a building was 51 years old, it would be subject to Historic District Regulations; new constructions would not be exempt from HDC review forever. Today, the City followed the Secretary of Interior's standards for periods of significance, which are buildings over 50 years old. This is also why there were two levels of scrutiny. Non-Contributing and Incompatible resources include all buildings younger than 50 years as well as buildings that may be older but do not contribute to the historic character of the district, and there are less strict standards applied to those resources based on the current regulation format.

Mr. Porschitz said that overall, he agreed, noting that he had been a Commissioner throughout this Land Development Code process and presentations to the HDC. He shared the sentiment of frustration over the nuances in the Historic District Regulations. Technically, he said that at year 51, Primary and Contributing resources would be subject to HDC review; he asked if that was the time when resource ranking would occur. Ms. Kessler replied in the affirmative, stating that the HDC was obligated to rank all resources at age 51 and to revisit that scoring process over time. Mr. Porschitz said that over time, as materials and building styles change, the HDC would also update its regulations and adapt to history so that regulations do not require everything to look older than 150 years. Ms. Kessler thought that was a great observation of the shift so that Historic District Regulations would apply no matter what; even if all buildings in the downtown Historic District remained, the HDC would be obligated over time to revisit what historic materials are. Today, she said the Historic District Regulations provide enough flexibility in some areas, like trying to promote replacing materials in-kind with either the same material or a different material that offers the same appearance. As younger buildings are incorporated into the Historic District, Ms. Kessler saw an opportunity through the resources ranking process to review whether the Historic District Regulations continue supporting the different designs, materials, and architecture over the past half century.

Chair Weglinski asked whether new buildings would not be ranked as Contributing until 50 years old. Ms. Brunner replied in the affirmative, stating that today if a building in the Historic District was younger than 50 years old, it was automatically ranked as Non-Contributing or Incompatible based on the definitions of those terms. The Chairman posited what if theoretically a celebrity architect built an awarded masterpiece that contributed obviously to the Historic District and fabric of the community; he asked what a Contributing Resource means other than age. Ms. Brunner said she does not know the origin of the definitions for Primary and Contributing resources, but said that both were restricted to the building having been there during the Period of Significance, which means they must be older than 50 years. Ms. Kessler said the Secretary of Interior standards distinguish Contributing and Non-Contributing, whereas Keene established the four aforementioned ranks by drawing on practices of other communities. Ms. Kessler thought the Chairman made a good point and she cited struggles at times for the Resource Ranking Subcommittee due to the double edge of recognizing new structures or cases where an Incompatible resource is restored to something that would be Contributing. She thought this discussion could warrant further research to see how other communities navigate this

challenge. She added that a goal was to encourage property owners to make these improvements to their structures but said that not all owners were excited about adhering to Historic District Regulations and so Staff was trying to incentivize and prevent deterioration to those Primary or Contributing resources based on history. Chair Weglinski agreed with Ms. Kessler on getting clarification. He added that the Historic District was not huge but was dense due to Keene's size.

The Chairman said that if a building would not be ranked as Contributing until its 51st year, then what happens during a building's 48th or 49th years. Ms. Kessler said it would not be subject to HDC review until 51 years old. The Chairman asked what would happen then if the owner proposed to alter the building during those few years preceding 50, or someone trying to get something in before it turns 50. Ms. Kessler said there could be more clarity, stating it was not something that Staff had thought of so explicitly. She said that it would be known when a building was constructed and therefore when it would turn 50 approximately. She was unsure Staff had a proposal for whether there should be a time period before a building turns 50 during which changes should be prohibited. In the current Land Development Code proposal, the recommendation was that buildings would be subject to Historic District Regulations when a building is 51 years old, but the changes were entirely within the HDC's purview and the purpose of this hearing was to propose changes to the Staff recommendations. Chair Weglinski cited 2020 with the pandemic and the HDC did not meet for six months; he wondered what would happen for someone in that instance who planned to apply for changes but six months go by. Ms. Brunner said that the Resource Ranking Subcommittee was on hold at present because of Covid-19, but a topic they had discussed was whether a task of the Commission should be to contact property owners one or two years before that 50 year threshold to make owners aware that they would soon be subject to the Historic District Regulations. Chair Weglinski thought that could be a possible solution to this issue, stating that there would always be someone challenging situations at times.

The Chairman continued stating that he was also a member of the PB, which at times was challenged also because the Board might not like how something looks in the Downtown Historic District but it had no control because it was not the Board's purview. He said the new form-based zoning included sizes, setbacks, volume, zoning, density, and more. Still, he said that if a building simply meets a bunch of requirements it might not be aesthetically pleasing to all. He said that if the HDC loses the little control it has over appearances then he would be concerned, but he also did not want to impede progress.

Vice Chair Fleming agreed with the Chairman's point and he thought that this change, in part, needed some rethinking. Vice Chair Fleming continued that this should not be taken as an easy way out versus more objective requirements. He heard Staff about what would be the new massing oversight of the PB but said that was a different situation than architectural appearance. He said that there was a period of significance – the 19th century essentially – in Keene that should be maintained and capitalized upon for tourism and more. He cited the capital of Brazil, where the Historic District still appears as the 1960s, which was its Period of Significance. Vice Chair Fleming said that this was not the historic building commission, it is the Historic *District*

Commission, representing and maintaining a district of buildings from approximately the same period. He thought this was important and that the HDC needed to focus on what Keene was all about.

Mr. Porschitz said he understood Vice Chair Fleming's points but said that with housing stock today and density of the past 50 years, he thought there was a solid foundation. Having grown-up in Germany where there was a lot of historical significance, Mr. Porschitz continued that he had seen cities do well to maintain that character but to also go with the times and mesh that history with newer areas of significance and architecture that would be significant in the future. Mr. Porschitz said he could not envision a new construction so drastic that it would overcome what had already been established in the Historic District, which was why he was less concerned with this amendment.

Mr. Temple echoed Mr. Porschitz, stating that tourism was an underlying factor and that tourists do not want museums but rather they seek vitality and energy, which was why he thought it was important to keep a spirit of openness. Chair Weglinski agreed, stating that he thought everyone might be saying similar things – not in opposition of new buildings and energy but needing an entity (to perhaps not mimic the HDC) to assess how new or more modern buildings fit into the fabric of the Historic District.

If this were the case, Vice Chair Fleming wondered why the HDC cared what happened to the existing Friendly's windows and roof. Ms. Kessler said that there would still be architectural standards for new developments but that review would be the PB's purview and not the HDC. She said that if the HDC still felt that their experience in interpreting the standards and applying them to new developments added something more than the PB composition had to offer for the Historic District, then that was within the HDC's purview to reject this amendment. She did not disagree on the importance of ensuring new development in the Historic District was not only compatible, but also of a quality that preserved the district as a whole.

Ms. Kessler showed the four HDC standards for Building Rehabilitation today for Non-conforming and Incompatible resources, which she said were lacking and might not support the desire being expressed:

1. Restoration or rehabilitation of, or alterations to, a Non-Contributing resource shall be based on physical, pictorial or documentary evidence and any surviving character-defining features shall be preserved.
2. Alterations to an Incompatible resource shall not further disrupt or detract from the established historic architectural character of the surrounding area, nor to the relationship of any existing historical resources, including site features, on the site.
3. Materials used for siding shall be those that are common in the district. Acceptable materials include brick, stone, terra cotta, wood, metal and cement clapboard.
4. Materials commonly referred to as "vinyl siding" are inappropriate contemporary materials and are therefore prohibited for use in the Historic District except when repairing existing vinyl siding.

Next, Ms. Kessler shared some of the proposed HDC design standards for construction of new additions on Non-Contributing and Incompatible resources:

1. Additions shall reflect the context of surrounding historic buildings or structures and not detract from the overall character of the historic district.
2. Materials used for siding on additions shall be compatible with existing materials on the building and shall be those that are common in the district. Acceptable materials include brick, stone, terra cotta, wood, metal and cement clapboard.
3. Materials commonly referred to as “vinyl siding” are inappropriate contemporary materials and are therefore prohibited for use on additions except when the addition is to a building where the predominant existing siding type is vinyl.

Ms. Kessler thought it would be helpful to share the PB architectural and visual appearance standards and amendments proposed in the Land Development Code, which incorporate current Historic District standards:

20.14 ARCHITECTURAL AND VISUAL APPEARANCE

- The following standards shall govern the visual and architectural character of development in the City to ensure that new and redeveloped buildings and structures blend aesthetically with the City’s historic character, are consistent with the prevailing scale, orientation, and design of the City, and do not detract from viewsheds and view corridors.
- **20.14.1 Massing/Scale**
 - A. The height or placement of any proposed new structure, modifications to an existing structure, or site improvement shall not overwhelm the prevailing architectural scale of the City, detract from valued architectural resources, or impede upon any view corridor or viewshed identified in the Viewshed Overlay District set forth in the Telecommunications Overlay District (**Article 13**).
 - B. For buildings of 150-ft in length of more, facades shall be divided into multiple “modules,” expressed through significant architectural changes such as a change in materials, a change in pattern elements (e.g. fenestration, columns, pilasters, etc.), or a change in building setback through recesses or projections. Such modules shall be no wider than 50-ft.
 - C. Commercial storefronts shall include traditional pedestrian-oriented elements (e.g. display windows, bulkheads, transoms, pilasters, cornices, etc.).
 - D. Additions to existing structures shall be compatible in size and scale with the principal building.
- **20.14.2 Visual Interest**
 - A. Front facades and exterior walls shall be articulated to express an architectural identity to avoid a uniform appearance, and architectural details shall give the impression of being integral to and compatible with the overall design.
 - B. Structures shall have architectural features (e.g. dominant gable ends, cornices, granite sills, arched openings, large windows framed with architecturally consistent trim, etc.) and patterns that provide visual interest at the pedestrian scale, reduce massive aesthetic

effects, and harmonize with the City's distinctive architectural identity, unique character, and prevailing scale.

C. Architectural features shall not serve primarily as an advertisement, commercial display, or identifying characteristics corresponding to corporate identity.

D. Architectural features shall conform to accepted architectural principles of design and construction.

E. Facades shall express a traditional visual distinction between the ground floor and upper stories through architectural features or detailing, change in materials, or a change in pattern elements such as fenestration.

F. Buildings shall be designed with consistent building materials and treatments that wrap around all facades visible from a public right-of-way. Where material or color treatments change, there shall be a significant change in surface plane of a minimum of 6-in in difference. Differing materials are encouraged to terminate at inside corners.

G. Exterior materials, textures, and colors shall minimize visual aggressiveness and shall harmonize with the City's distinctive architectural identity and unique character. Surfaces with glossy finishes, reflective glass or dark tinted exteriors, or untreated aluminum, stainless steel, or metal exterior finishes shall be discouraged.

H. Modifications and additions to existing structures shall be harmonious with the character of the existing structure.

I. Where parapet walls are used, they shall feature three-dimensional cornice treatments or other shadow creating details along their tops.

▪ **20.14.3 Site Design and Relationship to Surrounding Community**

A. All principal buildings located on lot shall be oriented toward a public right-of-way. If, due to site constraints, it is determined that the primary facade of new buildings cannot face the street, then the secondary elevation facing the street shall be designed with form, composition, and details consistent with and appropriate to the primary facade.

B. Orientation of structures on a site shall conform to a parallel or orthogonal pattern in relation to the City street pattern.

C. Off-street parking and traffic flow shall not interfere with the flow of pedestrian travel or otherwise detract from the aesthetic character of a development or redevelopment.

D. All required off-street parking shall be to the side or rear of buildings on the proposed site, and such parking shall be screened or aligned in accordance with **Section 9.4**.

E. A cohesive visual character shall be maintained within a development through the use of coordinated hardscape (e.g. paving materials, lighting, outdoor furniture, etc.) and landscape treatments.

F. The presence of any existing development in the surrounding area that does not conform to these standards for aesthetic character shall not exempt the applicant from complying with this Standard.

Ms. Kessler concluded presenting this proposed Land Development Code section. She said another option would be that Staff and/or the Commission work to improve the HDC regulations for review of new construction or modifications to Non-contributing and Incompatible buildings.

Chair Weglinski wondered if it would be almost too late by the time of PB review of applications given that architects and/or designers would already have typically completed their designs and would not want to change them unless it were an absolute must. He wondered if a happy medium was possible for the HDC to give early input to designers or developers before a matter arrives to the PB, possibly with an Ad Hoc Committee, but he acknowledged that could be messy. Ms. Kessler thought it was an option within the context of the regulations. She thought that if the HDC were inclined to move forward with the Land Development Code proposal and this amendment, it could be possible for the HDC to maintain some review and input, such as through an advice and comment process with a recommendation to the PB required. This would still require an applicant to appear before two public bodies and would not streamline that step, but would provide the HDC an opportunity for input before the PB makes final decisions; there is a similar situation for the Conservation Commission to comment on certain environmental permit applications before the PB review, and the PB takes that input seriously. Chair Weglinski thought this sounded like a reasonable option. Ms. Kessler would investigate and determine through which Board's regulations such a change would occur at this point in the process.

Mr. Porschitz said he understood the desire for safeguards but referred to what Ms. Kessler read three times, which he cited as indicating that design choices need to harmonize with the distinctive architectural appearance of the City. He thought the language in the proposed amendment would not allow just anything to occur that would not harmonize as such. He thought it might be sufficient enough to not warrant an additional step and red tape if it was clear that the PB would focus on all of these significant harmony issues. Mr. Porschitz thought that the concerns were addressed in the proposed Land Development Code as written.

In response to Vice Chair Fleming, Ms. Kessler confirmed that there was no separate architectural review board but that through this proposed Land Development Code, the PB would be the architectural review authority. Ms. Kessler continued that through the Land Development Code update, Staff tried to improve the PB standards for architecture and visual appearance because the Board sought more clarity in the standards. Today, she said that the PB had regulations for architecture and visual appearance against which to evaluate applications. She said that this category of review could not be a checklist approach and so some space was left for the PB to make judgements on whether proposals meet their standards; the PB had a fair amount of discretion on architecture and visual appearance. Still, this was ultimately the Commission's decision whether to adopt this amendment. Ms. Kessler thought that Staff could support boards more perhaps with enhanced training and encouragement to exercise standards without impeding development. Vice Chair Fleming thought that the Chairman's suggestion was a good one. Vice Chair Fleming continued that he was not happy also because this was late in the process to be making the first presentation to the HDC; there had been no update since his term began and if it had been discussed perhaps a month ago, there would be less pressure and worry to iron it out at this meeting. He thought there were bonuses to the HDC advising the PB on these concerns. Ms. Kessler said that the Commission was consulted earlier in the process, but that this was late in that Staff had to develop the draft Land Development Code in order present these thoughts to the Commission. She said that the draft had been proceeding through the regulatory process since

October 2020 with public comment through the PB-PLD Committee. She recognized that membership had changed since then and that there was a difference in opinion.

Chair Weglinski said that Staff was doing well to establish standards to streamline the process in a professional, reasonable, and functional way, while trying to ensure quality control over development in Keene. He appreciated their challenges and knew some of this concern was due to the HDC and PB regulations having grey areas at present, which the Land Development Code was trying to resolve for clarity. He understood that the HDC had done things a certain way for a long time but said the standards were being reworked always in an effort to make them better. He said that many on the Commission were very familiar with the process over the last few years but that now was the time to adopt these in a form the whole HDC deemed acceptable, which he said could be a slower process for the HDC. He thought that Staff did a great job with this presentation on options that could be different and great for the future but thought that some old school mentality might have been trying to hold-on due to things having been done that way for so long. The Chairman was comfortable moving forward differently than today, but there had to be HDC consensus first. Ms. Kessler said this was a public hearing, which could be continued if the Commission wanted more time to work on edits; Staff could prepare revisions in advance of the April meeting. Ms. Kessler said there was a link to the full proposed Land Development Code in the meeting packet and she would send a copy of Chapter 21 as proposed.

The Chairman asked, if these amendments were adopted at this meeting, when the changes would take effect. Ms. Brunner shared her understanding that if the HDC adopted amendments at this meeting, they would not go into effect until the full Land Development Code was adopted by City Council, which would be in July if the review process continued as scheduled. The Land Development Code would not move forward to City Council review until the HDC approved amendments and concluded its public hearing. The schedule would be pushed out if the HDC continued this public hearing to April but Ms. Kessler did not want to rush changes that the HDC was uncomfortable with. The Chairman thought this effort had been occurring for a long time, that the amendment addressed work the HDC had done already, and he was assured that both Staff and the PB-PLD Committee had thoroughly evaluated this draft for a long time with good work and effort. He felt ok moving forward personally given the amount of work that had gone into this. He realized it could be culture shock for some but thought it was a good proposition and that amendments would be positive in helping Keene move forward while maintaining the fabric of what exists today.

Ms. Kessler presented the remaining amendments. Next she described activities that were currently Major Projects – require full Commission review – that were proposed to become Minor Projects – could be reviewed by Staff under the authority of the Community Development Director; the Chairman was always consulted with concerns for the decision to bring it to the Commission. All activities that she would list were only in reference to Non-Contributing and Incompatible resources:

1. Installation of renewable energy systems on Non-Contributing or Incompatible structures.

- a. These must still meet Historic District Regulations for renewable energy. This developed from the many requests for roof-mounted systems.
2. Removal, relocation, or demolition of an existing building or structure ranked as Non-Contributing or Incompatible structures.
 - a. The HDC had discussed this change in the past. Changes to properties for new buildings would be now covered in zoning and PB regulations and so Staff thought there was nothing for HDC review. The Commission could revisit this if needed.
3. Replacement of exterior masonry walls on Non-Contributing or Incompatible structures.
4. Chemical or physical treatment to the exterior of a Non-Contributing or Incompatible structure.
 - a. Today, both require major project review because the regulations do not differentiate between different resource rankings. Standards for both of these treatments on masonry were similar and Staff felt it could review the application and details, bringing any concerns to the Chairman.
5. Changes to grading or the installation of new paving to the site of a Non-Contributing or Incompatible structure.
 - a. Standards were in place that Staff could review and administer. Traditionally these activities would require both HDC and PB review.
6. Replacement and installation of new windows or doors in former or existing openings of a Non-Contributing or Incompatible structure.
 - a. Currently, applications for more than two windows or doors proposed in the same calendar year would warrant Major Project review.

Next, Ms. Kessler shared the one Minor Project that was proposed to become a Major Project in the Land Development Code: Installation of prefabricated accessory buildings or structures with a gross floor area **that exceeds 125 sf** for Non-contributing or Incompatible structures. Today, there is no size threshold. Staff took the figure from the Zoning Code for exempt structures that do not have to comply with certain requirements if under that size. Therefore, it was thought to be a good standard for this amendment as well. Those applications for structures less than 125 sf would still be reviewed administratively as Minor Projects. The Chairman wondered whether this had any relation to foundations (cinderblocks, in-ground, full concrete). Ms. Kessler said that anything permanently affixed in the ground was considered a structure, even a concrete patio. Prefabricated accessory buildings would include structures like sheds that could be purchased from Home Depot, for example. An example of a standalone prefabricated accessory structure less than 125 sf included the ATM building near the NBT Bank at Colony Mill, which was outside the Historic District but constructed to match the existing historical structure to qualify for historic tax credits. The Chairman did not think these structures needed to be major projects but he understood the requirement for some size threshold.

Next, Ms. Kessler explained new standards proposed that do not exist in the Historic District Regulations today:

1. "If a mature tree is damaged during construction, or removed without approval, it shall be replaced with a new tree of the same or similar species that is at least 3-in in diameter, as measured 24-in from the ground after planting."
 - a. There is a Historic District regulation today prohibiting removal of trees 15-in in diameter at four feet above ground. Any proposal to remove a mature tree would require approval unless the owner could demonstrate through an arborist that that the tree is dead or a hazard. Staff felt this was important to include due to recent history of trees being cut in the Historic District without a regulation to require replanting. The Chairman thought it might be important to specify whether the replacement has to be at the same location, anywhere on the same site, or anywhere in town. Ms. Kessler agreed, stating her understanding is that it would be the same site but not necessarily the same location and she was unsure about replacement elsewhere in town.
2. "Chain link fencing and chain link fencing with slats shall be prohibited." (as new fence material)
 - a. Existing chain link fences could remain. These materials were prohibited currently in the Historic District for dumpster enclosure screens in both the HDC and PB regulations. The Chairman thought he had seen them approved case-by-case for dumpsters or propane tanks. Ms. Kessler said that propane is a challenge and that the proposed standard could be perhaps clearer, given that in some instances chain link was required for screening certain equipment for safety and she thought a qualifying statement acknowledging that was needed.

Ms. Kessler explained that longer-serving members would remember updating the Historic District Regulations in 2018 to accommodate murals painted on unpainted stone or brick masonry surfaces. It was done at the time to accommodate the Walldogs Festival and a new section on art was proposed under standards for building rehabilitation (number five already existed today):

21.6.1.B. Art

1. Artwork shall not conceal or result in the removal of character-defining details or architectural features.
2. Wall-mounted art, such as murals, mosaics or metal installations, shall be located to avoid areas that are important to the overall design or architectural rhythm of the building.
3. The art installation shall be installed in such a manner that it can be removed and not damage the associated historic building, structure, or site.
4. Accessories to the artwork, such as mounting hardware or lighting, should be unobtrusive and screened from view as much as possible. If visible, colors of equipment and accessories shall either be muted or shall match nearby materials and colors.
5. Murals proposed for unpainted brick or stone masonry surfaces on a building or structure shall meet all of the following criteria:
 - a. The mural will enhance or complement the historic or architectural features of the structure or site.

- b. The mural will enhance or complement the historic character or context of the surrounding area.
- c. The mural will showcase images of local places, people, and/or products that have historic significance to Keene and/or the surrounding region.
- d. The mural will be designed by a professional mural artist or sign painter.
- e. The mural is not located on the primary elevation of a Primary or Contributing Resource.
- f. The mural will not cover more than 40% of the surface area of a building or structure façade.
- g. The applicant has demonstrated that the proposed surface treatment is appropriate for historic brick or stone masonry materials.
 - i. Waterproof coatings shall be prohibited.

Next, Ms. Kessler described standards that are proposed for removal from the HDC Regulations:

- Removed Lighting Standards (Section XV.A.3.b):
 1. Lighting fixtures and poles shall be compatible in scale, design and materials with both the individual and surrounding properties.
 2. Only full cut-off fixtures shall be used.
 3. The location, level and direction of lighting shall be appropriate for the character of the area in which it is situated.
- Removed the following standard from Section XV.A.4.b related to Walkways, Driveways, Alleys, and Parking Areas:
 1. "For new construction, and on sites with residences or converted residences, every effort shall be made to locate parking behind the building(s). Parking shall be located to the rear of the backline of the building or the backline of the main block of the building, as applicable."

Staff proposed to remove the aforementioned standards because for lighting it was redundant with standards located elsewhere in the proposed code and because for walkways, the zoning standards were more stringent and would be applied instead.

Regarding art, Mr. Temple said he found number 5.c. to be problematic. He understood needing to streamline for historic preservation but said the Commission should be careful in this streamlining to not strangle potential venues from artistic creativity in Keene. Chair Weglinski said he understood Mr. Temple's point and added an additional concern for 5.d. and what it means to be a professional artist. The Chairman thought good work was accomplished with the Walldogs Festival and he agreed with Mr. Temple and wanting to promote energy and good work on murals, not just those of historical significance. He added that the painter should be vetted well. Ms. Brunner noted that as written today, standards for murals only apply to unpainted brick or stone masonry and someone could do anything on a concrete masonry wall or wood sided wall in the Historic District. The professional statement she thought was for concern regarding murals painted by non-professionals who may not have the appropriate knowledge or equipment for painting on historic masonry surfaces. She said that when these standards were

adopted in 2018, the HDC expressed concerns about having a mural painted by elementary school children, for example. The Chairman recalled that the HDC was rushed to meet deadlines regarding the Walldogs Festival and said that perhaps some of this was catered more to that specific situation and might therefore require revisiting. He was willing to move forward with a caveat to look at it closer in the future.

Mr. Porschitz affirmed Ms. Brunner's recollection of the changes. He thought the Commission tried to toe the line between being progressive and keeping safeguards, and at the time the Commission did well to find a balance without being too restrictive of artistic expression. Ms. Kessler said she was open to amendments to the proposed art section. These regulations in number five were in response to the Walldogs Festival and the HDC could choose to continue the standard that brick could be painted now that Walldogs was complete. If murals were proposed in the Historic District in the future, then perhaps 5.b. was comprehensive enough with respect to the content that they did not need such specificity on what content of murals was allowed. The Chairman felt confident that 5.c. was created in response to the Walldogs and Ms. Brunner agreed that at the time the HDC was very wary of any painting on historic brick because it was not considered a best practice for historic masonry. The Chairman heard 5.c. as the primary issue and suggested eliminating it.

Next, Ms. Kessler described proposed amendments to the HDC window standards. In the following text, strikethroughs represent elimination and **bold/underline** represent proposed additions:

2. Any ~~windows which are approved for replacement shall~~ **historic window that is proposed for replacement shall be replaced with a window that** conveys the same visual appearance in terms of overall dimensions and shape, size of glazed areas, muntin arrangement, and other design details as the historic windows. In addition, ~~they~~ **it** shall have clear-paned, non-tinted glass (except to replace historic stained or other types of translucent or opaque glass); true divided lights or a permanently affixed muntin grid on the exterior of the window. In either instance, the muntin shall have a raised trapezoidal profile. Snap-in or between-glass muntin grids are ~~not allowed~~ **prohibited**.
 - a. If the historic window to be replaced is wood, the replacement window shall also be wood, or wood clad with aluminum or a material of equal quality and approved by the Historic District Commission.
 - b. **Where the building has been altered to have several types of windows of differing age and character, proposed changes should be consistent with either the predominant window pattern of the building or the original historic pattern. If more than 50% of the existing windows are proposed for replacement, the replacement windows shall be consistent with the historic windows based on physical, documentary, or pictorial evidence. If such evidence of the historic windows is not available, the applicant may propose a style and pattern of window that is appropriate to the architectural styles and period of the building.**

c. For windows added as part of an addition to the existing structure, the above regulations are recommended practices.

Staff realized that improvement and clarification was needed for the current window standards and what they apply to. Previously, all window replacement on Primary and Contributing Resources in the District was held to the same standards of a historic window replacement, which had been controversial. The intent of this amendment was to clarify that this was meant only for replacement of historic windows. Additionally, Staff had to clarify a threshold for when replacements over time have led to windows from many periods on the same building, so that new windows are kept with the true historic nature of the building or to a style and pattern appropriate for the building period. The Chairman thought that 2.b. was a lot to digest. Vice Chair Fleming thought that one of the reasons for these changes had to do with vinyl-clad windows but he heard Ms. Kessler say aluminum or equal equality, which to him was unclear whether it included vinyl. He said that 2.b was only for when the building has several types of windows, which he understood that if the building had one weird window, then it was okay to change the windows in any way. Finally, Mr. Fleming did not understand why 2.c. would just be a recommended practice because it is easier to choose windows for an addition than existing structure. Ms. Kessler replied that vinyl would not be considered equal to aluminum, that Staff was referring to several types of windows of different character and it becomes difficult trying to choose a number and what percentage to hold owners to but she added it was the Commission's discretion, and for 2.c. she thought it followed the Secretary of Interior standards, which are to not mimic what was there for a period but to complement and perhaps they should be held to the standards for historic windows on an addition.

The Chairman thought that amendment 2.b to the window standards was challenging because an owner could apply to replace two windows at a time as Minor Project review continuously until that building exceeds 50%. If the predominant window pattern were wrong and installed pre- or during the HDC and not addressed, the Chairman asked how to deal with that moving forward and reiterated that 2.b. needed reworking. Ms. Brunner cited a recent example of a Primary resource that had replaced all the historic windows with one over one windows and the owner proposed to replace one window on a façade with 15 windows and staff thought it made more sense to have them replace that window to match the others on the façade versus reinstalling one historic window, which would look out of place. She continued that when a building has multiple ages and eras of windows this was believed to provide guidance to the applicant as to what should match. She said Staff could rework this language. The Chairman suggested proceeding with a vote at this meeting to see where everyone stood and then to modify a few of these small details moving forward through amendments.

Mr. Porschitz agreed with the Chair in the spirit of moving things along with the understanding that certain areas could be addressed with amendments. He continued asking whether there was a true definition of "historic windows." Ms. Kessler said it would be specific to the building, but it was undefined in the existing regulations and so it had been interpreted through practice to mean what is on the historic resource inventory form for each building, which were created by a

historic resource consultant in 2001-2002, when the Historic District was created to identify character defining or significant windows. She said that Mr. Porschitz's question was a challenging one that Staff debated a lot when trying to clarify this section given the recent sections cited by Ms. Brunner. The Chairman said he understood the challenge and he thought in some ways there were two different sections of 2.b. with one being the patch job trying to mimic what was there originally and the other being total rehabilitation and reusing a building to be more suitable to future function and use in a positive way versus it being demolished. He thought this was something to clarify further moving forward. He thought Staff did a fairly good job trying to field all these different scenarios.

Ms. Kessler said that there seemed to be still a number of questions and not a clear consensus on all of the amendments proposed. The Chairman said two things stood out to him: 2.b. under proposed amendments to window standards and the 12.6.1.B. art standards. He thought those could both be refined moving forward. Mr. Porschitz agreed that overall the process had been comprehensive and that the changes seemed in-line with what he had in mind for historic preservation of the City combined with modern times and development opportunities moving forward. He thought there were some details to refine still perhaps but overall he said it seemed a good balance was struck and he was happy to hear how it was put together after being present for updates and input throughout the whole process. He appreciated this work, calling it in-line with his motivation for joining the HDC.

Chair Weglinski opened the hearing to public comment.

Peter Espiefs of 29 Middle Street said he recognized the hard work put into this by the Community Development Department, which he knew was competent. Still, Mr. Espiefs said everyone must remember that families live in the Historic District who might not be there for the next 10-50 years. He said some families want to move from the Historic District and want there to be a market for their properties. If properties were so encumbered with such detailed prohibitions, Mr. Espiefs stated that families would not be able to sell as easily and that the City would then have, in effect, taken their properties. He asked the Commission to consider his points and to not overregulate everything in an effort toward preservation. Mr. Espiefs concluded that if that City wanted those buildings to remain exactly as they were, that the City should buy the properties themselves. The Chairman said the goal was to streamline, which he thought would help alleviate current restrictions. Chair Weglinski asked Mr. Espiefs what in the proposed regulations was impeding his ability to sell. Mr. Espiefs said he could not answer specifically because his home was not yet on the market, but he would be considering doing so sometime soon. He said he was 89 years old and had lived in Keene since 1963. Mr. Espiefs said it seemed unfavorable to sell his property with the regulations for the Historic District. He understands the goals of preservation and boosting the downtown, but said that the City must be somewhat merciful in considering standards to impose on property owners.

Hearing nothing further, Chair Weglinski closed the public comment portion of the meeting.

Vice Chair Fleming said he was a newer Commissioner and did not want to obstruct the past more than two years of work. Still, it would violate his personal principles to rush and approve these amendments at this meeting. It was a lot of information packed into just one meeting and while there were many good changes he was not ready to vote to approve.

Knowing that the Commission still had concerns, Ms. Kessler said that Staff wanted the HDC to understand what they are voting on and to be comfortable doing so. She did not want to delay the process but said it would be helpful to hear all Commissioner's positions on voting at this meeting or continuing to April. She urged consideration of Vice Chair Fleming's comments.

Mr. Temple thanked Ms. Kessler for a crisp presentation. Mr. Temple said he heard Vice Chair Fleming's points but felt that after more than two hours of discussion on these amendments he felt sufficient attention and explanations were given to warrant a vote at this meeting. [Mr. Temple departed the meeting.]

Mr. Porschitz said a benefit of being a Commissioner throughout this Land Development Code update was that he heard the previous several presentations from Staff. At this point, Mr. Porschitz was comfortable voting at this meeting because he was comfortable with the nice balance struck in the amendments, but he understood this could be moving too quickly for newer members and so he was open to continuing this public hearing to April.

Councilor Workman expressed thanks for everyone's input and suggestions, as well as Staff for their hard work. The Councilor said she had the pleasure of getting very familiar with the Land Development Code through serving on several boards. Councilor Workman asked what the overall project timeline would be if this public hearing were continued to April. Ms. Kessler said that if this public hearing were continued to April 21, then she believes that the planned City Council public hearing would have to be pushed from April 15 to May 20, then to the PLD Committee on May 26, and finally back to Council for a vote to adopt on June 3. She continued that Staff could choose to extend the take effect date later than July 1, which was planned to align nicely with the start of the fiscal year; the intention is to provide the community two months to review the document before it takes effect. With the timeline Ms. Kessler described, Councilor Workman said she supported continuing this public hearing to April to allow everyone to process the proposed amendments presented at this meeting.

Ms. Hockett said that she was also a newer member, learning as she goes. She said Ms. Kessler did a great job presenting a lot of information and she also thanked her fellow Commissioners for their input. She was comfortable with either option for how to proceed at this meeting.

The Chairman agreed with Ms. Hockett. If revisiting this next month, he asked all Councilors to bring items of concern to Staff's attention within the next two weeks so they have sufficient time to edit before the next meeting, when this matter needs to conclude.

Vice Chair Fleming made the following motion, which Councilor Workman seconded. On a roll call vote of 5-0, the Historic District Commission continued the hearing on amendments to the downtown Historic District Regulations to the April 21, 2021 meeting.

Staff agreed to provide the Commission with the PowerPoint presentation from this meeting, the PB Chapter 21 development standards, and a summary of the amendments presented at this meeting. Commissioners agreed to send comments and recommendations to Staff within two weeks after this meeting to expedite this discussion in April.

b. Historic District Commission Fee Schedule – The City of Keene Community Development Department proposes to amend the Historic District Commission Legal Notice Fee, which was last revised in June of 2017, from \$25 to \$62 to account for 1) additional costs related to noticing of remote meetings due to the COVID-2019 state of Emergency and 2) to reflect increases in the per-line cost of legal advertisements.

Ms. Brunner said that the Community Development Department was recently preparing their budget for fiscal year 2021 and found that the budget for legal ads for the current fiscal year was almost exhausted and would run out before the end of the fiscal year. She said the primary reason for this was Covid-19 and she shared figures to demonstrate the proposal to increase applications fees from the current \$25 to \$62:

- Before Covid-19 –
 - Average length of a legal notice: 56 lines
 - The Sentinel increases periodically the cost per line.
 - Current cost was \$1.50 per line, which would increase to \$1.60 per line on April 1
 - Average number of HDC applications per legal notice: 2
 - Average cost of one legal notice: \$84, or \$42 per application
- During Covid-19:
 - Legal notices were much longer to accommodate the required information about remote Zoom meetings.
 - Average length of a legal notice: 77 lines
 - April 1 increase in cost per line to \$1.60
 - Average number of HDC applications per legal notice: 2
 - Average cost of one legal notice: \$115.50, or \$62 per application (increased \$4 with new cost per line)

Application fees were intended to cover the cost of legal notices and she said that clearly those \$25 fees were no longer meeting the cost of these notices even before the context of Covid-19. The purpose of increasing the application fee was to also ensure that these legal costs were not charged to non-applicant taxpayers. She recognized this was a significant \$37 increase in application fees but this would also be consistent with increases for other Community Development Department boards including the PB and Zoning Board of Adjustment to keep fees

consistent. The Chairman asked where these notifications must be posted, and whether there was any control over how paper notices are presented to avoid surcharges. Ms. Brunner said that legal notice is required by State statute and one must be posted in a local or regional newspaper for every public hearing, and the City chose the Sentinel believing that more Keene residents read it than the NH Union Leader. Additionally, those notices must be posted in two other locations, which are paper copies posted at different locations in City Hall and a digital copy on the Commission's webpage. Ms. Brunner thought that print was required so that those who choose to buy a paper or have them delivered have access. She was unsure whether the Sentinel distinguished between print and online legal notices. She would return with those answers.

The HDC adopts its own fees. Ms. Brunner said this was a public hearing through which Staff was asking the Commission to adopt this fee increase.

The Chairman opened public comment and, hearing none, closed the hearing.

Councilor Workman made the following motion, which Vice Chair Fleming seconded. On a roll call vote of 5-0, the Historic District Commission amended the HDC legal notice fee from \$25 to \$62.

- 4) **New Business**
- 5) **Next Meeting – April 21, 2021**
- 6) **Adjourn**

There being no further business, Chair Weglinski adjourned the meeting at 6:20 PM.

Respectfully submitted by,
Katie Kibler, Minute Taker
March 23, 2021

Reviewed and edited by Mari Brunner, Planner