

City of Keene
New Hampshire

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

Monday, June 13, 2022

6:30 PM

Council Chambers,
City Hall

Planning Board

Members Present:

Pamela Russell Slack, Chair
David Orgaz
Roberta Mastrogiovanni
Harold Farrington
Armando Rangel

Planning, Licenses &

Development Committee

Members Present:

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

Staff Present:

John Rogers, Acting Community
Development Director
Mari Brunner, Senior Planner
Evan Clements, Planner
Med Kopczynski, Economic
Development Director

Planning Board

Members Not Present

Mayor George S. Hansel
Councilor Michael Remy
Emily Lavigne-Bernier
Gail Somers, Alternate
Tammy Adams, Alternate

Planning, Licenses &

Development Committee

Members Not Present:

I) Roll Call

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

2) Approval of Meeting Minutes – May 9, 2022

A motion was made by Pamela Russell Slack to approve the May 9, 2022 meeting minutes. The motion was seconded Councilor Michael Giacomo and was unanimously approved by roll call vote.

3) Draft Proposed Changes to the Keene Land Development Code

a. Rural District

b. Conservation Residential Development Subdivision

Senior Planner Mari Brunner addressed the Committee and began by giving some background before jumping into the presentation. She stated that staff has been researching the Rural District, and based on their research they think it would be a good idea to change the minimum lot size from five acres to two acres, which is what the minimum lot size was historically. However,

changing the minimum lot size in the Rural District would also mean that the regulations for the Conservation Residential District (CRD) needed to be addressed as well to be consistent with the underlying zoning district. As staff reviewed the CRD regulations, a couple items were identified that need to be fixed. In addition, staff took the opportunity to look at addressing some of the other community goals such as land conservation, renewable energy and workforce housing. Therefore, there are two parts to the proposed changes. The first is related to the lot size change in the Rural District, and the second is related to those three community goals.

Ms. Brunner referred to the intent statement for the Rural District: *The Rural District is intended to provide for areas of very low density development, predominantly of a residential or agricultural nature. These areas are generally outside of the valley floor, beyond where city water, sewer and other city services can be readily supplied.*

She referred to a map of the Rural District. The total land area is approximately 14,313 acres of land. Most of the Rural District is beyond where City sewer and water is available. The Rural District also is an area that has development constraints such as land-locked parcels. There are 38 parcels (7.7%) that cannot be developed at this time due to lack of frontage or access. The dimensional requirements are to promote a low density of development. Minimum lot size is five acres but if there is access to City water and sewer, the lot size is reduced to two acres. There are about 50 parcels within 50 feet of a water or sewer main but that number is greatly reduced when they are combined.

The minimum lot width at the building line is 200 feet, all other set backs are set at 50 feet at the present time. The maximum building coverage is 10%, maximum impervious coverage is 20%, and building height is limited to two stories or 35 feet.

Ms. Brunner went on to say there are 1,525 properties in the Rural District; however, some of those are condos. An example is the manufactured housing park, Tanglewood, where each manufactured home is its own "parcel." When staff subtracted those condos and only included parcels of land, they were left with 1,118 parcels. Of those, 396 are less than two acres; 247 are between two and five acres; 275 are between five and ten acres; 175 are between five and ten acres; 189 are between ten and 30 acres; and 111 are greater than 30 acres.

Ms. Brunner stated the first recommendation staff has is to change the minimum lot size from 5 to 2 acres. One of the repercussions would be that it will reduce the number of non-conforming lots from 643 to 396.

Councilor Ormerod asked how the City could know it would be alright to reduce the minimum lot size with respect to the quality of wells that would need to be drilled. Ms. Brunner stated there is a minimum distance that would need to be maintained between a well and a septic. Chair Bosley noted two acres was the City's standard but this was changed in the 70's to five acres to slow development not necessarily for water conservation. Ms. Brunner stated staff has spoken to former Mayor Lane who had indicated he was with the City in the 70's when this requirement was changed. Economic Development Director Med Kopczynski added he has spoken to former Mayor Lane who has indicated he will be willing to address this Committee at a later time about the history of this issue. There were planned unit developments that were occurring in the 70's

and there were regulations placed on such development. The Council and Planning Board decided not to pursue planned unit developments anymore and changed the standard from two acres to five acres to slow down growth.

Councilor Giacomo referred to the 396 lots that would remain under two acres and asked whether the map Ms. Brunner referred to include the condos. Ms. Brunner stated it only includes the land under the condos. The Councilor referred to American Avenue and clarified the development that is shown in this area has to do with the development previously referred to before the lot size was changed to five acres. Ms. Brunner agreed.

Chair Russell Slack stated what is important to keep in mind is the reason for this change – to create affordable housing.

Ms. Brunner went on to say if this change was going to be made in the Rural District, the City would have to amend its Conservation Residential Development (CRD) subdivision regulations so they can be consistent with the Rural District. She referred to renderings which show land that is developed under a conventional subdivision and a tract of land developed under the conservation subdivision. She stated that *“the purpose of a conservation residential development subdivision is to promote the conservation of natural resources while providing greater flexibility and creativity in the design of residential development than would be possible using conventional zoning and subdivision practices.”*

With a CRD, the developer starts with a tract of land and identifies primary conservation areas (steep slopes, springs, wetlands) that are placed in conservation. In return, they get flexibility with dimensional requirements. Councilor Giacomo asked whether the City has any CRD's. Ms. Brunner stated there is one at the Darling Court Extension and there is an application coming before the Planning Board. She added the City recently as part of the Land Development Code modified its regulations to make it more attractive for development.

Ms. Brunner then referred to terminology:

Tract: starting parcel of land / parent parcel

Lots: new parcels created as a result of the CRD subdivision

Open space: land permanently reserved as open space. Includes all primary conservation areas.

Primary conservation areas: wetlands & surface waters, slopes >25% grade, floodways, & springs

Ms. Brunner referred to a map and noted the area shown in orange is slopes greater than 25% which are prohibited slopes. Wetlands are also prohibited area and there is a buffer around them. The very large land areas that are remaining in the City, remain for a reason; they have steep slopes, they are land locked parcels, they have wetlands and other development constraints. To develop a parcel such as that, someone would have to use an option such as a CRD.

Ms. Brunner referred to the dimensional requirements for CRD: At the present for a CRD in the Rural District, the tract has to be at least ten acres in size. The minimum lot size is one acre.

Ms. Brunner then addressed the current density and open space requirements. This is one of the items that has been changed with LDC. She indicated developers previously had to go through an arduous process to develop a yield analysis plan. This has been replaced with density factors, a much simpler process. The density factor is currently equal to the underlying zoning district for Low Density (LD) and Low Density 1 (LD-1), but there is a density bonus in the Rural District. In the underlying zoning for the Rural District the minimum lot size is five acres, but the density factor is four acres if you put 50% in open space and three acres if you put 60% in open space.

Ms. Brunner stated with the LDC update there was a little more flexibility built into the type housing allowed: LD, LD-1 and Rural District – only a single family is permitted in the underlying zoning; Under a CRD you are permitted single or two family and in the LD District multifamily is permitted with a maximum of six units per structure. Open space uses are limited to agriculture, conservation, forestry or passive recreation.

Staff's recommendation is to be consistent with the proposed change in lot size to match the underlying zoning district.

Councilor Ormerod noted this presentation is very thorough but asked how this addresses the land lock issue. Ms. Brunner stated that is a bigger issue that would not be solved with what is being proposed. The Councilor asked whether merging the lots strategically would be an option. Chair Bosley felt this would be up to the land owners. Acting Community Development Director John Rogers felt these added incentives could encourage larger development.

Mr. Kopczynski stated the lot merger process is a simple process – addressed by the Planning Board.

Councilor Giacomo asked how many of the land-locked parcels are currently in conservation and are not going to be developed. Ms. Brunner stated most of the land the City owns in conservation is in the Conservation District (a separate zoning district).

Ms. Brunner continued, stating that the other recommendation is to change the minimum lot area for the Rural District within the CRD Regulations from one acre to 32,000 square feet. Staff is also suggesting the tract size at ten acres. Chair Bosley asked whether Ms. Brunner would know how many units you could locate on a ten acre lot versus perhaps a seven acre lot. On a ten acre lot with the minimum lot size changed to two acres you would be able to locate five units with conventional zoning, with seven acres it would be three units. With CRD it would be the same number of units. There is a proposal to change the density bonus (to be discussed later in the presentation) so there might be the possibility for additional units.

Councilor Jones referred to what the Master Plan requires, a document that was prepared 12 years ago which encourages more open space and asked whether what is being proposed tonight would contradict that. Ms. Brunner said this is the reason this proposal is being tied to the CRD Regulations which has an option to preserve conservation area. However, lowering the minimum lot size is opening up more space for development in the Rural District, an area outside City infrastructure. The Master Plan emphasis development should be concentrated where City infrastructure exists. Ms. Brunner felt because the CRD option is available and it requires three

or more lots must abide by those regulations so that environmentally sensitive areas could be protected, it does not contradict the Master Plan.

Councilor Johnson asked to address the homelessness issue and whether that can be an option in these areas as long as they are properly managed. Ms. Brunner stated she did not feel this will directly address the homelessness problem, because what is being proposed is for subdividing in the Rural District. She added unless it is subsidized housing or there is some incentive, developers won't construct housing that is affordable to low income populations. Chair Bosley added what currently exists is a supply and demand issue where there could be families who live in the center of town who don't have access to affordable housing and this will create opportunities for them and shift the burden from downtown or provide opportunities for group homes and shelters. Councilor Johnson asked how many people can potentially live on a two acre lot versus a five acre lot. Ms. Brunner stated at the present time the density factor is per dwelling unit so we are talking about one family per dwelling unit. In the Rural District, at the present time you are permitted to have one dwelling unit on a five acre lot, the proposal is to reduce that to two acres. With the CRD option, you are permitted to go up to a two family home instead of a one family.

Ms. Brunner moved on with her presentation as it relates to community goals. Staff's recommendation is to create a "Menu of Incentives", within the CRD Regulations that a developer can choose from, in exchange for a density bonus. In return they will help the City reach one of its community goals. Under this scenario the minimum lot size will be waived. Overall maximum allowable density will be capped at 30%.

- The First Option under this Incentive would be referred to as Open Space Density Incentive: If a developer agrees to place at least 65% of the tract in open space, they will receive a density bonus of 10% or 1 unit (whichever is greater).

Chair Bosley asked if all three options could be combined. Ms. Brunner answered in the affirmative but added they would not be able to exceed the 30% density cap.

- The Second Option would be the Solar Density Incentive: If a developer meets specific criteria for solar, they will receive a density bonus of 10% or 1 unit (whichever is greater).
- The Third Option would be Workforce Housing Density Incentive: If 20% of units are workforce, they will receive a density bonus of 15% or 1 unit (whichever is greater).

Ms. Brunner explained the solar incentive. With this option, at least 50% of the lots need to be solar-oriented. The premise of this is that the ideal orientation for a building to harvest solar energy is within 5 degrees of true south, although placement within 30 degrees will still garner considerable solar. Combined with design features such as thermal mass material and installation of glazed southern facing windows, this can reduce heating cost by 25% - this is without installing solar panels. If solar panels are installed and they are on an east or west roof, they will return approximately 20% less energy than if they were on a south-facing roof. Therefore, the longest dimension of the lot needs to be running east-west which would mean the house would have a south facing roof on it. To the extent feasible, the building should not be shaded by other

structures and allow for owner control of shading. The long axis of all dwelling units on solar-oriented lots shall be oriented so that the long axis faces within 20 degrees of true south. At least four (4) kilowatts of solar PV shall be installed for each dwelling unit on a solar oriented lot. The street, if feasible, should be oriented east west as well.

Councilor Johnson asked whether the solar panels should be on the roof or whether they could ground mounted. Ms. Brunner stated it could be either/or – this would be up to the owner.

Councilor Ormerod asked where the 50% requirement came from. Ms. Brunner clarified this is optional, it is not a requirement. If they does meet the criteria in this option, they get a density bonus as they are helping the City meets its renewable energy goal.

The next option Ms. Brunner talked about is the Workforce Housing Density Incentive. She indicated what she has included in the presentation is the State definition. It comes from NH Workforce Housing Statute, RSA 674:58-61. What the Statute states is that for-sale housing is considered affordable for a household of four earning up to 100% of the area median income. Rental housing that is considered affordable is for a household of three earning up to 60% of the area median income. For Cheshire County, workforce purchase and rent limits are \$303,000 for purchase price and \$1,130 for rental (2 bedroom).

Councilor Giacomo stated according to his calculation at Keene's tax rate you would have to make \$70,000 with nothing left for other expenses.

Chair Russell Slack referred to the first time home buyer program which is a 40 year mortgage with an extremely low interest rate and affords a family like what is being discussed the capacity to purchase a home. There are also other programs such as the housing vouchers programs which can reduce the amount of rent one has to pay. Chair Russell Slack felt many of those who are homeless are those with jobs and many are living from pay check to pay check. She felt the first time home buyer program is great way for someone to purchase a home. Chair Bosley added what she has seen is that many who have these vouchers are having a hard time accessing housing. She also felt it is a good idea to give developers incentive ideas to be able to provide for affordable housing.

Councilor Giacomo stated his concern is using the 100% of the median income value and noted the first time home buyer program has a maximum house price of less than \$303,000 so if a developer constructs a series of homes that are \$303,000 a first time home buyer won't be able to purchase that home. He felt if the City is going to encourage work force housing we need to make sure it is actually work force housing and using that 100% number is too high. Ms. Brunner in response stated this is the type of feedback staff was looking for. She referred to the next slide and explained this slide refers to 80%, 100% and 120% based on the 2021 HUD Median Area Income affordable purchase price for Cheshire County. For a family of four, this is the estimated maximum price using 30% of income, 5% down payment, 30 year mortgage at 2.88%, 0.7 points, PMI, estimated 2021 taxes for the area and hazard insurance. Interest rate is the average of the 30 Year Freddie Mac interest rate for Jan-Mar 2021. She indicated these numbers are not necessarily realistic. She felt affordable housing is when you are spending 30%

or less of your income on housing, but realistically getting a mortgage with 5% down, 30 year mortgage at 2.88% is not something people can even get right now.

Ms. Brunner noted according to the HUD Median at 80% it is \$242,500, 100% is \$303,000 and at 120% it is \$363,600.

Councilor Jones talked about the companies in Keene who are having a difficult time expanding their companies because of not being able to attract employees due to the lack of housing. He said there is a need for all types of housing, not just workforce housing. Planner Evan Clements felt the solar oriented density bonus is most likely to generate higher quality dwelling units. The solar units are likely going to cost nearly \$30,000, which will add to the cost of the home. He noted on Zillow a three bedroom, two bath, two attached garage, 2,200 square feet new construction are listed for nearly \$490,000. Mr. Clements felt trying to find this \$300,000 number is challenging; if the market is pushing for a \$500,000 house, you would need three market rate houses to pay for one workforce housing unit which he felt was a difficult scenario.

Chair Russell Slack asked whether there could be an incentive included for a business to provide for workforce housing. Mr. Kopczynski stated what Ms. Brunner is referring to is for the City to create its own definition of workforce housing; come up with a reasonable number to make the math work. Mr. Kopczynski stated he and the Mayor have had a discussion with Dartmouth Hitchcock regarding their recent purchase of the former Liberty Mutual Insurance property and the ability for them to add housing units. This employer seems to be warming up to this prospect and added the City is looking at all options.

Councilor Giacomo felt this housing trend we are on these last 24 months might not continue as it is not sustainable. Chair Bosley stated her request would be to increase the density bonus. Ms. Brunner stated staff's proposal is 15% and to increase the number of permitted dwelling units to three.

Councilor Ormerod stated he wanted to make sure we don't short sell the benefit of income diversity. Ms. Brunner referred to review staff had done regarding workforce housing in other communities. Exeter NH has a model where they require 20% of the units to be workforce housing, 15% to be another level etc. and indicated this is another model Keene could also be looking at. She indicated Dover, Hollis, Jaffrey also have workforce housing ordinances. Staff agreed to reach out to these communities to see how successful their programs have been. Ms. Brunner will send out a report that takes a look at the NH workforce housing statute as a 10-year retrospective. Mr. Clements added some of the language staff has proposed for the workforce housing portion is that workforce housing needs to be the same character and quality as the rest of the units in the project and has to be evenly distributed throughout the project. Mr. Clements recalled a project in Hollis NH and recalled opposition to the project but it did eventually come to fruition. Chair Bosley reiterated that she would like to strike a balance and craft something that would work for both the builders and members of the community that are looking for housing.

Chair Russell Slack asked whether any developer has reached out to the City about a project like this. Ms. Brunner answered in the negative and stated this is the first time staff is bringing this

item forward but have heard interest regarding the CRD proposal and there is one coming before the Planning Board. There is no proposal for workforce housing as this is not something Keene has ever considered.

Chair Bosley stated she would like to get some consensus of what staff could work on and possibly bring back an Ordinance for consideration. There is the sale price and the rental price. She asked Councilor Giacomo if he was comfortable with the 80% - the Councilor stated he was as he does see salaries rising and is hoping the median income will continue to rise faster than housing prices.

Councilor Ormerod felt 80% was reasonable but wasn't sure if there was any merit to raising the amount \$265,000 as has been mentioned by Councilor Giacomo or whether it was too small an amount to make a difference. Chair Bosley asked what 90% would yield – it was indicated that would be approximately \$275,000. Mr. Clements indicated when you refer to a price it is not an arbitrary number it is what a family of four can afford based on 30% and certain mortgage conditions. For 2022, the median income according to HUD for Cheshire County is 89% so for a family of four 80% would be an income level of \$75,600.

Chair Bosley stated what needs to be identified are affordable purchase prices for Cheshire County. She indicated according to 80% of HUD's median income a family of three to four can afford a \$240,000 house. If that limit was to be placed for a developer to receive a density bonus they would need to sell 20% of the units at that price. She asked if this was a reasonable expectation that a developer would reduce their price to that amount or should it be at 90% or 100%. The Chair felt for a rental situation, this would need to be monitored regularly at least at the onset of the rental application. She also asked whether this is something that can be modified as the market shifts. Ms. Brunner agreed that staff can come back every five years to modify the definition if market conditions have drastically changed. Mr. Kopczynski stated the proposed number needs to be worthwhile for the developer at the first instance to develop the property and sell the units or on an ongoing basis for rental units. If workforce housing is to be encouraged in the City, it has to be beneficial for a developer. Chair Bosley agreed, the City has to give them a reason to do this.

Mr. Farrington felt the best location for workforce housing would be closer to the City, closer to the actual work places. He felt the Rural District would make the math difficult for developers. He stated he would go with the higher number for sale price.

Councilor Giacomo stated his concern is if workforce housing is not built in the city, businesses that exist are going to leave which he felt is very critical, especially with manufacturers who are looking to hire. Businesses will not relocate to Keene and businesses who are in Keene will close if affordable housing cannot be provided. He stated he understands incentives but asked that it be done on the City side and increase the density bonus to whatever the value should be.

Chair Bosley asked whether staff will be comfortable with a 20% density increase and keeping the number at 80%. Ms. Brunner stated they would like to keep the overall density cap at 30% because of what the house prices stand at this time. She added this proposal is for CRD, Low Density, Low Density 1 and the Rural District.

Councilor Jones noted what is before the Committee is a draft, when the Joint Committee finally adopts the documents and it goes before Council, whether it would become a codified document or would that also be a draft. Ms. Brunner stated the intention was to get feedback from this Committee today and file an Ordinance for first reading before Council at its next meeting. However, if this Committee feels more time is needed for the Ordinance that can be accommodated as well. Councilor Jones asked to keep this as a draft for one more month. He explained if it goes before Council as an ordinance every change proposed by members of the Council would require an amendment for each change. Chair Bosley stated she would like to move this item forward as soon as possible to open up development opportunities. She felt the two questions are around percentages and added she has not heard any other concerns raised regarding the rest of the proposal.

Councilor Giacomo stated he agrees with Councilor Jones, waiting for another month in order to save the hassle of amending the document. Chair Bosley stated she would like to know what the concerns are beside the issue with percentages. Councilor Johnson asked why staff could not review this document and also asked whether another Joint Committee meeting could not be scheduled for July. Ms. Brunner stated one of the constraints with timing is that the public workshop requires a ten day notice and this does not include the day the notice is posted or the day of the meeting. So if this item was to be pushed to the July Joint Committee meeting it will need to go before Council this week, if it was for August it will need to go before Council at its first meeting in August.

Councilor Ormerod felt numbers should be proposed and brought before the Council for their reaction.

Chair Russell Slack stated she agrees with Chair Bosley that this item needs to be moved forward and sees it going longer than a month or two. She indicated she has not heard too many concerns raised. Planning Vice-Chair Orgaz agreed this item needs to be moved forward. Councilor Giacomo stated he did not take into consideration Council break and hence was agreeable to moving it forward. He asked if the percentages being required is before or after the incentives are added. Ms. Brunner stated the 20% would include any units added after the incentive bonus.

Chair Bosley asked for consensus on the percentage. Chair Russell Slack asked for 80% - there was no opposition expressed by the Committee to 80%.

With reference to rental – HUD Median income at 60%, a two bedroom unit would be capped at \$1,130. If it went to 80% this same unit would be capped at \$1,510. Chair Bosley did not feel \$1,500 was affordable for two bedrooms and felt 70% would be a better number. Ms. Brunner stated 60% is what the State defines as workforce. 70% would place a two-bedroom at around \$1,300. The Committee agreed to 60%.

4. New Business
a. Accessory Dwelling Units

Mr. Rogers addressed the Committee and stated the City currently has an Accessory Dwelling Unit (ADU) allowance in any district that currently allows for single family homes. The City permitted ADU's in the LD District in the mid-2000s. In 2017, the State changed its RSA to allow ADU's in all districts that allow for single family homes and the City at that point opened up all districts to ADU's. Some of the regulations for ADU's is that one unit needs to be owner occupied, there is a deed restriction that needs to be put in place, only attached ADU's are permitted, Agricultural and Rural Districts allow for detached ADU's, minimum size requirement is 400 square feet with a maximum size of 800 square feet, in the Agricultural and Rural Districts you can go up to 1,000 square feet or 50% of the main unit, whichever is greater.

Chair Bosley stated the reason she proposed this item is because she thought this would be a quick way to add housing density to the City. She indicated there are instances currently where people are locating units perhaps over their garages for family members to move in and felt in the current housing market this is something that the City is going to see more and more of. She questioned why the City is strict with ADU's having to be attached. Mr. Rogers stated the only thing he would caution is for instance in the Low Density District where a single family home is located, with no restriction on density requirements, someone could construct a second unit on that lot. This is the reason the City did not permit detached in the more dense districts. The Chair asked whether a detached garage will be permitted. Mr. Rogers answered in the affirmative and went on to say if it's a detached ADU then someone could have two detached units plus two detached garages for a total of four units on a lot. He felt a detached garage versus a detached dwelling unit is different. Chair Bosley asked whether in the High and Medium Density Districts ADU's were capped at 650 square feet. Mr. Rogers stated it is 800 square feet for any district.

Councilor Jones thanked the Chair for bringing this item forward and felt this was one of the quickest ways to address the housing issues in the City.

Councilor Giacomo asked whether a garage for instance could be turned into an ADU. The Chair stated it could be with a Variance. He asked whether this could be codified.

Councilor Ormerod noted at-home services are becoming a necessity, especially after Covid, and felt ADU's is something the City needs to make happen and work through issues.

Chair Russell Slack thanked everyone for bringing this item forward. She indicated she would like to hear at a future hearing the difference between ADU's and tiny houses.

Chair Bosley invited Councilor Williams who is working on the homelessness issue and housing. Councilor Williams stated the Ad Hoc Committee on Housing Stability is also looking into this issue. The goal is to bring in units for the lower income level.

5. Next Meeting – Monday, July 11, 2022

6. Adjourn

There being no further business, Chair Bosley adjourned the meeting at 8:45 PM.

Respectfully submitted by,

PB-PLD Meeting Minutes
June 13, 2022

ADOPTED

Krishni Pahl, Minute Taker

Reviewed and edited by,
Mari Brunner, Senior Planner