

City of Keene
New Hampshire

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

Tuesday, October 15, 2024

6:30 PM

**Council Chambers,
City Hall**

Planning Board

Members Present:

Harold Farrington, Chair
Roberta Mastrogiovanni, Vice Chair
Councilor Michael Remy – joined via
zoom
Kenneth Kost
Armando Rangel
Michael Hoefler, Alternate (voting)

Planning Board

Members Not Present:

Mayor Jay V. Kahn
Sarah Vezzani
Ryan Clancy
Tammy Adams, Alternate
Randyn Markelon, Alternate
Stephon Mehu, Alternate

**Planning, Licenses &
Development Committee**

Members Present:

Kate M. Bosley, Chair
Robert C. Williams
Edward J. Haas

**Planning, Licenses &
Development Committee**

Members Not Present:

Philip M. Jones, Vice Chair
Andrew Madison

Staff Present:

Mari Brunner, Senior Planner

I) Roll Call

Chair Farrington called the meeting to order at 6:30 PM and a roll call was taken. The Chair invited Mr. Hoefler to join the session as a voting member.

II) Approval of Meeting Minutes – July 8, 2024

A motion was made by Councilor Bosley to approve the July 8, 2024 meeting minutes. The motion was seconded by Councilor Haas and was approved unanimously by roll call vote.

Councilor Remy stated he is joining the session remotely as he is traveling for work. He is in a warehouse and he is not alone in the room.

III) Continued Public Workshop:

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

Councilor Bosley addressed the committee and stated there have been some changes at council in the last year. She stated one of those was the addition of Councilor Favolise who raised an issue regarding EV stations.

She indicated the idea of the EV charging stations was a contentious point at Council. Several councilors who, regardless of their opinion about EV charging stations, felt like it was unfair to target a use with a specific requirement and is something the Council wants to see as a separate ordinance.

The Council feels the Energy and Climate Committee is studying this issue and has some recommendations that would be brought before Council as to what an ordinance draft should look like for the addition of EV charging stations throughout the city. Council feels it is burdensome to an applicant if this item is added to specific uses until a policy is made on it. The Council voted 8-7 to amend this item to remove the EV charging station which requires this item comes back before the Joint Committee. Another public hearing will also need to be scheduled.

The Chair asked for staff comments. Ms. Brunner stated the Councilor has reviewed the item well and referred to Standard E - Parking and Traffic Substandard 6: “...2% or two of the required parking spaces, whichever is greater, shall be equipped with electric vehicle charging stations.” This is the use standard Council wants removed, which would now create a C version of the ordinance.

Councilor Haas stated this is the only issue that was raised at Council; otherwise, the ordinance seemed to be ready for approval. He hoped it can be moved forward soon. Councilor Williams stated he was one of those who voted against sending it back through the process. He felt even though he feels EV charging stations are important he would like to move this item back to Council.

Mr. Kost clarified the only change is the EV charging station and the idea is that the charitable gaming use goes into the Commerce District; the streets and distances discussed previously have not changed.

Councilor Bosley stated the EV charging stations became a contentious issue for Council. The Council felt if this was voted down it won't have the opportunity for a vote until the next calendar year.

Councilor Remy stated that since this item was sent back, he has received feedback from constituents around the distances, particularly as it relates to Key Road because there is a large residential development that is not zoned residential which is located behind some of those zones that were identified as eligible. There was a suggestion to extend the distance to make it so that it is not built right next to that residential development.

Councilor Williams felt a solution would be to look at rezoning that area residential. The Chair felt neither of those seem like a quick fix. Councilor Bosley stated there was some concern about having this use adjacent to residential and the Committee decided to limit [the distance requirement] to one and two family residential instead of multifamily residential. The Joint Committee was in agreement at the time that it should be prohibited from being adjacent to any sort of residential use.

With that the Chair asked for public comments

Mr. Jared Goodell, 39 Central Square Keene addressed the committee and noted as Councilor Remy had indicated #3 and #4 indicated *250 feet from any single family or two family dwelling a casino would not be allowed* and same for a residential zoning district. He noted the Key Road area which was added at the last meeting is surrounded by residential to the north and then to the west of that is another development - Princeton Properties. Mr. Goodell suggested subsection C #3 to single family, two family or commercial residential unit.

Another change Mr. Goodell proposed was in reference to “playgrounds”. He indicated he has seen on many occasions where a grandparent, parent or guardian has left a child on a playground or in a car while they are inside a casino and stated he was concerned about a casino being located near a public park or even a private playground that services five or more units.

The committee referred to a zoning map of Key Road. Councilor Bosley asked why the area where the residential properties are located is zoned commercial. Ms. Brunner stated she had raised this issue a while ago and stated she wasn’t sure of the history for why it is zoned commercial. It was noted that the adjacent area is high density. Ms. Brunner stated the process to rezone this area would be a zoning map amendment and would go through an ordinance process.

The Chair closed the public hearing.

The Chair noted the committee has a revised ordinance with clear direction from City Council to eliminate Item B - #6 “EVs”.

The second issue is whether the committee wanted to offer a modification to include not just one- and two-family residences but multi-family residences as well. The alternative is to leave the wording as-is and pursue a zoning map adjustment amendment for the Key Road area.

Councilor Remy stated the hesitation he has with a zoning map change versus just changing the language to refer to multifamily is because the city allows housing in multiple zones. He stated his preference is to change the phrasing to include multi-family properties, not just one- and two-family properties.

Councilor Williams stated his only concern with that suggestion is that he did not want to discourage development of multi-family units in commercial zones.

Councilor Bosley asked staff if a casino is located in an area whether a developer could construct a residential property in close proximity. Ms. Brunner stated if a developer came in and wanted to do a mixed-use, they wouldn't be able to have a casino and develop the multifamily on the same property. If a casino was proposed after a multifamily has already been located on a site, they would have to meet the setback requirements. If the casino was built first and then multifamily development is proposed, that would be allowed. Councilor Bosley clarified the language in this ordinance would not prevent further development of residential units in a commercial zone that already housed a casino, because that would be happening with the understanding that the casino was already there. Ms. Brunner agreed and added because the use restriction applies to the casino use and not the multifamily use.

Mr. Kost stated if a developer came in with a mixed-use community to include housing, casino, commercial uses, etc. he felt the city would have the opportunity to look at that development and perhaps make the appropriate changes with a variance.

Councilor Haas stated a residential area will prohibit a charitable gaming facility based on the distances, but if a charitable gaming facility goes in first and then residential wants to be built within the distance limitations in a commercially zoned area the city allows – they will not be precluded from that. The distance limitation works one way only for the charitable gaming, not for future residential. Ms. Brunner agreed that was correct. Councilor Haas felt the easier path would be to add multifamily or other residential use excluding what zone it is located in. He stated he appreciates Mr. Goodell's remark about playgrounds but felt that issue should be addressed at a future time

Councilor Bosley stated she likes the direction this issue is going in; it honors her opinion from the previous meeting and does not see this as being an issue at Council.

Chair Farrington stated what the committee is looking at is Item 3 - Use Standards. *no charitable gaming facility shall be permitted within 250 feet of any single family or two-family dwelling.*

Ms. Brunner suggested the following language for a motion: No charitable gaming facilities shall be permitted with 250 feet in a single family, two-family or multifamily dwelling.

Councilor Haas made a motion that the Joint Committee adopt the language as just stated to include language which states: No charitable gaming facilities shall be permitted with 250 feet in a single family, two-family or multifamily dwelling. The motion was seconded by Councilor Bosley.

Ms. Brunner asked whether the committee would like to add language regarding the EV Stations.

Councilor Haas withdrew his motion. Councilor Bosley withdrew her second.

Councilor Haas made an amended motion that the Joint Committee adopt the language as just stated to include language which states: No charitable gaming facilities shall be permitted within 250 feet of a single family, two-family or multifamily dwelling. To also remove the EV Charging Station requirement. The motion was seconded by Councilor Bosley.

Mr. Rangel confirmed that the Joint Committee was amenable to removing the issue with EV charging stations as it is going to be discussed at a different venue. The committee stated it will be discussed under a different ordinance. The Energy Committee is going to be taking on this task.

The motion carried on a roll call vote.

A motion was made by Roberta Mastrogiovanni that the Planning Board find that Ordinance – O-2023-16C is consistent with the 2010 Comprehensive Master Plan. The motion was seconded by Armando Rangel and carried on a roll call vote.

A motion was made by Councilor Williams that the Planning Licenses and Development Committee request the Mayor to schedule a public hearing on Ordinance – O-2023-16C. The motion was seconded by Councilor Haas and carried on a unanimous vote.

- IV) Discussion regarding possible future zoning amendments to promote housing**
 - a. Residential district lot size requirements**
 - b. Housing Opportunity Zone**
 - c. Maximum height and setback requirements**

Residential District Lot Size Requirements

Ms. Brunner stated staff has been reviewing the zoning ordinance and other regulations within the Land Development Code with an eye towards removing barriers to housing development.

One of the items is an ordinance that has been submitted which will be coming to the Joint Committee for a public workshop in November related to residential lot sizes – this is something that has been discussed in the past. Ms. Brunner explained this ordinance would take what is referred to as a density requirement where you are required to have an extra amount of lot area for each additional dwelling unit above the first which forces an applicant (even in a district that allows multi-family and you want to build a compact multi-family apartment building) a larger area in order to do that. It is a cap on the number of units based on how much land you have.

Staff's proposal is to remove that requirement in three districts. In the past the discussion has been around high and medium density districts. However, when staff was working on this ordinance, they realized downtown transition has the same scheme. Hence, this district has been added and the ordinance has been sent to Council for first reading.

Housing Opportunity Zone

Ms. Brunner stated this topic refers to RSA 79 E, which is a tax incentive. There is a new element added a year ago referred to as Housing Opportunity zones. Staff is hoping to explore that and see where it might make sense to have that in Keene as a way to hopefully promote more housing development. Ms. Brunner stated the number one barrier staff has been hearing from developers interested in housing is the cost of construction.

Maximum Height and Setback Requirements

Ms. Brunner stated staff has submitted to council an ordinance to take a look at height requirements in the commerce district. She indicated a couple years ago, City Council adopted an amendment to the zoning ordinance to allow multifamily housing in the commerce district. At the time the height was increased to four stories. She noted the city has not seen anything come about as a result of that in the last two years. Staff has recently had a couple of conversations with developers and the financial issue still does not work. As a result, what staff is proposing is a further change to specifically incentivize multifamily housing development in the commerce district. This will be coming forward to the Joint Committee and that would be through an even further height increase but only for that use and with limitations.

Chair Farrington asked what the new height limitation would be. Ms. Brunner stated staff is proposing six stories and noted this does sound like a lot, but again, doing a review of the commerce districts, there is already some four and five story residential buildings that are existing, non-conforming without any commercial on the bottom floor. Staff is proposing to go up to six stories but with an increased set back or building height step back and an even bigger set back if it is adjacent to an existing single or two family use.

Councilor Bosley asked whether this would look similar to what we are requiring in the downtown with the step backs at the upper two levels. Ms. Brunner answered in the affirmative. Councilor Bosley asked whether the city is seeing projects coming forward that staff feels these changes would be helpful for. Ms. Brunner answered in the affirmative and added the other issues staff could not bring forward for this round is in relation to parking minimums. She noted state law around parking minimums has changed, and staff has been working on an ordinance that incorporates the recommendations from the city's parking consultant, which actually goes even further than what the state law requires.

Staff feels this, in combination with the height in the commerce district and the residential lot sizes would have the largest impact for housing development in Keene.

Mr. Kost referred to the difference between set back requirements and build to lines and asked what the city is trying to achieve between those two terms. Ms. Brunner stated build to lines or build to zones are only in the downtown form based code district and is almost the opposite of a setback. For a setback you have to be at a minimum of a certain distance from the road, but you could be even further back from that but can't get closer for instance than 20 feet. For the build to zone there is a range. It could be zero to five or zero or zero to 10 feet and the front of your building has to be within that range. Ms. Brunner added the rest of the city outside of the

downtown is traditional set back style zoning and are not proposing to change that with this ordinance.

However, if you choose to construct a building that is multifamily and takes advantage of that extra height, then you would have to be setback an additional 15 feet or you could do the building step back, which means that the couple of stories would be at that original setback and any stories that go up above would be stepped back.

Mr. Kost asked whether the six-story maximum is for residential and if someone was building a hotel for example in the commerce district they could go beyond six stories. Ms. Brunner stated a hotel would be considered a commercial use, it is not listed under residential uses, so they would not be able to do a six-story hotel. What is being proposed is that the increased height would only apply to residential, specifically multifamily residential.

Ms. Mastrogiovanni asked whether it could be commercial and residential in a six-story building. Ms. Brunner stated this is a requirement. There is currently a use limitation that says in the downtown core, downtown growth and commerce districts, multifamily dwellings have to be above the ground floor. What is being proposed now is that along the street frontage there has to be commercial tenant space.

Councilor Haas referred to models that were previously built by Keene State students and suggested those be brought to the public workshop.

Chair Farrington asked for public comment next. Mr. George Hansel of Keene addressed the committee and stated he has been talking to planning staff on some of these items. He indicated after his retirement from the city, he has been involved with housing development. He stated one of the things he sees on this list that could be done quickly and would allow him to move forward with two projects that have already been designed. These are existing buildings and the plan is to add apartments to them and turn them into three and four unit apartment buildings in neighborhoods that already have these types of uses. It is the residential district lot size requirements in medium and high-density zones that currently prevent this.

He noted the city already regulates so many things with setback requirements, parking limitations, etc. He felt these lot size requirements are arbitrary. He noted when he can meet the parking requirements, setback requirements but then there is the square footage number which requires an applicant to apply for a variance, it becomes burdensome. He stated the best advantage for most people in Keene is to try and convert existing buildings into multifamily units. The parking issue is another one. He also noted the two parking spaces per dwelling unit is a waste of space and many studies would support this idea.

Mr. Hansel stated what he has also learned is that commercial rents in Keene are low. He felt the problem isn't residential, it is the commercial. To rent commercial space, it is \$25 a square foot and commercial rent is nowhere close to that. Therefore, Mr. Hansel encouraged the committee to look at allowing housing on the first floor and not require commercial on the first floor necessarily. He explained to build new a multi-story building, commercial on the first floor has

to be subsidized by the residential on the top floors – otherwise, it does not work financially. He agreed there has to be balance of commercial and residential uses in the city.

Councilor Bosley noted on September 19 on the council agenda, there is a first reading of the ordinance that staff brought to this committee and asked Mr. Hansel to come back before this committee with his thoughts at the next public workshop.

V) New Business

Councilor Bosley stated at the last council meeting, there was a referral from Mayor Kahn for this committee to review the potential of an ordinance change to the blade signs in the industrial zone and this will be discussed when the Mayor is back from Germany at the next joint committee meeting.

VI) Next Meeting - Tuesday, November 12, 2024

B. MORE TIME ITEMS

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

VII) ADJOURNMENT

There being no further business, Chair Farrington adjourned the meeting at 7:29 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by,
Mari Brunner, Senior Planner