

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, June 7, 2023

6:00 PM

**Council Chambers,
City Hall**

Members Present:

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

Members Not Present:

All Present

Staff Present:

Elizabeth A. Dragon, City Manager
Thomas P. Mullins, City Attorney
Amanda Palmeira, Assistant City Attorney
Rebecca Landry, Assistant City
Manager/Communications & Marketing
Director
Kürt Blomquist, Assistant City
Manager/Public Works Director/Emergency
Management Director
Andy Bohannon, Director of Parks,
Recreation, & Facilities
Jesse Rounds, Community Development
Director
Mari Brunner, Senior Planner
Evan Clements, Planner

Chair Bosley called the meeting to order at 6:00 PM.

1) City of Keene Housing Needs Assessment

Chair Bosley heard from Senior Planner, Mari Brunner. Before allowing the consultants to lead the presentation, Ms. Brunner acknowledged and thanked the Invest NH Municipal Planning and Zoning Grant program that helped fund this study. She also explained that this was the first step in a multi-phase Invest NH grant. Following the completion of this report, City Staff would begin exploring different ideas and options for phase 3 of this grant, which is regulatory development that she would discuss briefly after the presentation. Ms. Brunner introduced the project consultants from Camoin Associates for a presentation on the public input, key findings, and recommendations from that research and analysis: Dan Stevens, Alex Tranmer, and Jordan Boege.

Ms. Tranmer noted that the Council had seen some of the information she was presenting before. She said this was a multi-phase project that led to a strategy that she thought would be really strong for the City moving forward. She said that data analysis was the foundation of

understanding some of the housing characteristics within the City. While the data confirmed some perceptions, the data was used as the grounding for the current situation. She noted that public engagement was also an important part of this process. She said one of the key takeaways was quantifying the City's housing needs, which she thought would be valuable moving forward. Ms. Tranmer said that phase 3 of the project would involve turning this new data and knowledge into strategies and setting goals for the City and the region, thinking about how to address the complex housing needs in the future.

In addition to the data analysis, Ms. Tranmer wanted to highlight the public engagement and outreach that was done. This engagement included one-on-one interviews with community leaders in this field and two public meetings that she called quite successful. As recently as April 2023, there was a community open house with over 40 attendees who interacted and talked about strategies; she said it was exciting. There was also a community survey with over 350 responses, which she called impressive. All of these aspects contributed to strategy development.

Mr. Boege highlighted some key findings from the quantitative data analysis. Specifically, he addressed affordability. The results showed that the typical Keene household could not afford a typical home price. The average household in the community would require an income of \$18,000/year more to afford the median home price in Keene. A typical worker in Keene would need a \$63,000 "discount" on the sale price of a typical home to afford it. To afford a typical rental unit in the City of Keene, one would need an hourly wage of at least \$21/hour, which is beyond what many in the community earn. Mr. Boege said that clearly, local wages were not aligned with current housing prices in the community.

Next, Mr. Boege explained that 4,200–4,500 new housing units would be needed in the City over the next decade to meet the demand. He said that this was not entirely about new units, but about housing interventions that could reduce the cost of burden on households. For example, if wages increased but housing costs stayed the same, that would relieve the pressure on some families. Upgraded interventions over the next decade could address the current housing needs, including not displacing people, replacing obsolete housing, and upgrading sub-standard housing. Mr. Boege addressed the future workforce housing needs. The data analysis estimates showed that Keene would need 1,400 new housing units on average over the next 10 years, which breaks down to 600 rental units and 800 homeowner units across the income spectrum. To really address the full workforce housing need over the next decade, 140 new units would need to be built annually. There are different needs across the income level spectrum. The challenge is much more acute for those with less income. There is a great need for housing interventions for those making less than \$28,000/year, which is 30% or less than the area median income (AMI).

On a positive note, Mr. Boege said that there had been declines in the proportion of cost burdens for renters and homeowners in Keene. There were fewer cost burdens to households in Keene than in the past decade. He added that in terms of future growth, approximately 275 housing units would potentially become obsolete and need to be replaced over the next decade. Mr. Boege explained that the consultants mapped vulnerabilities in the City like the chances of

flooding, quality of housing, and different demographic groups that could be more susceptible, like seniors. Across the City, some pockets were vulnerable for a variety of reasons, such as the age of housing or flood risks.

Mr. Stevens discussed goals, key strategies, and recommendations to address this housing need. He said that Mr. Boege's very high-level overview of this thorough research was explained in more detail in the final report. Mr. Stevens said that there were 4 overarching goals in the report, a series of strategies to meet those goals, and actionable steps to implement those strategies. Mr. Stevens highlighted the 4 goals:

1. Goal 1: Expand the City's capacity to implement housing programs, policies, projects, and initiatives.
 - a. Key Strategies:
 - i. Establish a City or regional housing trust fund.
 1. It would take financial resources to impact the housing needs figures. This would not necessarily be funded by the City because there are many other funding opportunities and external sources available. He said there were pros and cons, but that there were many successful regional examples. Potential funding sources include grants, tax credits, City funds, ARPA seed funding, philanthropy, developer payment in lieu, employer/business contributions, and NH State Authority/InvestNH grants. There were 2 recommended programs for using the housing trust fund:
 - a. A rehabilitation and resiliency program – financial assistance for existing property owners in the City or region. A competitive process for small grants or forgivable loans to help improve the current housing condition. A lot of properties need rehabilitation related to floods, weatherization, and more.
 - b. A housing development program – geared toward for profit or non-profit housing developers specifically for much-needed workforce housing, which is difficult from a financial feasibility perspective. This program would be an opportunity to provide gap funding for these projects.
 - ii. Collaborate regionally to address critical housing needs.
 - iii. Engage employers in implementing housing solutions.
 - iv. Raise awareness and educate residents on community housing needs.
 - v. Help to organize a community land trust.
 1. This non-profit organization would serve a vital role that is usually not well-suited to the City in terms of acquiring and holding properties. This model has been very effective in promoting affordable home ownership. It is a way to build capacity without putting added burden on the City.

2. Goal 2: Improve the condition, resiliency, and utilization of the City's housing stock.
 - a. Key Strategies:
 - i. Create a City-wide housing rehabilitation and resiliency program.
 - ii. Support the creation of a home sharing program.
 1. An innovative idea that works well from a cost benefit perspective. Essentially a more sophisticated and safer roommate matching program that is typically operated by a non-profit, not the City. The City could help support and launch these programs. For example, a senior living alone in a 4-bedroom house could have roommates with reasonable rent.
 - iii. Target infrastructure and other interventions in neighborhoods vulnerable to flooding.
 - iv. Assess the feasibility of a locally controlled buy-out program.
 - v. Create a rental registration program.
 - vi. Focus on neighborhood and community approaches to address disinvestment.
3. Goal 3: Promote the development of a mix of housing types at a variety of price points.
 - a. Key Strategies:
 - i. Identify housing development and redevelopment opportunity sites.
 1. The City does not have a lot of great vacant sites that are development ready. It could require creativity to create the new 140 units per year. The first step is to identify opportunity sites.
 - ii. Review and align the City's land use regulations to support housing development.
 - iii. Explore adoption of incentive Zoning with an in-lieu fee option.
 1. This is a common, innovative approach to incentivize developers building affordable and workforce housing units, often with a density bonus that could come from the housing trust fund.
 - iv. Through the housing trust fund, establish a housing development assistance program to provide gap funding for affordable workforce housing projects.
 - v. Explore opportunities and mechanisms to support the acquisition and development/rehabilitation of vacant and underutilized properties for housing.
 - vi. Support implementation of the housing cooperative model in the City.
4. Goal 4: Support residents and special population groups in meeting their housing needs.
 - a. Key Strategies:
 - i. Support transitional housing in the region to reduce homelessness.
 1. A higher priority initiative.
 - ii. Identify opportunities to create senior housing facilities.

1. Opens housing options for younger families.
- iii. Encourage creation of options for downsizing empty nesters and active seniors.
 1. Opens housing options for younger families.
- iv. Educate residents and property owners on available local and State housing resources.

Mr. Stevens continued, recalling the public engagement open house in April 2023. Participants were asked to indicate their priorities. Within each goal area, the highest priorities were the establishment of a housing trust fund, creating the housing rehabilitation and resiliency program, redevelopment opportunity sites, and supporting transitional housing to reduce homelessness.

Ms. Brunner addressed next steps, as this report was the starting point for future action. She hoped this would be a useful tool for the City Council to inform future policymaking and programs. After this presentation, the work would not end, as the City received a phase 3 InvestNH grant. Based on the results of this study and proposed recommendations, City Staff planned to pursue a few different options for regulatory development during phase 3, whether creating new regulations or rewriting the existing ones. With this funding, Staff wanted to pursue 2 ideas. First, an on-street parking program for neighborhoods in close proximity to downtown that would help to open housing opportunities in neighborhoods that are already zoned for higher residential densities but space for parking is the limiting factor. This would allow for promoting incremental densification in those downtown neighborhoods, where adding units would not expand the footprint of a structure, but additional parking would be required. Staff were trying to explore that incremental neighborhood densification. Secondly, City Staff wanted to work with a consultant to find a way to promote smaller-scale housing in cluster-style developments. In 2021, the average household size in Keene was 2.2 people, which is very small, in addition to a higher percentage (40%) of people in Keene living alone compared to the NH average (27%). Ms. Brunner added that 60% of those people living alone were seniors over age 65. Thus, she said there was a clear need among empty nesters and seniors to find smaller housing types. Staff hoped to work with a consultant to find creative solutions to promote infill development that meets this demand for smaller affordable housing types for seniors who are not ready for live-in senior housing facilities.

Chair Bosley appreciated this great information about Staff's strategies moving forward. She said a lot of the things Staff were working on aligned with her own research. She spoke with the director of the Monadnock Economic Development Corporation, which is working on a home share strategy. So, community partners were already working toward some of these strategies and would continue stepping up over the coming months. Chair Bosley was pleased to hear the parking strategy, which she had suggested numerous times.

Councilor Jones appreciated the presentation. He said it seemed like some of these goals, like accessory dwelling units, could be addressed through City Zoning. However, he said many of the other recommendations were not in the Council's/City's control, and he asked how the City

could help move those along. Ms. Brunner said Councilor Jones was right that implementing many strategies would require working collaboratively with community partners, for which she thought there was a lot of interest in the region.

Chair Bosley thought this study made obvious the need to create smaller homes for retirees. She cited her mother-in-law, who would love to move from the same large house where she raised her children into something smaller and near the Rail Trail. She said this was the case for many other spry seniors. Freeing those larger homes would provide opportunities for younger families looking to grow.

Now that this report was finalized, Vice Chair Giacomo hoped it would be published on the front page of the City website. The City Manager said it was currently posted on the website, but it could be posted on the front page. She asked the Assistant City Manager/Communications and Marketing Director, Rebecca Landry, for an update. Ms. Landry said there had been social media posts about the study but there would be more about the report. She said the social media efforts to this point had been to engage the public in the process. Once approved by the full Council, Ms. Landry predicted more social media attention. Vice Chair Giacomo asked because he thought people would get good information from the report to help them understand the scale and scope of the problem the City was facing. He thought it would also help people to understand the steps over the last few years to update the Land Development Code and refine some Zoning areas, as well as the potential for some neighborhoods going forward.

Chair Bosley thanked the consultants for their presentation and City Staff for their work. She was excited to see what would come next. Mr. Stevens said the hard work for the City starts now and he thought this report provided a roadmap that could help to successfully meet Keene's housing needs.

With no public comments, Chair Bosley entertained a motion from Councilor Johnsen, which was duly seconded by Vice Chair Giacomo.

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends the acceptance of the report and proposed housing strategies as informational.

2) Keene Elm City Rotary Club – Request to Use City Property – DeMar Marathon – September 24, 2023

Chair Bosley welcomed the applicant, Alan Stroshine, Race Director and member of the Elm City Rotary Club. Mr. Stroshine was present with his annual request for an event permit to run the 45th Clarence DeMar Marathon on September 24, 2023. Chair Bosley asked if there were any significant changes or updates from last year. Mr. Stroshine said there were no scheduled changes, but they hoped the kids' program would return to their pre-Covid levels. There was a major effort to re-engage the schools; a significant leadership change last year resulted in lower child participation. This year, they hoped to have more than 1,000 kids again as in the past. Chair

Bosley recalled that there was also a senior race. Mr. Stroshine said that event was different during Covid, and they hoped to have high levels of participation again this year with more than 125 seniors. Chair Bosley noted that her kids ran in the race and said it was a great way to get kids to love running and see health as a sport.

Chair Bosley asked for Staff comments. Kurt Blomquist, Public Works Director/Emergency Management Director/Assistant City Manager, said protocol meetings had occurred with the race team and everything was sufficient to move forward with the permissions from City Council. He said it was always a wonderful event and they were prepared for the increased child participation this year. They would continue having meetings over the summer and early fall about event logistics, as was typical for an event of this size.

Councilor Jones said it was always a wonderful event and he congratulated Mr. Stroshine on being recognized as one of the top races in the country and a top fundraiser in the community. Mr. Stroshine said community involvement was a big criterion in the contest for best race in NH. He said community partners like the City, hospital, college, and more were essential. He was grateful that the community saw that it was not just a race, but a community fundraising event that supports the Elm City Rotary's great work in the community.

With no comments from the public, Chair Bosley entertained a motion from Vice Chair Giacomo, which was duly seconded by Councilor Jones.

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends that The Elm City Rotary Club be granted permission to sponsor the Clarence DeMar Marathon on September 24, 2023, subject to the signing of a revocable license and indemnification agreement and the submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured. This license is conditional upon the petitioner providing an adequate number of volunteer race marshals to ensure runner safety along the course and is subject to any recommendations of City staff. The petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 24 Community Events Budget. Said payment shall be made within 30 days of the date of invoicing.

3) **Let it Shine – Request to Use City Property – 2023 Pumpkin Festival – October 21, 2023**

Chair Bosley recognized that both she and Vice Chair Giacomo were on the Board of Let it Shine. Being that this was not a financial issue, she allowed herself and the Vice Chair to vote, without objections from the Committee.

Vice Chair Giacomo, Chairman of the Board for Let it Shine, presented on this event. He said Let it Shine is a non-profit that had hosted the Keene Pumpkin Festival until its closure in 2014. Let it Shine brought back a smaller-scale event for three years as well, the Heart of Downtown Festival. Last year, Let it Shine hosted the Gathering of the Gourds, and this year, they were

returning with the trade name of the Keene Pumpkin Festival. He said Let it Shine polled the public about the event last year. He said it was a small event and mostly confined to Central Square. They decided to take the feedback and transition to a plan that they thought would create a good festival this year. Compared to past years, there would be no counting of pumpkins for world records or anything of the sort. The focus would be to bring the festival back to its community roots. The differences from last year include more street closures that would closely resemble the first Taste of Keene Festival, from Central Square to Railroad Street. Protocol meetings with City Staff remained to determine whether Railroad Street could be closed; Gilbo Avenue would remain open, which they thought would be better than when the Gilbo Street parking lot was closed last year. Returning this year would be a smaller version of the pumpkin tower, which was the trademark and public favorite of past events, and they want to make it a focal point of the festival again. To make this event truly benefit the community, they hope that non-profit organizations would benefit; a limited number of non-profits would be invited back for food vending. Vice Chair Giacomo said it was also a priority to re-engage the schools in carving pumpkins that would line the downtown. There would also be some community picnic-style pumpkin carving at Central Square. He said the event date of October 20 was purposefully coordinated with Keene State College's parent's weekend due to issues at past festivals. Vice Chair Giacomo said the ultimate goal was to make it a community kids' event again and to get away from the competition.

Chair Bosley requested Staff comments from Kurt Blomquist, Assistant City Manager/Public Works Director/Emergency Management Director. Mr. Blomquist said the protocol team had been meeting with the Let it Shine organizers. As Vice Chair Giacomo mentioned, one issue is bringing back the tower, so activity constructing that on Central Square would begin the Thursday before the event. There were a number of additional street closures this year so that if they end up being needed, the organizers will not have to come back to this Committee for additional permission. The protocol meetings would continue over the next several months and Staff would work with the applicants on things like security, food services, etc. Mr. Blomquist was looking forward to another successful year. The protocol team recommended the motion that was before the Committee.

Councilor Jones was pleased that non-profit organizations would be involved again as it used to be an important fundraiser for many of them. He asked whether that participation could be limited to true 501(c)3 non-profit organizations (Attorney General approved), versus any community group that wanted to fundraise. Vice Chair Giacomo said it was an excellent question. He recalled that in the past when the Pumpkin Festival drew crowds of 50,000–80,000, there were 30–50 non-profits involved who made \$10,000–\$20,000 during the event. In bringing the festival back, the Vice Chair said they needed to temper expectations. As a result, Let it Shine was trying to reduce the number of non-profits to 10–15 so that many more are not involved and disappointed. He said the selection criteria would focus first on groups that were original supporters of the event, which he said went hand-in-hand with bringing the festival back to its roots. The organizations would need to be formal 501(c)3 non-profits. Let it Shine would

have to be selective in choosing. He thought they might rotate the group of organizations in future years so all could benefit.

The City Attorney pointed out that the City Code actually answered Councilor Jones' question. According to Section 46-1007 – Street Fairs and Community Events, the applicant has the authority to choose vendors, groups, and other users within the footprint of an event. The City Council would not be able to make a determination as to whether a vendor is for-profit or non-profit. Chair Bosley reiterated that the Council could not require Let it Shine to only allow non-profit vendors, but the Council could request it. Let it Shine ultimately has that authority.

As the person who had been reaching out to all of the elementary schools in Cheshire County, Chair Bosley wanted to add that there was growing excitement among the schools' principals and staff. She thought there were 4,000 students committed at this point, which she said was very exciting.

Vice Chair Giacomo referred to Mr. Blomquist's comment about road closures beginning the Thursday before the event to accommodate the pumpkin tower. A professional scaffolding team would be building the new design, which is complex and would take approximately 8 hours. This is why the slip lane and some of the inside lanes would be obstructed.

Hearing no public comments, Chair Bosley entertained a motion from Councilor Jones that was duly seconded by Councilor Ormerod.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends a license be granted to Let It Shine, Inc. to use Downtown City rights-of-way on Saturday, October 21, 2023, to hold the Keene Pumpkin Festival subject to the following provisions:

- This license is granted based upon the event scope presented to City staff during protocol meetings held to date, changes or additions to the license may require that an amended license be issued by the City Council and no changes to this license or the associated protocol documents will be accepted after September 1, 2023;
- The Petitioner agrees to absorb the cost of any City services over and above the amount of City funding allocated in the FY 24 Community Events Budget, and agrees to remit said payment within 30-days of the date of invoicing;
- The furnishing of a certificate of liability insurance in the amount of \$1,000,000 naming the City of Keene as an additional insured;
- The signing of a standard revocable license and indemnification agreement and associated protocol documents;
- That the footprint and layout for the event shall encumber the traveled portions of Central Square, Main Street both sides from Central Square to Railroad Street and Gilbo Avenue, and a portion of Railroad Street. Road closures may include any portions of other streets needed to facilitate detour routes. The full extent of road closures and detour routes shall be agreed upon with City staff and will include any closures necessary to facilitate safety during pre-event set up and post-event clean up activities;

- That the Petitioner is permitted to use the Railroad Square vendor spot for pumpkin drop-off by area schools on Friday, October 20, 2023;
- That the actual event will be held from 2:00 PM to 7:00 PM with the times for set up and clean up to be established with City staff;
- The submittal of signed letters of permission from any private property owners for the use of their property;
- That free parking be granted under the provisions of the free parking policy for City parking spaces needed for logistical purposes beginning Thursday, October 19, 2023 and extending through Monday, October 23, 2023, and spaces within the event footprint on the day of the event; and
- Said permission is granted subject to obtainment of any necessary licenses or permits and compliance with all laws; and compliance with any recommendations of City staff.

4) **Jim Hennessy – Request to Use City Property Adjacent to Railroad Square – Outdoor Dining**

Chair Bosley welcomed the applicant, Jim Hennessy, owner of Hennessy’s Bar and Grill, and Mary O’Neil, the manager. Mr. Hennessy sought to have a patio outside of this new restaurant. He understood that the location has a bad reputation from past uses and he hoped the Council would give him a chance to change that. He said he wanted to encapsulate the grass area, which he said was sort of 1 foot in from the edge across from the back exit walkway and coming back to the building. Access to the patio would be from the back door of the building, which would satisfy the NH Liquor Commission and make the process simpler. He had provided a preliminary sketch depicting a white picket fence and a simple set-up with tables and chairs. The Director of Parks, Recreation, and Facilities, Andy Bohannon, had provided Mr. Hennessy with a list of criteria that they should not exceed, all of which Mr. Hennessy accepted.

Mr. Hennessy continued explaining that the patio area was a mess because of a drainage issue, which he wanted permission to fix himself at his own expense. He is a mechanical contractor and could fix it easily. He added that the grass does not survive well in that muddy area, and he sought to hire a company to replace it with turf and make it more usable. He said the drainage was coming off the pavers, which was a hazard, and in the winter a 3-inch pond freezes over; he said this was a massive liability on City property that Mr. Hennessy did not want to be drawn into somehow. He understood that the Public Works Department would need to approve those drainage improvements, but he said it would be simple.

Chair Bosley knew Mr. Hennessy had invested a lot in the new restaurant and she asked for more details on his plans for the establishment. Mr. Hennessy said it would not be the typical downtown bar in Keene as he wanted it to be a nicer, upscale spot catering in part to the after-work crowd. He said they were not trying to be Granita, but something comfortable in between. He intended to divide the front and back of the restaurant more than it was before, with a live music and events venue in the back for things like DJ nights, date nights for people over 50, public servant nights, trivia nights, taco Tuesdays, and more. Ms. O’Neil hoped to cater to the

whole Keene community, not just the college. She hoped the business would be a contributing part of the community rather than problematic. She had ideas for reaching various audiences. Part of having an outdoor patio was to physically show the community that they are different and open to families. They intend to serve dinner from 3:00 PM to 9:00 PM, with the younger crowd and activities in the back half of the bar. Ms. O'Neil hoped they would cater to a large audience. She said they were also heavily focused on safety to ensure it is a well-run business and safe place to be, with strategies to combat the poor activities that occurred at that location in the past.

Chair Bosley said they could set the tone for what they want to attract. She thought it was great that they had plans in place to avoid past uses that were hard on the neighboring community. Mr. Hennessy noted that the previous owner's permit for the outdoor patio was until 8:30 PM. He said they would be serving dinner until 9:00 PM, so the 8:30 PM cutoff would be complicated. Mr. Hennessy hoped to be allowed to keep the patio open until 10:30 or 11:00 PM, with the understanding that they would keep the crowd under control. He hoped to have an extension past 8:30 PM, with the possibility to extend further next year based on good behavior.

Chair Bosley requested comments from Andy Bohannon, Director of Parks, Recreation, and Facilities. Mr. Bohannon said he met with Mr. Hennessy and Ms. O'Neil at the restaurant to review some of the concerns, parameters, and what they wanted to do with the space. Mr. Bohannon said the patio space is confined. While they were permitted with the parameters of a Sidewalk Café License, the patio is not actually on the sidewalk. He said it was actually a Use of City Property License because it is not a park, but rather a community space adjacent to a community green space. So, he said it is an awkward space within the City because that area is the only green space within the downtown footprint. Mr. Bohannon said the downtown infrastructure and improvement project was looking to redesign this space to be more community-friendly and address the drainage issues Mr. Hennessy identified. No matter the use of this space, Mr. Bohannon said the drainage was a concern in that area because of the bricks. When it was designed originally, commercial activity was not intended on the outside, but the space was supposed to be more of a rear entrance for employees and deliveries. This area intended for the patio was first used by Finnegan's Bike Shop to display bikes. Regarding the hours of patio operation, Mr. Bohannon said he was unsure what the City Noise Ordinance allowed, but he said there had been considerable complaints from neighbors in the past and a history of Police calls. Mr. Bohannon's understanding was that Mr. Hennessy hoped to target a different demographic for this establishment. Mr. Hennessy had provided an updated sketch of the space and the number of tables and people allowed in the space was dictated by the City Code and the Liquor License Commissioner. So far, Mr. Hennessy had been willing to work with City Staff. The drainage remained as the biggest issue, which Mr. Bohannon thought would be addressed during the downtown infrastructure project.

Chair Bosley asked the City Attorney, Tom Mullins, whether there was any objection to the applicant completing that drainage work. The City Attorney said that any alterations to the site would require the private approval of City Staff. If that was allowed, there would need to be an understanding in agreement as to what work would occur, including insurance issues. If City

Staff wanted to allow this, the City Council would have to authorize the City Manager to negotiate.

Councilor Jones appreciated the map provided, which helped him to understand better. From what he saw, the patio would extend 26 feet out from the building and would be 60 feet long, with a picket fence around the perimeter. Mr. Bohannon said it would not be 60 feet long but would extend to the rear entrance. Ms. O'Neil apologized that they did not have a chance to remeasure. Mr. Bohannon and Ms. O'Neil agreed that the length would be closer to 40 feet. Councilor Jones asked whether the patio would remain fenced permanently and whether that would interfere with things like the 4 on the 4th Race or the Earth Day activities, for example. Mr. Bohannon was not positive about Earth Day. He asked the first day the sidewalk café would be able to open in the spring and the City Manager, Elizabeth Dragon, said April 1. In that case, Mr. Bohannon said there would be a conflict. He referred to the recommended motion, which indicated that for any community event, Mr. Hennessy would have to work with City Staff. He said that some events, like the Pumpkin Festival, might be able to work around the patio, but Mr. Hennessy should work with event organizers to determine whether they need the patio deconstructed. Councilor Jones added that there were usually vendors stationed in that area for the 4 on the 4th Race that was upcoming. Mr. Bohannon said the vendors were more typical in the area with brick pavers. Councilor Jones said they sometimes set up water sprinklers in the area of this patio. Mr. Bohannon said that might be further down the pathway. Councilor Jones referred to electrical outlets he had discussed recently with Mr. Bohannon and asked if those were within this patio area. Mr. Bohannon said no, the electrical outlets were all in the brick paver area.

Vice Chair Giacomo asked about the number of tables that would be allowed, noting that it looked like the number was not changing from the old permit. Mr. Bohannon said the number of tables would be dictated by the Liquor License; the applicant proposed 9 tables, 6 of which would seat 6 people and 3 tables would seat 4 people. Mr. Hennessy said this patio would be predominantly for sitting and dining, not for milling about. Vice Chair Giacomo said the first thing that struck him was the curfew time, and he wondered how they would get people off the patio by 8:30 PM, but he said that same question would remain if the curfew was 11:00 PM. Before extending the time, the Vice Chair wanted to know the plan to ensure people comply with leaving the patio, which he said would be a challenge at any hour. He did not want the applicant to run into issues with the Noise Ordinance.

Chair Bosley asked how late typical sidewalk cafés are allowed to be open. The City Attorney discussed the Noise Ordinance. He pointed out that some parts of the City's Code of Ordinances still needed to catch up to the new Land Development Code. This restaurant is in the Central Business District, where the Noise Ordinance takes effect at 11:00 PM, whereas in the rest of the City, the cutoff is 10:00 PM. He said this Committee had the ability to craft this license how they wanted. Chair Bosley wondered if this location was being restricted more than others. The City Attorney said yes. The City Manager, Elizabeth Dragon, added that this location had been restricted to an earlier cutoff for many years in the past because neighbors complained often.

While it sounded like Mr. Hennessy had a much better plan to address noise concerns, the City Manager said there was no established history yet. One of the City Manager's concerns was the neighbors knowing that the time is changing. The last time someone requested a license for this space, those prior applicants said they had a similar plan to improve the nature of the establishment but there were still many issues. She said the neighbors were very interested in whether this cutoff time might change. The City Manager advised that if the Committee was considering changing the time that it should be made clear to the applicant and the neighbors. She also suggested potentially allowing a period of time under the current regulations for the space with the earlier time, with the ability to come back and extend that in the future.

Chair Bosley noted that this was different from a typical Sidewalk Café License that could be handled administratively after the first year. Conversely, this applicant would have to come back for renewal each year. Because of the nature of the space, Mr. Bohannon recommended annual renewal. However, he said this would have to be a consideration in the downtown infrastructure project's changes to the Gilbo Avenue/Railroad Square corridor, in addition to potential conflicts with community events.

Vice Chair Giacomo said he had read a lot of complaints from neighbors over the years. Also, over time, the Vice Chair spoke with the different owners of this space. He was unsure how much of the noise was actually from when the space closed each night versus the patio. He said most people leave through the front exit quite late and loudly. He thought it would be helpful—when framing this license in the future—to understand whether the noise was coming from the patio area or people just exiting the space in general. Vice Chair Giacomo thought 8:30 PM was early and would impede their dinner service.

Chair Bosley said she tended to lean toward the petitioner's request despite City Staff's recommendations. She was open to allowing the new owner to demonstrate what they are about over a period of time. She hoped they really would cater to a more mature, older crowd, and she was excited to be a patron. Still, she said Mr. Hennessy and Ms. O'Neil would have to manage the space's reputation. Chair Bosley did not think those patrons who would be forced to leave the patio at 8:30 PM were the ones causing trouble for the neighborhood, but rather the closing crowd that Mr. Hennessy would have to manage. She thought this was possible if the applicant was responsible. Ms. O'Neil said they had been actively hiring and she thought there were some really good people that they could rely on. Mr. Hennessy and Ms. O'Neil hoped to create a good, respectful culture amongst the staff. Ms. O'Neil wondered if they could try to stay open later from the beginning and have a chance to prove themselves and not suffer from the sins of former owners. Chair Bosley said it was an interesting proposal. The City Manager said that while it would be more difficult and uncomfortable, the Council could always revoke the license in the future. The City Attorney added that it was also possible to partially restrict their license in the future to an earlier time, though it is not ideal. The City Attorney also wanted to clarify that the recommended motion referred to Chapter 46 even though this is not a Sidewalk Café License, per se. He said this was important because of other licensed community events downtown, for which the City could require that the patio be dismantled. Chair Bosley asked if that was clear to

the applicants. Mr. Hennessy said he was aware, though not thrilled about it. Chair Bosley wanted the applicant to understand that they were not being targeted as this rule applied to all businesses with sidewalk cafés during community events.

Councilor Ormerod understood that the applicant intended to change the character of the property and neighborhood. He said this would follow the path of a typical Café License but with the inclusion of Chapter 46 as a stepping stone. Councilor Ormerod said he did not see anything addressing foot traffic on the grassy area that would turn to mud, as Mr. Hennessy noted. Councilor Ormerod said that area would not remain level and that work to correct it would have to happen fairly quickly for the space to be operational. Mr. Bohannon said Public Works Department Staff would work with the applicant to determine whether they need a license to correct that; Mr. Bohannon is technically responsible for reserving Railroad Square, but the Public Works Department maintains Railroad Square. He said Mr. Hennessy suggested covering the area with turf.

Councilor Jones reiterated the City Manager's point that this license would be revocable, amendable, and non-transferrable, so the City had some protections built in.

Chair Bosley asked for the Committee's thoughts on adjusting the patio closing time for this first license. Vice Chair Giacomo did not want to be too aggressive with this first license and suggested adjusting the time to 9:00 PM or 9:30 PM. He said this was not New York City, where people begin dining at 11:00 PM, so he did not think it was smart to go later than 9:30 PM. Councilor Ormerod was still unsure about extending the time because there were still so many issues to be worked out with the viability of the space. He still questioned the drainage and things like how portable the fence would be. Chair Bosley thought the recommended motion laid out all of those things that would not be allowed. Councilor Jones agreed with Vice Chair Giacomo and thought meeting the applicant halfway was a good start. Chair Bosley tended to agree, noting that she did not think people would linger there after dark once food service is over. She agreed that 9:00 or 9:30 PM was reasonable. Councilor Johnsen said she loved visiting some places in town as late as 10:00 PM and so she supported extending the time. She appreciated the applicant's ambition and willingness to offer this to the City because she believed the City needed more places like this. Ms. O'Neil said she appreciated that support.

With no public comments, Chair Bosley entertained a motion from Councilor Ormerod that was duly seconded by Councilor Jones.

On a vote of 5-0, the Planning, Licenses, and Development Committee recommends that Hennessy's Restaurant be permitted to place tables and chairs on the grassed-in area immediately east of the Railroad Square pavers for the serving of food and alcohol to patrons seated in the café area Monday through Wednesday from 4:00 p.m. to 9:30 p.m., and Thursday through Sunday, Noon to 9:30 p.m. This license is also subject to the following conditions: subject to the customary licensing requirements of the City Council; compliance with the requirements of Chapter 46 of the City Code of Ordinances; compliance with the City of Keene Sidewalk Café

Guidelines issued by staff; that the area encumbered shall not extend beyond the easterly most entrance to the building; that a buffer of at least one-foot be maintained from the edge of the multi-use trail pavement to the fence/enclosure structure; that the tables and chairs be removed when Railroad Square is utilized by any community event licensed by the City of Keene or any event scheduled through the Parks and Recreation Department; that no materials, gravels, or any other alterations to the site may be made without prior approval from staff; and that the property be maintained and returned to its original state at the expiration of the license with staff reviewing the condition of the area at the end of the season to determine any needed maintenance. This license shall expire on March 1, 2024.

Chair Bosley hoped the full Council would agree with the 9:30 PM despite the controversy over this location in the past.

5) Hundred Nights – Request to Use City Property – Dumpster on Lamson Street

Chair Bosley welcomed Mindy Cambiar, Executive Director for Hundred Nights. Ms. Cambiar said she did not know she would be appearing at this meeting as she did not know the dumpster was an issue until the landlord sent her a copy of the letter received in January from Kürt Blomquist, Public Works Director/Assistant City Manager/Emergency Management Director. She said the dumpster was transferred to Hundred Nights from the landlord's name on May 1 for billing purposes. Ms. Cambiar said they wanted a larger dumpster that would be emptied more often because they were in the process of moving out of that space and into their new building. She was present to respectfully ask that Hundred Nights could keep the dumpster until they are moved out of the building. Ms. Cambiar could not commit to a date that they would be moved out.

Chair Bosley thought that Hundred Nights had made progress. Ms. Cambiar agreed that they had just received their Certificate of Occupancy for the new location. Ms. Cambiar said they were awaiting a slow process for \$250,000 to be appropriated by Senator Shaheen through the US Department of Housing and Urban Development. They could not proceed with purchasing furniture or equipment and thus, could not move-in to the new location until those funds were disbursed. Ms. Cambiar intended to begin moving in regardless of the furniture; they would move in as many bunk beds as possible at a time and they would exist with card tables as desks in the meantime. She hoped they would be completely out of the old space by the end of July. Chair Bosley asked if Ms. Cambiar thought they could be out by August 1. Ms. Cambiar hoped so and would be upset if they were not out by August 1. If they were delayed, they would contact the City.

Chair Bosley asked for Staff comments. Mr. Blomquist said this issue went back to 2013–2015. He said that in 2013, there were issues identified in the downtown regarding uses on City property that occurred without permission. He said the downtown is a denser business area and, in the past, business owners thought they were entitled to certain areas, when in reality they were not. One issue during that time regarded dumpsters. Some business owners had placed their

dumpsters in the City right-of-way without permission. He cited competing uses downtown. Mr. Blomquist said that short of being aggressive with property owners over how they deal with things operationally, he said it was difficult to do know what to do with the materials generated by tenants. He recalled that in 2013, 25–27 Main Street was Timoleon’s Restaurant; he said the right-of-way on Lamson Street goes from building face to building face, so some gas tanks and other things were licensed to be on City property. Now, he said it was also an issue for the applicant. Mr. Blomquist said the applicant requested to place a dumpster within a portion of the right-of-way on Lamson Street. He said the previous owner had an agreement with the establishment across the street that owns approximately 2 feet off the face of the building. He said those past licenses came to the City Council because they were long-term licenses. Mr. Blomquist said the owner in 2013 was granted a license for a dumpster, with many conditions, one of which stipulated that the permission would not be granted to new owners, who would have to request permission from the City again. Mr. Blomquist said the building changed owners, and the Public Works Department began conversations about either getting rid of the dumpster or getting new permission from the City. He said he began reaching out to the new owners via polite letters and after no replies, moved on to alerting the owner that the dumpster would be removed. Mr. Blomquist said the owner did not respond to that last letter about removing the dumpster, but passed the information to their tenant, Hundred Nights; the license would be granted to Hundred Nights, not the building owner. In response to Chair Bosley, Mr. Blomquist said he thought the Council could issue the license to the tenant/petitioner in this case because it was intended to be temporary.

Mr. Blomquist supported the City Manager’s recommended motion and opposed issuing a long-term license because the property owner had not responded. He thought this was more workable because at the end of the time approved, the dumpster would be removed, and the property owner would have to decide how to deal with materials from their tenants in that building. He cited other dumpster licenses in the downtown, including 81 Main Street (Margarita’s) because the City owns up to 3–8 feet off the back wall of their building, as well as 87 Main Street (Mon Amie). He said there were several more licenses for dumpsters in the right-of-way downtown. Mr. Blomquist thought the Council would see more of these operational licenses as densification of the downtown moves forward so other businesses could be successful.

Chair Bosley asked whether this Hundred Nights dumpster was fully or partially enclosed. Mr. Blomquist said it was not enclosed. He continued explaining that if dumpsters were part of a site plan, then screening the dumpster would be required. However, a site plan applies to public property. Thus, most dumpsters on City properties were not screened because that would just be placing more objects in the right-of-way. In the case of Lamson Street, Mr. Blomquist said the dumpster could not be screened because it would block the street, which is not open to traffic but is used by the businesses for deliveries. He noted how the sizes of dumpsters and associated screening would block too much of the right-of-way.

Councilor Jones asked if there had been a dumpster arrangement for John Croteau's furniture store. Mr. Blomquist said there was for a while, but Mr. Croteau ultimately made some changes and no longer needed those permissions.

Councilor Johnsen said she appreciated Ms. Cambiar being present for this, noting how challenging it can be to learn about these things quickly.

With no public comments, Chair Bosley entertained a motion from Councilor Johnsen that was duly seconded by Vice Chair Giacomo.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends that Hundred Nights Inc. be granted a revocable license for the temporary placement of a dumpster within the right-of-way on Lamson Street subject to the following conditions: the signing of a revocable license and indemnification agreement; the submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured; and, subject to compliance with any recommendations from City staff. The location of the dumpster shall be coordinated with City staff and shall not interfere with the movement of vehicles and pedestrians along Lamson Street. Licensee is responsible for keeping the area around the dumpster(s) clean and free from debris, garbage, and other materials. The license shall expire in 90 days from the date of issuance.

6) Relating to an Amendment to the Land Development Code – Accessory Dwelling Units – Ordinance O-2023-06

Chair Bosley welcomed City Planner, Evan Clements, who noted that the Committee had heard about these changes multiple times, so he was available to answer questions.

Vice Chair Giacomo asked if this was the first or second reading of this Ordinance. Chair Bosley said this Ordinance already had its second reading by the City Council and was back for this Committee's final recommendation. So, Vice Chair Giacomo said there were no added changes to review. He said this was a great effort that aligned well with the Housing Needs Assessment and had been identified as a critical need in the City for a long time. The Vice Chair was glad this was being codified.

Councilor Jones said he had been a proponent of accessory dwelling units (ADUs) for a long time, since the days when they were called "mother-in-law apartments." He said that historically, property owners were in favor of ADUs because they could rent student housing. However, he thought there were protections against that. Mr. Clements replied that there was no proposal for how ADUs would be used outside of the existing requirement that the property owner live in either the principal dwelling or the ADU itself. There were no other regulations indicating who could live in an ADU.

Councilor Johnsen appreciated Councilor Jones' question because she knew there had been issues in the past, so she hoped these uses would be protected. She said she had nothing against the Keene State College students because she taught there, but she knew that student tenants could be an issue.

Chair Bosley said she would love to see Keene State College thriving in the future again and outgrowing the campus footprint, but their attendance had been reduced for a long time, during which she heard fewer complaints. She said that even the neighborhood across from the college had converted back to a more family-occupied neighborhood. Thus, in this climate, Chair Bosley thought it was less likely that ADUs would become student housing in the future, though issues could certainly arise. More so, she thought ADUs would be used by individuals or families with older parents and grandparents moving into ADUs while their kids and grandkids take over the main houses. She hoped to see more multi-generational families living on these properties with ADUs.

Vice Chair Giacomo added that for every college student that moves into an ADU, there would be one other free housing unit for the public. He thought this Ordinance would only help the City's housing needs. He acknowledged that it was possible for a college student to move into an ADU and act improperly, but he said that would be more difficult with the stipulation that the property owner must live on the property near the ADU. He reiterated how important the stipulation was for the property owner to live on-site to add some protections.

Chair Bosley asked how many permitted ADUs were in the City already and how many current applications there were. Mr. Clements did not believe there were any current building applications for ADUs. The City's Building and Zoning Official, John Rogers, indicated that there were only approximately one dozen permitted ADUs in the City for a number of reasons. Those reasons included the regulations, as well as the cost to build, which had not gone down. He said one benefit of this design type was that, while still expensive to build, ADUs were cheaper than alternatives requiring engineering, subdividing, and building a whole new house. ADUs were more viable for people to implement. Chair Bosley asked whether there was evidence that the old Ordinance might have deterred people who were interested in building ADUs, whereas this Ordinance would open the door to the possibility. Mr. Clements said he had recent conversations with residents who were looking to create new building lots but could not because the lots were substandard for subdividing. He thought ADUs provided a sort of middle ground. He cited examples of families with a member who travels often and does not need a full-time rental but could use an ADU near their families when in town. He also shared the example of a person living in the Medium Density District who wanted to subdivide to build a house for a family member, but there was not enough acreage to subdivide; that property owner was excited to learn that ADUs would be allowed soon. Chair Bosley asked, and City Staff confirmed that they had received positive feedback from the community about this option.

The City Manager, Elizabeth Dragon, provided an example. One year ago, she wanted to add an ADU at her residence in the Commerce District. While her neighborhood is residential, she was

unable to add the ADU because the home was not in a single-family district. This Ordinance would add that possibility in her neighborhood.

Chair Bosley was excited to be moving in this direction, noting that having a detached capability would be a big win for many homeowners. She thought there were already a lot of detached structures that people could convert. She said that not sharing a wall with a renter is a big deal, especially for those who had lived alone for a long time. Chair Bosley thought this was a win for the community.

Hearing no public comments, Chair Bosley entertained a motion from Vice Chair Giacomo that was duly seconded by Councilor Jones.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends the adoption of Ordinance O-2023-06.

7) Relating to an Amendment to the Land Development Code – Application Procedures – Ordinance O-2022-19-B

Chair Bosley welcomed Senior Planner, Mari Brunner, who said the Committee had seen this Ordinance many times. This was an older Ordinance that was first introduced to the Council on December 19, 2022, and the first public workshop was held on January 9, 2023, which was when the “A” version of the Ordinance was created. Following a public hearing, the “A” version was referred back to this PLD Committee and then to the City Council with a recommendation to modify it further. Thus, the Ordinance had another public workshop of the Joint Planning Board/PLD Committee in April 2023, which was when the Ordinance was modified to a “B” version. There was another public hearing on the “B” version, and now it was back before this Committee for a final recommendation. Overall, Ms. Brunner thought this Ordinance included a list of items that Staff noticed were not working well or were contrary to the intent of the Ordinance. So, most of the amendments to this Ordinance were clarifying minor but important things in the Code, mostly within the Zoning Ordinance, though there was also an item in Article 25 of the Land Development Code.

Ms. Brunner briefly reviewed the amendments. In Article 9 – Parking & Driveways, there was a clarification that the 3-foot setback for all driveways does not apply to common driveways that run down a lot line. Some redundant language was removed from Article 11 – Surface Water Protection Overlay District because it was confusing to some users. Article 13 – Telecommunications Ordinance, refers to NH RSA 12-K, which is the law regulating personal wireless service facilities; the NH law was not in effect until after the original Telecommunications Ordinance was adopted by the City Council, and an amendment was proposed to fix an inadvertent loophole and clarify that per NH law, telecommunications facilities are not exempt. Next, in Article 9 of the Zoning Ordinance regarding parking reduction requests in the Land Development Code, more flexibility was added to the parking regulation so applicants could get an administrative reduction of up to 10% and a major reduction from the

Zoning Board of Adjustment for up to 50%. An applicant went through this process and the Zoning Board found it difficult to apply the typical special exception criteria to a parking reduction request. So, Staff added some criteria designed specifically for parking reduction as requested by the Zoning Administrator, John Rogers. Lastly, Ms. Brunner explained that Article 25 included procedures for modifications to the Land Development Code. She said those procedures were more complex and lengthier than needed for some sections of the Land Development Code. Before this amendment, everything had to go through the full Zoning Ordinance amendment process, whether it was in the Zoning Ordinance or not. This amendment clarified that only the Zoning Ordinance must go through the Zoning Ordinance amendment process, and everything else could follow its own processes, whether for the Planning Board, City Council, or Historic District Commission.

Chair Bosley was comfortable with all of the proposed amendments and hoped her fellow Councilors had reviewed all the details.

Councilor Jones referred to Table 13 – Permitted Telecommunication Facility Types. He said the slight amendment proposed made the table much more user-friendly, which he appreciated.

Hearing no public comments, Chair Bosley entertained a motion from Councilor Jones that was duly seconded by Councilor Ormerod.

On a vote of 5–0, the Planning, Licenses, and Development Committee recommends the adoption of Ordinance O-2022-19-B.

8) Adjournment

There being no further business, Chair Bosley adjourned the meeting at 8:00 PM.

Respectfully submitted by,
Katelyna Kibler, Minute Taker
June 9, 2023

Edits submitted by,
Terri M. Hood
Assistant City Clerk