



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

AGENDA

March 13, 2023

6:30 PM

City Hall, 2nd Floor Council Chambers

1. **Roll Call**
2. **Approval of Meeting Minutes** – January 9, 2023
3. **Virtual Presentation: City of Keene Housing Needs Assessment** – The City’s consultant, Camoin Associates, will present preliminary data and findings and discuss project outreach efforts. More information about the Housing Needs Assessment project is available online at keeneh.gov/community-development/housing.
4. **Public Workshop**

Ordinance O-2023-02 – Relating to amendments to the Rural District Minimum Lot Size. Petitioner, City of Keene Community Development Department, proposes to amend Sec. 3.1.2 of Article 3 of Chapter 100 “Land Development Code” (LDC) of the City Code of Ordinances to change the minimum lot size in the Rural District from 5 ac to 2 ac.
5. **New Business**
6. **Next Meeting** – Monday, April 10, 2023
7. **Adjourn**

1 City of Keene
2 New Hampshire

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

Monday, January 9, 2022

6:30 PM

Council Chambers,
City Hall

Planning Board

Members Present:

Pamela Russell Slack, Chair
Mayor George S. Hansel
David Orgaz
Emily Lavigne-Bernier
Harold Farrington
Armando Rangel
Randyn Markelon, Alternate

Planning Board

Members Not Present:

Councilor Michael Remy
Roberta Mastrogiovanni
Gail Somers, Alternate
Tammy Adams, Alternate
Kenneth Kost, Alternate

Planning, Licenses &

Development Committee

Members Present:

Kate M. Bosley, Chair
Michael Giacomo
Gladys Johnsen
Raleigh C. Ormerod

Planning, Licenses &

Development Committee

Members Not Present:

Philip M. Jones

Staff Present:

Jesse Rounds, Community
Development Director
Mari Brunner, Senior Planner

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10 **I) Roll Call**

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12 Chair Russell Slack called the meeting to order at 6:30 PM and explained the different the two
13 bodies present today. A roll call was taken next.
14

15 **II) Approval of Meeting Minutes – October 17, 2022**

16
17 A motion was made by Mayor Hansel to approve the October 17, 2022 meeting minutes as
18 presented. The motion was seconded by Emily Lavigne-Bernier and was unanimously approved.
19

20
21 **III) Public Workshop**

22
23 Ordinance O-2022-19 – Relating to amendments to the City of Keene Land Development Code -
24 Zoning Regulations & Application Procedures. Petitioner, City of Keene Community
25 Development Department, proposes to amend sections of Chapter 100 Land Development Code

26 (LDC) of the City Code of Ordinances to clarify language within the zoning regulations in
27 Articles 9, 11, and 13 of the LDC; Amend Article 15 “Congregate Living & Social Service
28 Conditional Use Permit” to add a new section entitled “Conditional Use Permit Waiver,” and;
29 Amend Section 25.4.3 of Article 25 “Application Procedures” to modify the process for
30 amending the sections of the LDC that are outside the zoning regulations.
31

32 Senior Planner Mari Brunner addressed the Committee and stated the amendments being
33 presented today are a collection of items staff has been collecting over the last six months. This
34 is the public workshop phase of the ordinance and the Committee can still make changes to the
35 proposed ordinance.
36

37 Ms. Brunner then went over the amendments:

38 (1) Section 9.3.2.2 – There is a three-foot setback from the side property line. The proposed
39 amendment would clarify that this does not apply to a common driveway that serves more than
40 one lot.
41

42 (2) To clarify a section within Article 11 – Surface Water Protection Conditional Use Permit
43 (CUP) section of the Zoning Regulations. There is a section that outlines which activities are
44 permitted and not permitted with a CUP.
45

46 The permitted use says as follows “*New driveways for single and two family homes, provided*
47 *that “The driveway serves to access uplands on a lot(s) of record that existed at the time this*
48 *Overlay District was first adopted.”* This means if there was a parcel of land in existence prior to
49 the Surface Water Protection Ordinance going into effect and had to cross a wetland buffer to
50 construct a driveway – that landowner would be permitted to do so.
51

52 The uses permitted with a CUP are construction of new roads, driveways (excluding single- and
53 two-family driveways), and parking lots.
54

55 The staff proposal is to delete the stricken as follows: “Construction of new roads, driveways
56 (~~excluding single- and two-family driveways~~), and parking lots.” Ms. Brunner explained this is
57 because not all single and two family driveways are exempt; only lots of record that existed prior
58 to the Surface Water Protection Ordinance going into effect.
59

60 Mayor Hansel stated he did not like treating different landowners differently, just because the
61 City passed an Ordinance on a certain date. The Mayor noted the City has regulations for
62 setbacks and so does the State, and questioned how the Surface Water Protection Ordinance has
63 played out for residential properties.
64

65 (3) Article 13 – Telecommunications Ordinance – staff would like to clarify within Section
66 13.1.3.C that *collocation* and *modification* applications, as defined in NH RSA 12-K, are exempt
67 from CUP and site plan review. Ms. Brunner stated this is something that is set at the State level,
68 and they are exempt from any local land use permitting and zoning. She explained the definition
69 as outlined in state RSA means that if there is already a telecommunication array and you want
70 to add to it and don’t meet the threshold for substantial modification, then you are exempt from
71 local land use permitting and zoning. The way it is worded in the Land Development Code today

72 created a loophole: “Telecommunications facilities placed on existing mounts, building or
73 structures, or modifications to existing telecommunications facilities would be exempt.” The way
74 it is written could be interpreted as an exemption for a brand-new facility being placed on a
75 building where there are no existing telecommunication antennae. What staff is trying to
76 emphasis is that the exemption is for co-location or modification to an existing facility.
77

78 Councilor Bosley stated there are ordinances that were written for small wireless facilities in the
79 public right of way and there are criteria that need to be followed. The Councilor asked whether
80 those criteria need to be adhered to here. Ms. Brunner stated what is being discussed is for
81 installation on private property. Small wireless facilities are a completely different licensing
82 process under City Code outside the land development code (through Public Works).

83 The proposed new language would read as follows:
84

85 *The installation of new ground-mounted **or structure mounted** towers and antennas, if*
86 *camouflaged, or a substantial modification to an existing tower or mount that would maintain its*
87 *camouflage, may occur within Zone 2 or Zone 3 of the View Preservation Overlay.*
88

89 (4) Article 15 – Amendment - - Congregate Living & Social Service Conditional Use Permit –
90 The proposal is to add a section to allow the Planning Board to grant waivers on a case-by-case
91 basis from the review criteria in Section 15.2. To grant this waiver the Board would need to
92 make sure that all three waiver criteria have been met.
93

94 Ms. Brunner stated the reason staff is bringing this forward is because there have been a few
95 applications that have come forward to the Planning Board, and if an applicant is looking for
96 relief from one of these criteria they would have to go before the Zoning Board for a variance.
97 There are variance criteria that would need to be met; one being unnecessary hardship which is a
98 difficult criterion to meet.
99

100 Councilor Bosley asked Ms. Brunner to review the CUP criteria being referred to that would
101 apply to the waivers. Ms. Brunner went over the Review Criteria as follows:
102

103 Section 15.2 Review Criteria (Land Development Code):
104

105 A. *The nature of the proposed application is consistent with the spirit and intent of the Zoning*
106 *Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all*
107 *the applicable standards in this LDC for the particular use in Section 8.3.4.*
108

109 B. *The proposed use will be established, maintained, and operated so as not to endanger the*
110 *public health, safety, or welfare.*
111

112 C. *The proposed use will be established, maintained, and operated so as to be harmonious*
113 *with the surrounding area and will not impede the development, use, and enjoyment of*
114 *adjacent property. In addition, any parking lots, outdoor activity area, or waiting areas*
115 *associated with the use shall be adequately screened from adjacent properties and from*
116 *public rights-of-way.*
117

118 *D. The proposed use will be of a character that does not produce noise, odors, glare, and/or*
119 *vibration that adversely affects the surrounding area.*

120
121 *E. The proposed use will not place an excessive burden on public infrastructure, facilities,*
122 *services, or utilities.*

123
124 *F. The proposed use will not result in the destruction, loss, or damage of any feature*
125 *determined to be of significant natural, scenic, or historic importance.*

126
127 *G. The proposed use will not create a traffic safety hazard or a substantial increase in the*
128 *level of traffic congestion in the vicinity of the use.*

129
130 *H. The proposed use will be located in proximity to pedestrian facilities (e.g. multiuse trails*
131 *and sidewalks), public transportation, or offer transportation options to its client*
132 *population.*

133
134 (5) Amend Section 25.4 to modify the procedure for amending the LDC. Ms. Brunner explained
135 the LDC included many sections of City Code into one document. The different sections of the
136 LDC had different processes as to how they were amended but they are now one general process.
137 It is the advice of the City Attorney and staff that they be separated out.

138
139 Sections 1-18 of the LDC are the Zoning Regulations which would continue to follow the zoning
140 amendment process. There will be a first Reading of the Ordinance at City Council. It then gets
141 referred to a public workshop before the Joint Committee of the Planning Board and PLD
142 Committee. It is then referred back to City Council where the Mayor sets a public hearing and
143 then after the public hearing is referred to PLD Committee for a recommendation. Based on the
144 recommendation from the PLD Committee the item goes back to City Council for a 2nd Reading.
145 At that time, if PLD asks for more changes, it restarts the process, or City Council could act on it
146 that night.

147
148 Currently, Articles 19-28 at the present time have to go through the same process. What is being
149 suggested is that the Planning Board regulations would go through a public hearing before the
150 Planning Board and then follow the regular ordinance process with City Council (it cuts out the
151 public workshop component). Similarly, the Historic District Commission Regulations would go
152 through a public hearing before the Historic District Commission before going through a City
153 Council ordinance process. The rest of the LDC (Articles 22, 23, 24, sections of Article 25, and
154 26-28) would go through the regular City Council ordinance process.

155
156 (6) This item was left out of the Ordinance accidentally, and staff are asking that the Committee
157 include it in the ordinance and create an “A” version – Currently in Article 9, Section 9.2.7.C.2.
158 of the LDC provides for the ZBA to grant a major parking reduction up to 50% using a special
159 exception process. Subsection 2 says, “*In determining whether to grant a special exception, the*
160 *Zoning Board of Adjustment shall make the following findings in addition to those required for a*
161 *special exception.*”

162 *a. The specific use or site has such characteristics that the number of required parking spaces*
163 *is too restrictive.*

164 b. *The requested reduction will not cause long term parking problems for adjacent properties*
165 *or anticipated future uses.”*
166

167 Staff is suggesting removing the phrase “*in addition to those required for a special exception.*”
168

169 Zoning Administrator John Rogers addressed the Committee and explained there was an
170 application that came before the Zoning Board of Adjustment and the Board had a difficult time
171 applying the special exception criteria and applying appropriate Findings of Fact. In reviewing
172 the minutes and discussing the issue further the Board felt the items outlined above were the
173 most appropriate criteria for an accessory parking on a site. Mr. Rogers added for this reduction
174 the applicant would always have to provide for a parking study.
175

176 The Chair asked for public comment. With no public comment, the Chair closed the public
177 hearing.
178

179 Chair Bosley stated she was not comfortable with the proposal for the Planning Board to waive
180 the CUP criteria. She indicated developing the social services ordinance was a controversial
181 process and it was intended to be completed even before land development code was considered;
182 it was eventually folded in. The Councilor stated she did not hear a single CUP criterion that is
183 not appropriate to be included in that ordinance and not requiring applicants to meet. She
184 suggested if staff feels it is necessary – the item should be considered separately.
185

186 Councilor Ormerod stated he heard what staff said about Article 15 that it has some value in
187 having the Board that reviewed it in the first instance to review it and decide if it is necessary.
188 The Councilor stated he does not quite agree as there is a legislative process and a judicial
189 review process which are separate and did not feel the judicial process should be removed.
190

191 Mayor Hansel felt there was an argument to be made in having these organizations coming just
192 before the Planning Board which he did not feel was removing public’s right to bring their
193 concerns forward. He felt one of the benefits he sees is that it takes politics out of some of these
194 issues and places a quasi-judicial Board in charge of granting these conditional use permits.
195

196 Chair Russell Slack stated she agrees with the Mayor. She recalled an application that was
197 difficult to vote on but the matter did not have to go before the Zoning Board. She stated she
198 agrees with the conditional use permit waiver.
199

200 A motion was made by Mayor George Hansel to amend draft ordinance in a way that is
201 consistent with the staff recommended change. The motion was seconded by Emily Lavigne-
202 Bernier and carried on a unanimous vote.
203

204 Councilor Bosley recommended striking the language regarding the waiver for the Planning
205 Board. She indicated if this language is left in regarding the waiver insider this packaged
206 ordinance with all these other changes, and it gets sent to Council and Council doesn’t agree this
207 is a good course of action, the entire ordinance would fail. Hence, she stated her recommendation
208 would be to amend the ordinance to remove this language and have staff bring a separate
209 ordinance and see how it stands on its own merits.

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A motion was made by Councilor Bosley to amend the ordinance to remove the waiver for the Planning Board. The motion was seconded by Councilor Giacomo. The motion failed on a 4-7 vote with Councilors Bosley, Ormerod, Johnson and Giacomo voting in favor.

A motion was made by Mayor George Hansel that the Planning Board find the proposed amendments by staff consistent with the Comprehensive Master Plan. The motion was seconded by David Orgaz and carried on a unanimous vote.

A motion was made by Councilor Kate Bosley that the PLD Committee request the Mayor schedule a public hearing on Ordinance O-2022-19-A. The motion was seconded by Councilor Michael Giacomo and was unanimously approved.

IV) Housing Needs Analysis Project

Ms. Brunner addressed the Committee again and began by stating that the next time this item is discussed in March the consultants will be joining the session remotely and will attend in person for the April meeting.

What is a Housing Needs Assessment, and why do we need one? A housing needs assessment is a data driven report to evaluate what housing is needed today and what housing will be needed in the future. It involves compiling and evaluating demographic data, economic trends, current housing inventory and characteristics, housing market conditions, stakeholder input. Then performing a detailed analysis of the data and then breaking it down into categories. Ms. Brunner noted this is just an informational report which will hopefully help with informed decision making.

The consultant for this project is Camoin Associates and the project is being funded by the Invest NH Housing and Opportunity Planning and Zoning grant.

There is also a regional housing assessment that is happening which started about a year ago and is expected to wrap up in March. Keene is collaborating with Southwest Region Planning Commission to make sure the messaging is consistent and are complementing their work. Keene is also sharing the Commission's efforts such as data sharing, regional wide survey and Keene is trying to build off that. Ms. Brunner stated one key difference is because the regional data was done about a year ago it is using ACS one year data, but the five-year data just came out which is much more robust data.

Councilor Giacomo asked whether this data will be used for trend analysis and stated he would like to see what the data looked like five years ago. Ms. Brunner stated the City does have one year data and have asked the consultant to compare to see whether the picture would be completely different to what the regional analysis looks like and to compare the two different data sets (one year versus five years).

Ms. Brunner then went over the schedule: This project started in late October with a project kick off meeting and staff has been meeting with the consultant every other week.

256 The consultant has been participating in stakeholder interviews in the community. A survey was
257 recently launched which is available at keenenh.gov. There is a workshop being scheduled for
258 February 7 at 6pm at Heberton Hall. This would be a presentation followed by an interactive
259 event. The consultant will join the March session remotely, and they will attend the Joint session
260 in person for the April meeting with their final report.

261
262 Engagement and Outreach:

263 There will be ten stakeholder interviews. A Housing Resilience Survey was just launched and
264 will run through mid-February. There will be Community Housing Workshop on Tuesday,
265 February 7, 6:00 pm at Heberton Hall Keene Public Library. Because of the Invest NH grant the
266 City gets three spots at the UNH Housing Academy (mix of in person and online training)
267 regarding messaging and understanding data behind housing. Councilor Ormerod, Chair Slack
268 and a staff person will be attending this training.

269
270 Councilor Ormerod stated he did not hear about housing strategy. Ms. Brunner stated this would
271 be a large part of what the final report would be. The Councilor noted the free market is keeping
272 a lot of people out of housing and asked whether any of those strategies involve regulatory
273 solutions. Ms. Brunner stated the strategies look at the entire picture and some could certainly be
274 geared toward regulatory changes or zoning changes but it will go beyond that as well;
275 public/private partnership, homeowner incentives, developer incentives, what housing is high
276 risk etc.

277
278 Councilor Giacomo stated he has seen a rise in short term rentals; some of these landowners
279 don't live locally and asked if this is this being captured in the data. This does not help the
280 housing stock. Ms. Brunner stated this is something the consultant was asked to look at; is it a
281 local landlord? is the housing a short-term rental? how many of these units are in Keene? The
282 consultant is also focusing their review on towns surrounding Keene to obtain a regional picture.

283
284 Mr. Farrington asked whether the consultant would have a toolkit of strategies they could use in
285 Keene which has been used elsewhere, which could be use sooner rather than later.

286
287 **V) Rural District Discussion**

288
289 Mr. Rounds addressed the Committee next. Mr. Rounds stated what staff is looking for is
290 feedback regarding the change from five acres to two minimum lot size in the rural district to
291 increase opportunity for development (5-2). There has been a lot of discussion and feedback on
292 this topic and was hoping for added feedback from this Committee and staff has some
293 alternative ideas they would also like to share.

294
295 Councilor Giacomo stated the one thing that stood out for him is the tax impact; if a parcel can
296 be subdivided this would increase the tax impact on that parcel. He added this is not because of
297 anything a landowner did to improve their property but a change being proposed by the City.
298 Mr. Rounds stated staff has requested the Assessor to come before the Joint Committee and
299 review this topic.

300

301 Councilor Bosley stated the tax impact was her number one issue as well and seems opposite to
302 what the Committee is trying to accomplish. She stated she had met with the Assessor who had
303 indicated the taxes would in fact go up but then went on to explain how assessing looks at
304 properties and in some instances, there is the possibility that this change could decrease
305 property value. It is not a simple answer and a thorough explanation from the Assessor would
306 be helpful.

307
308 Mr. Rounds went on with his presentation. He indicated Keene has a housing crisis and the 5-2
309 change is something Keene feels can be one of the solutions. Another change staff also
310 proposed is a change to the subdivision regulations, not necessarily changing what the
311 subdivision regulations say but how it is said.

312
313 The other option – when this matter was originally proposed it was realized that 58% of the lots
314 in the rural district are sub-standard (less than five acres) which means they cannot be
315 developed easily. Some of those lots do have buildings located on them, if there was a change
316 to be made to that lot a variance would be required. The proposed change would allow for those
317 sub-standard lots to become legal conforming lots. Another way to make this change would be
318 to rezone many of those sub standards parcels as possible, which Mr. Rounds indicated could
319 be a long process and would only address lots outside the area that are developed differently
320 and still leave some lots as non-conforming.

321
322 Mr. Rounds stated the last option staff has discussed is referred to as Transferable Development
323 Credits (permitted under State RSA). The idea behind this option is that some lots in the Rural
324 District have development potential and they could sell that portion in the open market to a
325 different property (in a different district within the City) to increase density. Mr. Rounds stated
326 this option does not work in every community as it can be complicated and has to be properly
327 targeted to address the issue being addressed. Councilor Giacomo asked what the tradeoff
328 would be; would that land be turned into conservation land. Mr. Rounds stated this is left pretty
329 open in the RSA. Mr. Rounds stated the way he has seen it done in other communities is, the
330 development potential is removed and replaced by a conservation easement held by a third
331 party. Mr. Rounds stressed this might not work for every community and added the City will
332 stay out of buyer seller market completely. What would need to be determined is what we are
333 trying to save and what we are trying to develop in another location.

334
335 Councilor Johnson asked when a property is subdivided and a house is built but the house is
336 owned by someone other than the owner of the original lot, whether the new owner of the new
337 house be the one paying taxes. Mr. Rounds explained if a property is subdivided and a new
338 house is built on the subdivided lot, the landowner could retain ownership of both lots and rent
339 out the newly constructed house. In an instance like that, the landowner would end up being the
340 one paying taxes on that property. However, if the subdivided lot is sold the new owner would
341 be the one responsible for the taxes.

342
343 Councilor Giacomo referred to the 58% of properties that are substandard in the rural district
344 and asked whether a variance could be applied to a substandard property to construct a new
345 building. Mr. Rogers stated if it is an already developed non-conforming lot (a single-family
346 house is already located on it) – as long as they meet other zoning requirement, such as setback,

347 lot coverage etc. it will be allowed. If it is a vacant lot and is non-conforming a variance to
348 construct a single family home will be required.

349
350 Mr. Rounds referred to a comment received from the public comment portion: the proposed
351 change would increase density in a low-density district – Mr. Rounds explained this district had
352 much lower minimum lot sizes throughout its history. It was not until the 70’s that the rural
353 district minimum lot size was increased to address rampant development across the City and
354 the City was concerned about overwhelming the facilities; lot size was increased to slow
355 development down. However, now the City is in a situation where it wants to encourage
356 development and return the Rural District to what it was prior to that change.

357
358 In terms of environmental impacts, there was concern there would be impact to things that are
359 protected in the rural district such as its views, undeveloped pieces of land, surface waters,
360 steep slopes etc. There are regulations that are currently in place to protect these things in the
361 rural district which are not in existence in the more densely populated areas. Mr. Rounds stated
362 these proposed changes won’t affect those things as they exist now.

363
364 Mr. Rounds went on to say the general rule of thumb is that vacancy rate for rentals should be
365 at 5% but Keene is at .5% which is an issue. Owner occupied units should be at 2% and Keene
366 is well below this amount as well. There is not much that can be done to reduce these numbers
367 unless there is available housing. Chair Russell Slack asked how much development has
368 occurred in Keene in the last two years for housing and apartments. Ms. Brunner stated the
369 consultant had asked for a list of development that has occurred in the last three years which
370 had ten or more units – that number was zero. However, recently there is some development
371 that has been conditionally approved which seems to indicate that the trend might be shifting
372 slightly. The Chair asked staff whether they know how many housing units Keene would need.
373 Ms. Brunner stated the report from the consultant that comes out in April would have that
374 number.

375
376 Mayor Hansel stated he was on the Statewide Housing Stability Council which kicked off the
377 localization of the housing discussion and at that time the State was short approximately 20,000
378 units; this was prior to Covid and since then the number has increased. The Mayor stated he
379 feels bad that staff has to defend bringing this issue forward as it is a controversial topic. He
380 felt this item (5-2) needs to be brought before Council to be voted up or down. He hoped staff
381 would continue to give the community the opportunity to see if it wants to handle this housing
382 crisis.

383
384 Councilor Johnson asked how Keene can include into this issue surrounding towns which
385 might have the answer for this problem; do they handle their own issue and Keene handles its
386 own issues. Mr. Rounds stated Keene does participate in the Regional Planning Commission
387 which allows for much discussion with Keene’s neighbors. However, when it comes to
388 regulatory sharing there is not really a mechanism. He added the entire region needs to increase
389 housing.

390
391 Chair Russell Slack asked staff when Keene did its housing analysis, whether it reached out to
392 other towns. Ms. Brunner stated that analysis looked at market data and housing data for the

393 surrounding towns. The Southwest Region Planning Commission is doing a regional housing
394 assessment and in that analysis there is an item referred to as fair share analysis – a statewide
395 consultant has been hired to complete this work. What this would do is look at a fair number
396 each community should be striving for.

397
398 Councilor Giacomo asked how granular the data is when it comes to things like house size etc.
399 He referred to houses in the north central area of Keene which has fairly large houses which are
400 owner occupied and the owners are aging and could be looking at downsizing which the
401 Councilor felt could impact the housing market. He asked whether the study looks at square
402 footage. Mr. Rounds stated the survey does ask about house size, as well as age of occupants
403 which will be used for the housing needs analysis. Ms. Brunner referred to the consultant’s
404 scope of work and referred to the different market segments they would be using. They are as
405 follows:

- 406
- 407 • Under-housed individuals (people who are living with parents, room-mates, because they
 - 408 can’t find housing that meets their needs).
 - 409 • Population Growth (household formation, attraction of remote workers)
 - 410 • Economic Job Growth (attracting more workers to the area)
 - 411 • Cost Burdened Households (spending more than 30% of their income on housing expenses)
 - 412 • Displaced Commuters (commuting to the City from further away because they can’t find
 - 413 suitable housing closer)
 - 414 • Mismatched Households (individuals in housing they can afford and in location they prefer
 - 415 but does not align with other reasons such as renting versus owning)
 - 416 • Households Living in Sub-Standard Housing (Lacking appropriate utilities such as proper
 - 417 plumbing etc.)
 - 418 • Empty Nester or Senior Household (downsized units or units that require care and services)
- 419

420 Councilor Bosley stated what Councilor Giacomo said reminded her of her mother-in-law who
421 would love to move from the home she raised her family in to a one-story house close to the
422 rail trail, where perhaps someone could help take care of her lawn; but that type of housing
423 does not exist in Keene. She agreed there are people who are aging in these big houses but they
424 have no place to move to. She indicated the City needs to look at through its Code writing how
425 it can create some of these different styles of developments to happen in this community, not
426 just for wealthy out of towners who want to work from home but people who live here already.

427
428 The Councilor also talked about young people being able to purchase a home in this
429 community. She felt what has happened in the last two to three years is obnoxious. The
430 Councilor stated one of the things she had asked for with this housing analysis is data on Covid
431 migration. Councilor Bosley felt the 5-2 proposal needs to have its own review to see if this is
432 what is needed for the community. She felt each zone needs to be reviewed to see what can be
433 done.

434
435 This concluded the presentation.

436
437 **VI) New Business**
438 None

439

440 **VII) Next Meeting – February 13, 2023**

441

442 **VIII) Adjourn**

443

444 There being no further business, Chair Russell Slack adjourned the meeting at 8:10 PM.

445

446 Respectfully submitted by,

447 Krishni Pahl, Minute Taker

448

449 Reviewed and edited by,

450 Mari Brunner, Senior Planner

MEMORANDUM

To: Joint Committee of the Planning Board and PLD Committee
From: Jesse Rounds, Community Development Director
Date: March 6, 2023
Subject: O-2023-02 Relating to Amendments to the Rural District Minimum Lot Size

Overview

This Ordinance proposes to amend the City of Keene Land Development Code to reduce the minimum lot size for the Rural District from five acres to 2 acres. The intent of this proposed change is to expand opportunity for single-family housing development and reduce the number of nonconforming lots in the Rural District.

Rural District Background

The Rural District is a residential zoning district that is generally located outside of the valley floor, beyond where city water, sewer and other city services can be readily supplied. The intent of this district is “to provide for areas of very low density development, predominantly of a residential or agricultural nature.” Permitted residential uses within this district include “Dwelling, Single-Family,” “Dwelling, Two-Family/Duplex” (CRD Subdivision only), and “Dwelling, Manufactured Housing.” The full list of permitted uses within this district is included in Figure 1 on the next page.

There are about 1,118 parcels of land (not including 407 condominiums) within the Rural District, covering a land area of 14,313.5 acres. Most of the land within the Rural District does not have access to city sewer or water service, as shown in Figure 2. The minimum lot size for this district is 5 acres; however, the minimum lot area per dwelling unit is reduced to 2 acres if the lot has access to both city sewer and city water.

Currently, there are 643 parcels (58%) that are less than five acres in size, as shown in Table 1 on the next page. There are a couple possible reasons for the large number of lots that are non-conforming with respect to lot size. Historically, the area now zoned as “Rural” was mostly zoned as “Agricultural” as shown on the 1971 Zoning Map, depicted in Figure 3. The minimum lot size for the Agricultural District prior to 1970 was 10,000 sf, or 1 acre if the lot did not have access to city water and sewer. In 1970, the minimum lot size for the Agricultural District was increased to 2 acres. Then, in 1977, the Rural District was established, and the minimum lot size was set at 5 acres, or 2 acres “if such lot contains an area not less than 33,000 adjoining square feet of soil which is either Charleton loam, Charleton very stony loam, Gloucester sandy loam, Gloucester very stony sandy loam.” These zoning changes most likely made lots which were conforming at the time into legally nonconforming lots. This lot size increase was done in response to intense development pressure which, at the time, was overwhelming City services such as fire protection, police, water and sewer, and the school system.

Table 1

Size range	Parcel count	Percent
0 < 2 acres	396	35%
2 to < 5 acres	247	22%
5 to < 10 acres	175	16%
10+ acres	300	27%
	1,118	100%

In addition, under previous zoning ordinances, the Planning Board had the option to approve planned unit developments (PUDs) and could “vary the density, or intensity, of land use, otherwise applicable to the land within the planned unit residential development.” Therefore, the Planning Board had the ability to approve PUDs with lot sizes that were smaller than allowed within the underlying zoning district through the subdivision and site plan review process. The Planned Unit Development option was removed at some point prior to 1994.

This ordinance proposes to change the minimum lot size in the Rural District from 5 acres to 2 acres. This change would make approximately 247 parcels that are currently nonconforming with respect to lot size into conforming lots, and would reduce the percentage that are nonconforming from 58% to 35%. The intent of this proposed change is to create more opportunity for low density residential development within the Rural District and reduce the number of nonconforming lots in the district. No other changes to the dimensional standards (minimum lot width, setbacks, coverage, maximum height, etc.) are proposed within the zoning ordinance.

3.1.5 Permitted Uses		
RESIDENTIAL USES		SECTION
Dwelling, Manufactured Housing	P ¹	8.3.1.B
Dwelling, Single-Family	P	8.3.1.D
Manufactured Housing Park	P	8.3.1.F
COMMERCIAL USES		SECTION
Animal Care Facility	P	8.3.2.B
Bed and Breakfast	SE	8.3.2.G
Greenhouse / Nursery	P	8.3.2.L
Kennel	P	8.3.2.P
CONGREGATE LIVING / SOCIAL SERVICES USES		SECTION
Group Home, Small	CUP	8.3.4.F
OPEN SPACE USES		SECTION
Cemetery	P	8.3.6.A
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
Farming	P	8.3.6.D
Golf Course	P ¹	8.3.6.E
Gravel Pit	SE	8.3.6.F
INFRASTRUCTURE USES		SECTION
Solar Energy System (Small-Scale)	P ¹	8.3.7.A
Solar Energy System (Medium-Scale)	CUP	8.3.7.B
Solar Energy System (Large-Scale)	CUP	8.3.7.C
Telecommunications Facilities	P ¹	8.3.7.E

P = Permitted
P¹ = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

Figure 1. List of permitted principal uses within the Rural District.

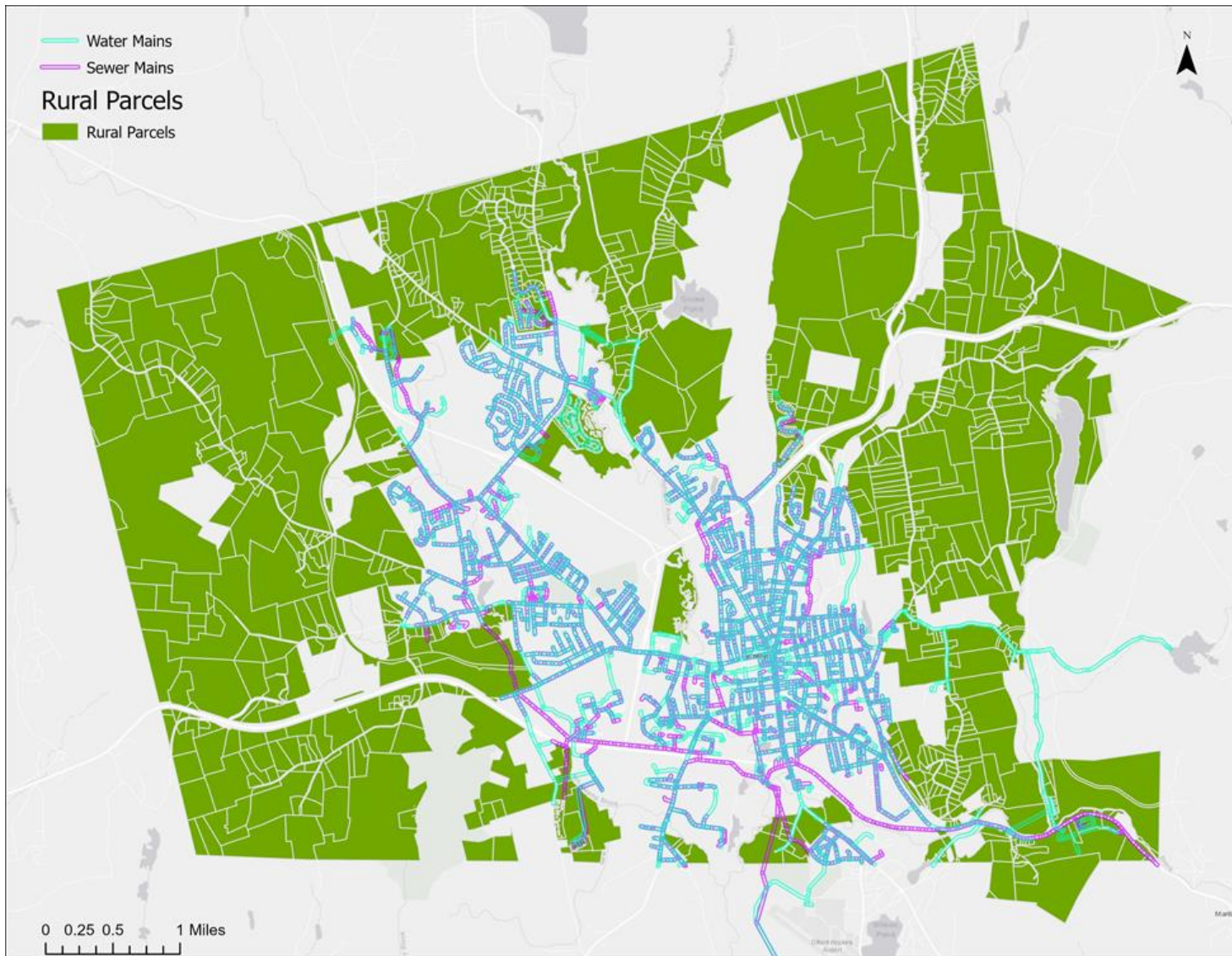


Figure 2. Map displaying parcels located in the Rural District (shown in green), the location of City sewer infrastructure (shown in purple), and the extent of the City water infrastructure (shown in light blue). Areas City sewer and City water overlap are shown in the darker blue color.

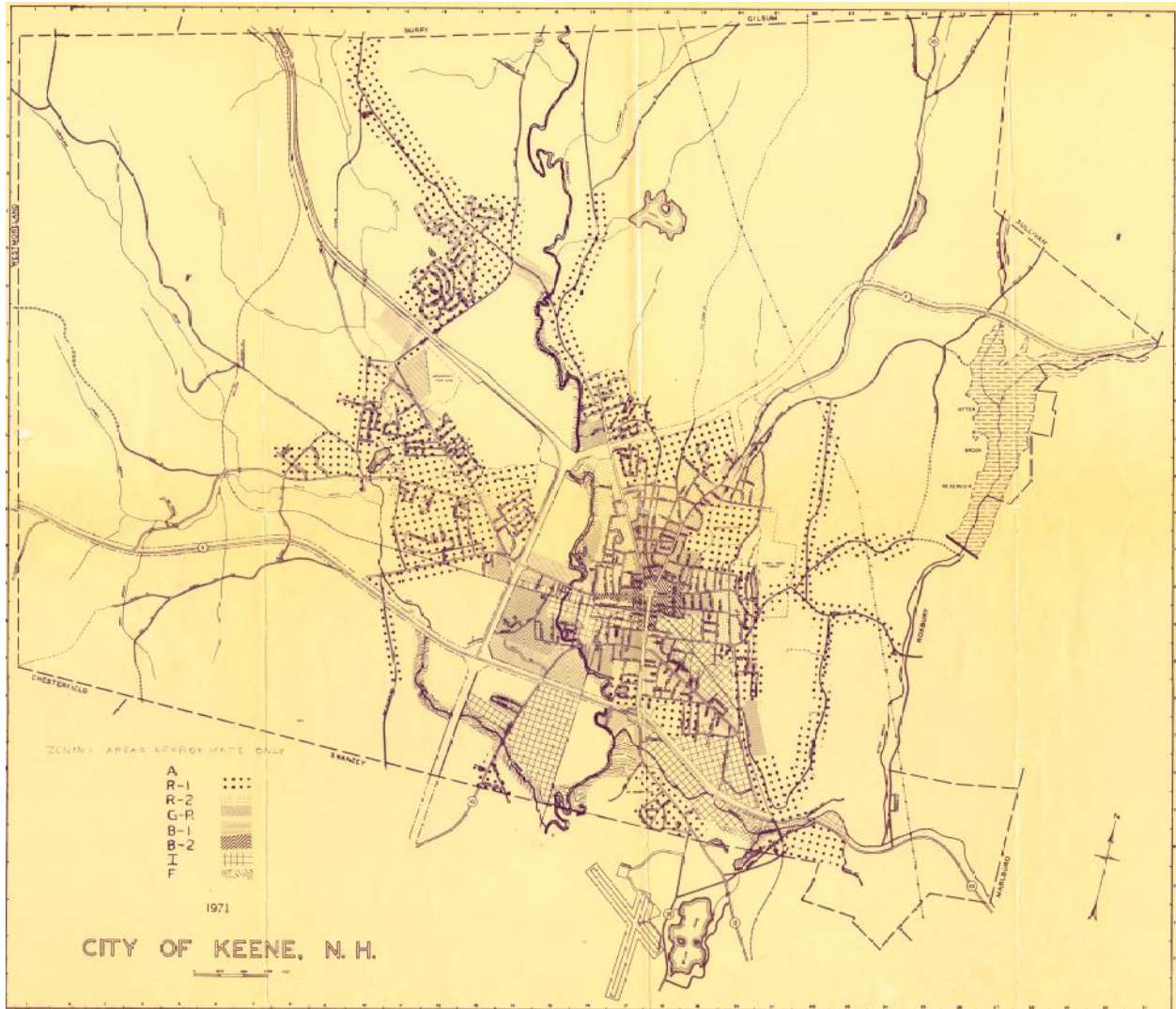


Figure 3. Scanned image of the 1971 Zoning Map for the City of Keene, NH. The legend key is as follows: A = Agricultural (areas shown in solid white), R-1 = Single Residence, R-2 = Single-Two Family Residence, G-R = General Residence, B-1 = Roadside Business, B-2 = Central Business, I = Industrial, and F = Floodplain.

Discussion

This change was originally proposed in 2022 as a companion to changes to the Conservation Residential Development Subdivision regulations in Article 19. During the Joint Committee public workshops and City Council public hearings on this ordinance, the public and the Committee raised a number of concerns about the impact of reducing the minimum lot size in the Rural District. Concerns included:

- Impact to rural character: Residents expressed a concern about the alteration leading to more traffic, loss of forested hills, and impacts to level of service on rural roads.
- Unwanted Densification: There were concerns that the change would mean much more density throughout the district.
- Misplaced development: Residents questioned the need to decrease lot size or spur development outside of the urban and suburban core of the City.

- **Environmental Impact:** Many commenters expressed that additional development would have unintended consequences for surface waters, steep slopes, and high quality habitat throughout the Rural District.
- **Increased tax burden for smaller landholders:** Residents pointed out that landowners who currently own land in the rural district of less than 10 acres are not taxed on the potential to subdivide and this would negatively impact those residents.

Members of the public also spoke in favor of the change. As noted in the background section, prior to concerns about increased development overwhelming the provision of services, the minimum lot size was less than 2 acres. Residents also noted the need for additional housing at all levels of the market.

Community Development staff recognized the concerns of the community and the Joint Committee. Below is a response to the general concerns raised including, in some cases, actions meant to address these concerns:

Rural Character: This is a complex issue that encompasses many facets. However, staff is confident that the Land Development Code provides significant authority for the Planning Board to protect the character that defines this Zoning District. However, in an effort to reinforce those protections, the Planning Board has adopted amendments to their subdivision regulations (pending City Council incorporation into the LDC) to reiterate tools such as requiring soils testing to ensure adequacy of soils for septic, additional ecological review, and other existing tools the Board can use, such as the placement of a “no-cut” buffer along roads with existing mature tree canopy. In addition, the Board adopted a required no-cut buffer on along external roads for Conservation Residential Development subdivisions in order to maintain the feel of many of the roads in the Rural District.

Unwanted Densification: Many in the public raised concerns about how the ability to develop 2-acre parcels would mean stacking houses and driveways close together, thereby densifying a zoning district that is intended to feel open. Nothing in the current zoning regulations on setbacks, frontage, minimum lot width at the building line, building and impervious coverage, or maximum height is proposed to be changed with this change in the minimum lot size. For example, in this district houses need to be sited in a location where the lot is at least 200 feet wide and so that they are at least 50 feet from any property line (front, rear, and side). While this does not preclude new development, when taken in concert with existing state and local regulations regarding surface waters and steep slopes this ordinance does not create a large impact to development patterns or densification. In addition, 72% of the acreage in the rural district is already protected either permanently through Conservation Easement or through Current Use tax designation.

Misplaced Development: The best way to foster development is a complex question. Is the solution development in denser and older parts of Keene, is it redevelopment of commercial properties into mixed use, or is it allowing additional development in the Rural District? The answer is likely a combination of all of these strategies and many more the Community Development Department intends to explore over the coming years. Prior to this proposed change to the minimum lot size, additional density was permitted in the downtown districts and the Land Development Code allowed for innovative development solutions in many other districts. Accessory Dwelling Units have been a permitted use in Residential Districts in the City for many years, and recently multifamily housing was allowed within the Commerce District. However, there is strong demand for new single-family home development, and the Rural District is the best district for this growth since so little land for single family development remains in other districts. Based on the remaining undeveloped lots in the district and the on-going use of the larger properties (many of which are in conservation or current use), there are unlikely to be subdivisions of the size seen in other states. Based on lot size, we expect most proposed subdivisions to be 2-10 lot divisions. Our community must continue to try to address our housing shortfall.

Environmental Impact: Development can negatively impact the environment. However, the proposed change in minimum lot size occurs in an existing system of regulations already strictly protecting surface waters and steep slopes. Environmental and ecological impacts of any future development are also considered when a subdivision is proposed and is going through the Planning Board public hearing process. Development can only occur where either City sewer and water are present, or where the substrate can support the development of septic systems and wells. It is also worth noting that a large percentage of land in the Rural District is held in Conservation Easements, which further limits any potential impact to environmentally sensitive areas. Finally, the Rural District is a zoning district that is intended for residential development to occur. Areas that are not intended for any development and where only open space uses can occur are in a separate zoning district, the “Conservation District.”

Increased taxes: Property taxes were a major concern for residents, especially those who own less than 10 acres. The concern is based on an understanding that the *potential* to create additional lots from a piece of land increases the value of that land and therefore increases the tax bill of the owner. While this is possible, it depends on a variety of factors and the increase is not linear. While a parcel with the potential for subdivision is more valuable than one without that potential, the increase is incremental and would be subject to valuation by the City Assessor. Of the 1,121 parcels in the district, almost 80% would not see their taxes affected by the change.

In addition to the points above, since the ordinance change was originally introduced, the City of Keene has contracted with Camoin Associates to develop a Housing Needs Assessment and housing strategy. This study will help the community identify if, and in what housing types, we will need to make changes to serve our current residents and how we might prepare if we wish to attract new residents to Keene. Some of the key findings from that report include the following:

- 4,500 households in Keene are in need of new or upgraded housing.
- Keene will need to build an additional 1,400 units of new housing over the next 10 years.
- More than 300 of those units will need to be in higher price ranges over \$323,000.

The Needs Analysis indicates the need for housing development across all housing types. The Rural District contains many parcels that are currently undeveloped, many of them located along existing roads. These parcels could be more easily developed with the change in minimum lot size. However, that development would have a small impact on both the overall conserved and undeveloped land in the Rural District, and with the recent changes to the Subdivision Regulations, the Planning Board has more tools to protect the character of the roads in the Rural District.



APPLICATION TO AMEND THE ZONING ORDINANCE

Petitioner: City of Keene Community Development Dept. Date: _____

Address: 3 Washington Street, Keene, NH

Telephone: (603) 352-5440 Email: communitydevelopment@keenenh.gov

Existing Section Reference in Chapter 100, Land Development Code: Article 3, Section 3.1.2

Does the amendment affect "Minimum Lot Size"? Yes No

Does the amendment affect "Permitted Uses"? Yes No

Number of parcels in Zoning District*: 1,121

Validation of Number of parcels by the
Community Development Department



Petitioner's Signature

SUBMITTAL REQUIREMENTS WHICH MUST BE COMPLETE AT TIME OF SUBMISSION TO THE CITY CLERK:

- A properly drafted Ordinance containing the amendment in a form meeting the requirements of the City Clerk.
- A typed or neatly printed narrative explaining the purpose of, effect of, and justification for the proposed change(s).
- \$100.00 application fee.
- As provided for in RSA 675:7, if the proposed amendment would change the minimum lot sizes or the permitted uses in a zoning district, ***and such change includes 100 or fewer properties**, the Petitioner shall submit a notarized list of property owners affected by the zoning amendment. The list shall include the tax map number and address of each abutter or owner, and must be current with the Assessing Department's records within ten days of submittal. Two sets of mailing labels shall be provided.

Date Received by City Clerk: _____ Ordinance Number: _____

On City Council agenda: _____ Workshop to be held: _____

Public Hearing to be held _____

CITY OF KEENE
NEW HAMPSHIRE

**O-2023-02 Relating to Amendments to the City of Keene Land Development Code, Rural
District Minimum Lot Size**

The attached materials include the full text of Ordinance O-2023-02 relating to proposed amendments to the City of Keene Land Development Code (LDC), as well as excerpted sections of the adopted City of Keene Land Development Code that are proposed to be amended with Ordinance O-2023-02. Text that is highlighted in yellow and bolded is proposed to be added; and, text that is stricken through is proposed to be deleted.

This ordinance proposes to amend Article 3 – Residential Zoning Districts by reducing the minimum lot size in the Rural District from five acres to 2 acres. The intent of this proposed change is to expand opportunity for housing development and reduce the number of nonconforming lots in the Rural District.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Three

AN ORDINANCE Relating to Amendments to the Rural District Minimum Lot Size

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

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

1. That Section 3.1.2 “Dimensions & Siting” of Article 3 be amended as follows:

Min Lot Area	5 acres <u>2 acres</u>
Min lot area per dwelling unit without city water & sewer	5 acres
Min lot area per dwelling unit with city water & sewer	2 acres
Min Lot Width at Building Line	200 ft
Min Road Frontage	50 ft
Min Front Setback	50 ft
Min Rear Setback	50 ft
Min Side Setback	50 ft

George S. Hansel, Mayor

3.1 RURAL (R)

3.1.1 Purpose

The Rural (R) 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.

3.1.2 Dimensions & Siting

Min Lot Area	52 acres
Min lot area per dwelling unit without city water & sewer	5 acres
Min lot area per dwelling unit with city water & sewer	2 acres
Min Lot Width at Building Line	200 ft
Min Road Frontage	50 ft
Min Front Setback	50 ft
Min Rear Setback	50 ft
Min Side Setback	50 ft

3.1.3 Buildout

Max Building Coverage	10%
Max Impervious Coverage	20%

3.1.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

3.1.5 Permitted Uses

RESIDENTIAL USES		SECTION
Dwelling, Manufactured Housing	P ¹	8.3.1.B
Dwelling, Single-Family	P	8.3.1.D
Dwelling, Two-Family	CRD	8.3.1.E
Dwelling, Multifamily	CRD	8.3.1.C
Manufactured Housing Park	P	8.3.1.F
COMMERCIAL USES		SECTION
Animal Care Facility	P	8.3.2.B
Bed and Breakfast	SE	8.3.2.G
Greenhouse / Nursery	P	8.3.2.L
Kennel	P	8.3.2.P
CONGREGATE LIVING / SOCIAL SERVICES USES		SECTION
Group Home, Small	CUP	8.3.4.F
OPEN SPACE USES		SECTION
Cemetery	P	8.3.6.A
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
Farming	P	8.3.6.D
Golf Course	P ¹	8.3.6.E
Gravel Pit	SE	8.3.6.F
INFRASTRUCTURE USES		SECTION
Solar Energy System (Small-Scale)	P ¹	8.3.7.A
Solar Energy System (Medium-Scale)	CUP	8.3.7.B
Solar Energy System (Large-Scale)	CUP	8.3.7.C
Telecommunications Facilities	P ¹	8.3.7.E

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