



## Joint Committee of the Planning Board and Planning, Licenses & Development Committee Agenda - **AMENDED**

Monday, July 14, 2025

6:30 PM

City Hall, 2<sup>nd</sup> Floor Council Chambers

### A. AGENDA ITEMS

1. Roll Call
2. Approval of Meeting Minutes – June 9, 2025
3. Continued Public Workshops:
  - a. **Ordinance O-2025-20 Relating to Setbacks and Build-to Dimensions.** Petitioner, City of Keene Community Development Department, proposes to amend Sec. 1.3.3 of the LDC to clarify that the Front, Side, and Rear setbacks apply to any building or structure on a lot. Further, this ordinance proposes to amend the definitions for “Build-To Line” and “Build-To Zone” (BTZ) to state that they apply to any principal structure with some exceptions. Lastly, this ordinance proposes to amend Sec. 8.4.1.C to state that accessory structures shall not be located in the BTZ.
  - b. **Ordinance O-2025-15 Relating to Amendments to the Land Development Code to Encourage Housing Development.** Petitioner Jared Goodell proposes to amend various sections of the LDC to modify the definitions of the Front, Side, and Rear Setbacks and the Build-to Zone; Reduce the minimum lot size in the Neighborhood Business District to 5,000 sf; Increase the density allowed in the Medium Density District to 6 units per lot; Allow dwelling units on the ground floor in the Downtown Growth District for lots with frontage on “Type B” streets; and, Establish rules for applying zoning regulations to split-zoned parcels. The sections proposed to be modified include 1.3.3, 5.3.1, 5.3.2, 8.3.1(C), and 19.2 of the LDC.
4. New Business
5. Next Meeting – August 11, 2025

### B. MORE TIME ITEMS

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

### A. ADJOURNMENT

**City of Keene**  
**New Hampshire**

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

**Monday, June 9, 2025**

**6:30 PM**

**Council Chambers,  
City Hall**

**Planning Board**

**Members Present:**

Harold Farrington, Chair  
Councilor Michael Remy  
Armando Rangel  
Kenneth Kost  
Randyn Markelon, Alternate

**Planning Board**

**Members Not Present:**

Roberta Mastrogiovanni, Vice Chair  
Mayor Jay V. Kahn  
Sarah Vezzani  
Ryan Clancy  
Tammy Adams, Alternate  
Stephon Mehu, Alternate  
Michael Hoefer, Alternate

**Planning, Licenses &**

**Development Committee**

**Members Present:**

Kate M. Bosley, Chair  
Philip M. Jones, Vice Chair  
Councilor Edward J. Haas –  
joined via zoom  
Councilor Andrew M.  
Madison

**Planning, Licenses &**

**Development Committee**

**Members Not Present:**

Robert C. Williams

**Staff Present:**

Paul Andrus, Community  
Development Director  
Mari Brunner, Senior Planner

**I) Roll Call**

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

**II) Approval of Meeting Minutes – April 14, 2025**

A motion was made by Council Phil Jones that the Joint Committee accept the April 14, 2025 meeting minutes. The motion was seconded Councilor Kate Bosley and was unanimously approved by roll call vote.

**III) Public Workshops:**

a. **Ordinance O-2025-20 Relating to Setbacks and Build-to Dimensions.** Petitioner, City of Keene Community Development Department, proposes to amend Sec. 1.3.3 of the LDC to clarify that the Front, Side, and Rear setbacks apply to any building or structure on a lot. Further, this ordinance proposes to amend the definitions for “Build-To Line” (BTL) and “Build-To Zone” (BTZ) to state that they apply to any principal structure with some exceptions. Lastly, this ordinance proposes to amend Sec. 8.4.1.C to state that accessory structures shall not be located in the BTZ.

Mari Brunner, Senior Planner, addressed the Committee. Ms. Brunner began with providing definitions of words that would be discussed related to the ordinance. Ms. Brunner stated building setbacks, according to the City of Keene Land Development Code, refer to *the required minimum or maximum distance a building or structure must be located from a lot line, which is unoccupied and unobstructed by any portion of a building or structure, unless expressly permitted by this LDC*. Ms. Brunner noted there are some exceptions for side setbacks and rear setbacks as outlined in Article 1, Section 1.3 of the LDC. Otherwise, every structure in the City has to comply with the setbacks in the LDC.

Ms. Brunner continued by stating that another term that will be discussed is Build-To Dimensions. In the Land Development Code, there are three types of Build-To Dimensions. Two are as follows:

The Build-To Line (BTL) – Line where the building façade must be located.  
Build-To Zone (BTZ) – Zone or area where the building façade must be located.

Ms. Brunner indicated Build-To Dimensions are new for Keene, whereas the City has had setbacks in the zoning code for many years. Build-To Dimensions were established when the Downtown Zoning Districts were created as part of the Land Development Code adoption in 2021.

Build-To Dimensions are used to regulate the placement of buildings and structures on a lot. Setbacks are designed to ensure spacing between buildings and between buildings in the street. Build-To Dimensions are used to encourage building placement closer to the street, to try to activate the streetscape, and to create a building wall along the street to support a pedestrian atmosphere often seen in downtown areas. Build-To Dimensions are usually more appropriate for urbanized areas, and where you have existing utilities and roads that are permanently established. The road would not be expected to be widened in the future, for example.

Areas where form-based code and Build-To Dimensions are utilized are typically where you are going to see more infill development and redevelopment occur.

Ms. Brunner continued by stating the definition for the third kind of Build-To Dimension in the code, which is Build-To Percentage.

Build-To Percentage – The percentage of the building façade that must be located within the Build-To Zone or at the Build-To Line.

Ms. Brunner noted façade articulation, such as window and wall recesses and projections, do not count against the required Build-To Percentage. During the form-based code process, the community expressed a desire for an expansion of public-like space. Plazas, outdoor dining, patios, or other public open space features bounded by a building façade that is parallel to the frontage area are counted as meeting the Build-To Percentage. For example, if a cut-out of a building façade incorporates a seating area, that seating area does not count against the Build-To Percentage. This is meant to encourage interaction between the building and street, which would be appropriate for a downtown context.

Ms. Brunner continued by stating the definition of building activation, which is as follows:

**Building Activation** – The articulation of a façade to contribute to a pedestrian friendly public realm; for example, delineating the minimum ground floor height, maximum blank wall area, maximum height of the building entry above the sidewalk, or minimum ground floor and upper floor transparency.

Building activation is used to create visual interest and definition in a building façade by breaking up large, flat surfaces with windows, doors, changes in material or architectural details.

Ms. Brunner presented the definitions of additional concepts, which are as follows:

**Principal Use** – The main or primary use conducted on a lot or located within a building or structure, as distinguished from an accessory use.

**Principal Building or Principal Structure** – A structure that is central to the fundamental uses of the property and is not accessory to the use of another structure on the same premises.

Ms. Brunner noted all principal uses are listed in the Land Development Code in Article 8 and all districts, except for Residential Districts, allow mixed-use. If a parcel is not located in a Residential Zoning District, more than one principal use is allowed on the same property.

Ms. Brunner continued by stating there is another use in addition to a principal use, which is accessory use.

**Accessory Use** – Any use that is subordinate in both purpose and size to and is incidental to and customarily associated with any principal use located on the same lot.

Ms. Brunner referred to images for a residential use and mixed-use development.

Ms. Brunner next addressed the proposed ordinance. This ordinance is being brought before the Committee by Staff as a response to a recent ZBA interpretation that the use of the phrase “a building” in the setbacks and the Build-To Dimensional definitions means the first building on a lot. Ms. Brunner stated this is a big departure from how Keene has approached setbacks for about 100 years. While the intent was for setbacks to apply to all buildings, the ZBA has interpreted that using the phrase “a building” in the definition muddies the waters. The ZBA has asked Staff to clarify that language. As a result, Staff is bringing the item before the PB-PLD Committee with the proposal to make it clear that the setbacks apply to all buildings on a lot. Unless the LDC expressly provides an exception, if there is a setback listed, all structures on the lot have to comply with it.

For the Build-To Dimensions, however, as discussed at the last meeting, there was some desire to have more flexibility with those dimensions. Ms. Brunner stated the Build-To Dimensions are new for Keene, but as Staff walk through inquiries with applicants, the Build-To Zone dimensional requirements do have the potential to limit development on a lot in certain circumstances. Staff would like to bring in more flexibility.

Ms. Brunner stated the ordinance O-2025-20 proposes that the Build-To Dimensional requirements would only apply to principal buildings or structures and would make it so that accessory structures do not have to be located in the Build-To Zone, which would provide a lot more flexibility for property owners in the Downtown Zoning Districts. For example, an applicant came to the Community Development Department with an inquiry to add a Conex box to their site, and the current regulations would require the box to be located right up against the street, which is actually something the City would rather not have. The City would rather have the box at the back of the lot, where it would not be easily visible from the sidewalk. This would also give more flexibility for principal buildings or structures to be located outside of the Build-To Zone when it is not feasible to place it inside the Build-To Zone.

Ms. Brunner referred to an example diagram that shows what the City does not want to see related to Build-To Zones.

Ms. Brunner explained that if only one building is required to be placed in a Build-To Zone, lots with wide frontage or corner lots could create gaps in the streetscape, which is what the Build-To Zone is trying to avoid. What the City would like to see are principal buildings or structures placed in the BTZ and then, if not possible, to place it behind.

Councilor Remy asked what happens in a situation where both parallel streets had Build-To Zones.

Councilor Bosley referred to the Downtown Zoning map where there are lots between West Street and Gilbo Avenue that front on both parallel streets. Ms. Brunner stated, in those situations, we would need to figure out which street is considered to be the frontage. In the regulations, it says what the setbacks are for the frontage, sides and rear. Staff take the shortest portion of the Right of Way to consider frontage. Councilor Remy stated, in a situation like this, he would be concerned about harming one street by favoring the other.

Councilor Remy referred to the ZBA interpretation and, based on that interpretation, questioned if a gazebo is constructed in the middle of a lot as the first building, could a moat of buildings constructed around it be acceptable. He asked if the ZBA interpretation appreciates setbacks once there is one building in the middle. He asked if the location of that one building would satisfy the violation of setbacks going forward on that lot. Ms. Brunner stated the ZBA was strictly looking at the actual language and what it says. They were talking about the definition of the word “a.” Their instructions were to look at the language of the code and what it actually says on its face, without trying to imagine what the intent was. Councilor Remy did not feel the language was ambiguous. Councilor Remy continued by stating that whether the language states “any building” or “a building,” it would not be a good use of the Committee’s adjustment.

Councilor Bosley stated that the Committee is being tasked with clarifying if once “a building” has met the setback requirement, does that then mean any other building does not need to meet the setback requirements. Councilor Bosley felt this is what is ambiguous and clearing it up would not harm. Looking at the Build-To Zone is another issue.

Councilor Remy restated that he does not feel “a” or “any” are as ambiguous as it is written here in relationship to setbacks.

Councilor Bosley stated that when she was discussing this with Staff, it got very confusing when the idea of the Build-To-Zone was also considered a setback in the City Code. If the Committee can give any clarity to this so that it doesn’t cause problems for other development, it would be better.

Chair Farrington stated in Ms. Brunner’s introduction, she had stated principal structures have to be in the Build-To Zone where feasible, but he felt the wording in the ordinance is that it is only not feasible if it is blocked by another principal structure. He asked for clarification. Ms. Brunner agreed and added Downtown Zoning Districts are trying to encourage parking and accessory buildings to be towards the rear of the lot and to have the principal buildings against the sidewalk.

Councilor Bosley stated that she would like to apply this language to a project the Committee heard a while ago, which is going to be located on Marlboro Street. There is already a structure considered a principal structure in the Build-To Zone. She asked if the building the applicant is going to construct on the lot behind this principal building is considerable in size to the principal building, how is that interpreted as far as principal structure. How would a building that is constructed subsequent to a principal building in the BTZ, if larger, be considered.

Ms. Brunner, in response, stated everything listed in Table 8 is considered to be a principal use. A single-family home, theoretically, could be in the Build-To Zone, and you could construct any principal use behind it, as long as those are both allowed in that district. The manner in which the regulation is written, you have to have a principal structure in the Build-To Zone, and if you want to put another principal structure on the lot, and there isn’t space in the Build-To Zone because of the presence of another principal structure, then you can locate that structure outside the Build-To Zone. The definition of Principal Building or Structure is listed in the Land Development Code under Article 29.

Councilor Jones asked how a structure that is not defined as a principal use is referred to. Ms. Brunner stated if it is not a principal structure, it would then be considered an accessory or a second principal structure. You can have more than one principal structure, or more than one principal use, in a non-residential district. It can only be an accessory use if it is accessory to something that is a principal use on that same lot.

Mr. Kost asked for the reason for the Build-To Line and the Build-To Zone.

Ms. Brunner stated the Build-To Line comes in with the Downtown Core where all the buildings are right at the sidewalk. However, the Build-To Zone is used more frequently throughout the code, at times it gives only some flexibility, like a zero to five feet or zero to twenty feet. The flexibility varies by district or surrounding context. Mr. Kost referred to the language of the proposal, in which it says the Build-To Line is recommending any principal building or structure be located at the Build-To Line. However, the Build-To Zone says all principal structures and all



principal buildings. Mr. Kost asked for clarification regarding the use of the words “any” and “all.” Ms. Brunner stated with the BTZ, Staff were trying to respond to the conversation from the Committee’s last meeting about adding in more flexibility for development to occur outside the BTZ when other buildings have already been built in the BTZ. She added Staff understanding from this Committee was that the Committee felt they didn’t want to prohibit or deter development from happening on the other part of the lot, but still wanted to make sure that the Build-To Zone was being built in to create that street façade. This language is to make sure that happens. Ms. Brunner stated she did not think using the word “any” compared to “all” was not intentional and means the same thing.

Councilor Haas referred to Section E where it states *principal buildings or structures may locate outside the Build-To Zone only if they cannot be located within due to the presence of other principal buildings or structures*. The Councilor asked what kind of structures might be sitting on a lot that would prevent the second principal building from coming out to the Build-To Zone or the Build-To Line. Ms. Brunner clarified that is why they want to use the phrase “principal structure.” She continued by stating if it says just “structure,” it could be an accessory structure like a sign or something like that. Staff wanted to clarify that it really needs to be a principal structure and also give property owners the flexibility to not have accessory structures in the BTZ because that was never the intent.

Councilor Remy stated if the phrase “a building” can be misinterpreted as not being located in the setback, then the phrase “any building” can also be misinterpreted. Councilor Remy offered the phrase “all buildings” as an alternative; however, he stated because setbacks and BTZ are being defined in the same section, they need to be broken apart and made completely separate. The phrase “all buildings” would not be intended to be applied to the section for the BTZ.

Ms. Brunner, in response, stated the way the code is written is that it has building setback defined as an umbrella definition and then the code more specifically defines what a front, side and rear setback is. Building setback talks about a minimum or maximum. This same section also defines Build-To Dimensions, but they are separate from building setbacks. She stated there is, however, opportunity to separately define setbacks and Build-To Dimensions.

Councilor Bosley referred to page 28 and 30 of the packet and agreed the various setbacks are clearly defined on page 28. However, the LDC version does not clearly define the Built-To Line and Build-To Zone. Ms. Brunner referred to page 32 letter C, in which this definition is outlined. Councilor Remy asked why we would define setback as a maximum. Councilor Bosley stated the way she understood it is that the term setback applied to Build-To Zones in general, even though they have their own distinct definition, which is very unclear to the layman. Councilor Bosley felt the word “maximum” should be deleted and Councilor Remy added the word “all” should be included: *it's a minimum and all buildings must meet this minimum* for setbacks.

Ms. Brunner stated where there is this confusion is in districts that have Build-To Dimensions. In the table that shows the dimensional requirements, it says front setback 0 to 20 BTZ, for example. She stated the change makes sense, but Staff would need to go through the code and clean it up to make them very separate from each other. Councilor Remy offered a suggestion for Staff to add a section that specifically states *for an abundance of clarity, minimums apply to all buildings on a structure*, for example. Councilor Bosley stated the setbacks and the BTZ are very separate. To people who are trying to use the code, and now with the ZBA interpreting that the

language is ambiguous, the more clarity that can be given, the better. Councilor Bosley offered a suggestion to scrub the code and separate the two terms “setbacks” and “BTZ.” She continued by stating she did not want someone to build something that meets “a” setback and then say that the principal structure meets the setback so any other setbacks on this lot does not have to be met. She continued and stated setbacks always need to be honored, unless there is some sort of variance granted. However, Build-To Zones are different and should be treated separately and defined separately.

Mr. Kost stated he was unsure why setbacks were defined with a “maximum” setback in the code. Ms. Brunner stated her guess as to why there would have been a “maximum” included would be that it attempts to add the BTZ in that. She stated the consultant that helped Staff write the form-based code could have taken it from another community they had consulted with, and it could have seemed to be fine at the time. Ms. Brunner agreed that this section could use clarification and would agree the word “maximum” could be removed. Councilor Bosely also suggested that Staff find the places in the code in which a BTZ is referred to as a setback and clean that up so that there can be a separation between the two terms. Councilor Remy stated a BTZ is a maximum setback; however, all buildings must meet the minimum and only one principal building must meet the maximum. Ms. Brunner stated that Staff wrote the code to suggest that it can locate outside the BTZ, if another principal structure is blocking it. Ms. Brunner agreed that separating the setbacks and Build-To Dimensions will help with clarity.

Ms. Brunner continued by addressing how this ordinance relates to the 2010 Comprehensive Master Plan. The areas that would be impacted by this proposed ordinance, specifically for the Build-To Dimensional requirements, would include the Downtown Zoning Districts, which include Downtown Core, Downtown Growth, Downtown Limited and Downtown Edge, as well as the Commercial Zoning Districts along Marlborough Street, which include Business Growth and Reuse and Neighborhood Business. Each of these districts utilize at least one Build-To Dimensional requirement. The Downtown Districts, at least, are predominantly located in an area identified in the future land use section of the Master Plan as mixed-use/commercial, which the Master Plan states should have regulations that focus on design, mixed-use (more than one principal user structure per lot), street orientation, access management and mitigating traffic impacts.

This proposal changes the Build-To Dimensional requirements and would ensure that the streetscape and design elements envisioned in the Master Plan and the Land Development Code are preserved, allowing for more flexibility in developing the interior area of downtown lots. It also clarifies that accessory structures must be outside the Build-To Zone, which provides property owners with more flexibility to locate accessory structures on their lot without having to place them along the street frontage.

For the area along Marlboro Street that would be impacted, which is primarily identified as a traditional neighborhood/mixed-use area, the future land use section of the Master Plan indicates that this area is well suited for increased growth and density as long as attention is given to compatibility with existing neighborhoods. What staff is proposing would maintain the conventional setbacks in the adjacent neighborhoods, which allows for predictable growth and maintaining the status quo. For the mixed-use area, it would allow for greater flexibility, promote more dense pedestrian scale development, and allow for more development to occur essentially in the areas where the Master Plan states that more growth is desirable.



This concluded Staff comments.

The Chair asked for public comment next.

Mr. Jared Goodell of 160 Emerald Street, Keene addressed the Committee. Mr. Goodell stated he has a few concerns about the language, as it is written now, as it relates to the Build-To Line, Item C, where it says that *any principal building or structure must be located*. He stated the reason why this has become an issue is that the LDC contemplates a single structure on a lot—one structure per lot. This is how development has happened for the last 100 years. However, now that smaller structures, or multiple structures, are being put on single lots, he felt it needs a more holistic look before language, such as *any principal building or structure*, is used or written. He felt there are much unintended consequences of using the language as written.

Mr. Goodell stated he would move on to Build-To Zone and stated that ambiguity is a problem in an ordinance. He noted to language at the end of the first sentence where it says *whenever possible* opens up a gray area. What does *whenever possible* mean? This could be different for different people. When a developer brings a plan to the 4th floor, they do a good job of trying not to design a person's project for them or developer's project for them. However, the term *whenever possible* makes it possible for Staff to explain "we think it's possible for you to do this project in a different way," and Mr. Goodell did not feel that is the intent of this language.

Mr. Goodell next referred to the following language *principal buildings or structures may locate outside the Build-To Zone only if they cannot be located within the Build-To Zone due to the presence of other principal buildings or structures*. He felt this could be an issue; for example, if there is a building on a lot today, which is demolished and a year later the owner wanted to construct three buildings. Someone could interpret this to mean that because there is not an existing structure on that lot today that is within the BTZ, you are not allowed to put a structure and then two structures behind it as a part of the same development. In other words, there is not a principal structure on the lot today; therefore, you are not subject to this exception that you are allowed to put buildings behind a principal use. Mr. Goodell stated that the language is not there yet and needs to be looked at holistically. For example, the LDC uses terms, like "BTZ" and "setbacks," sometimes interchangeably, and it uses the words "a" and "any" interchangeably.

Lastly, regarding Build-To Zones, Mr. Goodell referred to Emerald Street north to Central Square, there is a very tight BTZ. All the structures are located on a BTL. However, going south of Emerald Street, looking at properties like Athens Pizza, City Tire, Cumberland Farms or the Postal Service, properties are set back from the road and Mr. Goodell stated that this works well. He questioned whether the BTZ was actually necessary.

Mr. Goodell referred to the LDC under Principal Uses and Principal Structures and stated they are defined side by side. He referred to the following language: *principal building or principal structure is a structure that is central to the fundamental uses of the property and is not accessory to the use of another structure on the same premises. Whereas a principal use is the main or primary use conducted on a lot located within a building or structure, as distinguished from an accessory use*.

He noted one of the permitted uses in many of the downtown zoning districts is a community garden. A community garden could very easily have as a structure on it, such as a gazebo or

perhaps a green house as a principal structure, and then have, behind it, other structures. Mr. Goodell stated he wanted to bring this up as an example and asked the Committee to look at this ordinance in a more holistic manner.

Councilor Remy felt in the BTZ section, if you collapse those two sentences into one and delete *whenever possible* so it reads as follows: *A Build-To Zone is an area on a lot measured perpendicularly from the lot line within which all principal buildings or structures must locate, unless they cannot be located within the BTZ due to the presence or planned presence of other principal buildings or structures.*

Mr. Goodell felt this would work so long as the record would be clear that this is the intent of the Committee that someone could take a vacant lot and build multiple buildings at one time as part of one development.

Councilor Jones asked for Staff Comment on the language that was just proposed with the example Mr. Goodell had previously proposed regarding constructing three buildings on a vacant lot, which used to have one building. Ms. Brunner stated she would think that would be acceptable but 15 years from now, if someone else was looking at this and did not have the context and history, it could seem ambiguous. She stated she likes what Councilor Remy proposed, which makes it absolutely clear that you can have multiple buildings proposed at once and still have flexibility to build outside of the BTZ. Mr. Goodell suggested inserting the date in which a section or paragraph of the LDC was revised at the end of that section or paragraph, like they do with law, so that future Staff could use that date to review minutes if there were questions.

With no further comments, the Chair closed the public workshop.

Chair Bosley stated she heard the concerns raised by Mr. Goodell regarding the ambiguity of the term *whenever possible*, and stated she sees how Staff is trying to make these principal structures take up the majority of the lot. She stated she wanted to make sure that the language stays consistent with that. She stated when she discussed this with Staff prior to this meeting, there was an explanation that there is a minimum building width and access and outside of that, the expectation would be that the property would be built in the BTZ. However, if you remove access and there is enough room to put another building, that would be the expectation. She asked for clarification.

Ms. Brunner responded by stating, for example, if the applicant is proposing a building that needs to be 50 feet wide and there isn't 50 feet in the BTZ, the way she would interpret that is that they can't put the building in the BTZ and it could be located outside the BTZ. Councilor Bosley asked whether the City has a minimum building width in our code. Ms. Brunner answered in the negative and stated if you can build a building to code it is allowed. It is what the use requires. The Councilor clarified you could have a 10-foot wide building that was 100 feet long. The Councilor noted this is now asking the zoning administrator to interpret if that proposed building is reasonable. She continued by asking if there is a way to describe or clarify in the language what the intent is, and felt more clarifying language should be included.

Councilor Ramey stated as Mr. Goodell pointed out our code is written for one building per lot and trying to include this change is making it more challenging.

Councilor Bosley stated, with reference to Councilor Remy’s original point about how to create language that doesn’t detract from the buildings, that she felt there was this huge potential in the Downtown Growth District for some great development to happen. These lots extend from one primary street to a second primary street, and the City needs to look at the highest and best use for those lots.

Councilor Williams noted something very similar to what is being discussed tonight was adopted by the City, and that was the Cottage Court development ordinance. He felt that instead of trying to “shoehorn” it into the existing regulations, perhaps have it as an overlay district or a separate set of regulations.

Councilor Jones noted the term “ambiguity” has been used a lot today and asked whether this item should be continued so that some of these unknown questions could be addressed, or would it be better to move the item to a public hearing and hope that some answers come out of that hearing. Ms. Brunner stated some really great points have been raised today, which she would like the opportunity to explore and come up with some solid answers. She stated she would like to recommend continuing this item for another month so Staff could come back with proposed language for an A version for the Committee to review.

Councilor Remy stated there is a concept of Build-To Percentages in the code and felt the Committee needs to look at how these can be used. Build-To Percentage is listed on page 32 of the packet or Section 1.3.3 D of the LDC.

He noted to where the Fireworks Restaurant and the 21 Restaurant are located, which are good examples of what the Committee is talking about, have multiple Build-To Lines, meeting multiple phases.

Councilor Bosley referred to a presentation from a consultant hired by the City during the Downtown process who talked about a walkable downtown. He had noted when people get to the Athens site, they stop and turn around, they are not walking past that area because you start to have parking lots on the streets, and you lose that protective layer of having a building up against you. She felt it was important to have these buildings get built to the sidewalk in certain areas. She noted the City does want to create residential areas, but it also needs to get people walking on those streets and encourage commercial growth.

Ms. Brunner noted if the committee was inclined to continue this public workshop, the next date on the Committee’s calendar is July 14th.

A motion was made by Councilor Bosley to continue the public workshop for O-2025-20 to the July 14 PB-PLD Committee meeting. The motion was seconded by Councilor Madison and carried on unanimous roll call vote.

**b. Ordinance O-2025-15 Relating to Amendments to the Land Development Code to Encourage Housing Development.** Petitioner Jared Goodell proposes to amend various sections of the LDC to modify the definitions of the Front, Side, and Rear Setbacks and the Build-To Zone; Reduce the minimum lot size in the Neighborhood Business District to 5,000 sf; Increase the density allowed in the Medium Density District to 6 units per lot; Allow dwelling units on the ground floor in the Downtown Growth District for lots with frontage on “Type B” streets;

and, Establish rules for applying zoning regulations to split-zoned parcels. The sections proposed to be modified include 1.3.3, 5.3.1, 5.3.2, 8.3.1(C), and 19.2 of the LDC.

Mr. Jared Goodell addressed the Committee and referred to the proposed ordinance, as it pertains to the purpose of the Neighborhood Business District, which is a unique zoning district along Marlboro Street, and referred to the Neighborhood Business District areas on the map of Keene. He referred to the northern side of the Neighborhood Business District, which are all residential parcels, as well as on the south side and the southeasterly portion.

Mr. Goodell stated the current purpose of the Neighborhood Business District has no mention of residential uses, which would make it very difficult for a developer who wanted to develop in the Neighborhood Business District to, perhaps, ask for a variance. However, Mr. Goodell pointed out that residential uses are allowed in that Zoning District. Mr. Goodell stated he was seeking to amend the purpose of the Neighborhood Business District to include residential uses.

Mr. Goodell next referred to minimum lot sizes. Most of the parcels in the Neighborhood Business District, at the present time, do not conform to the minimum lot size requirement. If someone wanted to develop their lot and did not meet the minimum lot size, they would need to get a variance to develop the lot. Out of the 47 lots in Neighborhood Business District, only 23 are conforming lots. If the minimum lot size is reduced to 5,000 square feet, 42 lots will be conforming. He felt that reducing the minimum lot size will help with development in this area. Mr. Goodell felt this Zoning District was created to revitalize Marlboro Street.

The next proposal of O-2025-15 is allowing up to six dwelling units in the Medium-Density District, in which the current use standards don't allow more than three dwelling units on a lot. Mr. Goodell noted this district has some very large houses, 3,000 to 5,000 square feet in size. He felt the community can get more units of housing if we take these large houses and put multiple smaller units in them.

Mr. Goodell stated what he is proposing is if the units are 600 square foot gross floor area or less, that the code would allow up to six units of housing in that particular structure. The intent is not that you could build a 6,600 square foot new structure on a lot. It is more about the intent of repurposing already existing large buildings in that zoning district. He noted there is already State Law that does define "on existing buildings" and felt it is well within this Committee and the Council's purview to have language that says that this applies to existing buildings if you so choose.

Councilor Remy asked what the downside of not including the language that says *if every dwelling unit is not more than 600 square feet*; for example, why not just allow to six and not add the square footage requirement in there at all. Mr. Goodell stated he did not have good answer as to why we wouldn't make that number higher if the Committee so chose.

Mr. Goodell referred to the next proposed change. He noted to a use standard that pertains to the Downtown Growth district. He noted to a couples of parcels on a map, including St. Bernard's Church, the school behind the church, Wyman Tavern, Horatio House, Gilbo Avenue down Emerald Street on both sides, and east side of Main Street behind Community Way. He stated that right now, in Downtown Growth, you cannot have housing units on the first floor. He felt that that should be changed.

Mr. Goodell added there are Type A and Type B streets within the Downtown Growth Zoning District. He referred to the Type A streets, shown in hash blue lines, including Central Square down Main Street and down Gilbo Avenue. All the other streets located in Downtown Growth are Type B streets, highlighted in yellow on the map. He indicated that locating dwelling units on parcels on Main Street probably won't make sense. However, within other streets, such as Emerald Street and Dunbar Street, these are substantially filled with first floor dwelling units. He also referred to properties on Emerald Street, which have first floor dwelling units. He referred to the Arcadia Building, which has first floor dwelling units but under the current zoning, that would not be allowed.

He noted to Davis Street, a Type B Street, which currently has residential on the 1st floor. The same is true with Spring Street. Mr. Goodell stated what he is proposing is dwelling units to be allowed above the ground floor on lots with frontage on Type B streets but prohibit first floor dwelling units on Type A streets.

Mr. Goodell stated if this change was to pass, he would be able to repurpose a 1<sup>st</sup> floor building he owns to residential in the next couple of years. He added there are other buildings on the east side of Main Street that could do the same.

Councilor Williams asked whether having dwelling units on the 1st floor is beneficial for disability access. Mr. Goodell agreed it would be and felt we need more of that, especially in the downtown area. He noted many of Keene's older buildings don't currently have elevators, they have just stairwells. Hence, allowing first floor dwelling units within buildings that are not necessarily on Main Street but close to Main Street and the bike path with good sidewalks would actually be a good thing for handicapped individuals.

Mr. Goodell then talked about his final proposed change to amend Section 19.2, non-conforming uses, to add language concerning lots split by zoning district boundaries. Mr. Goodell stated when a single lot falls into multiple zoning districts, there is a question as to whether you are allowed to do what you want to do on the lot. He referred to a lot on Wetmore and Winchester Streets, the Mint Car Wash lot. This lot is located in three different zoning districts. He referred to a single-family home also on Wetmore Street; the home is located in the Medium Density District, and the backyard is in the Industrial Zone. He referred to other lots in a similar situation.

He next referred to Washington Street, the old Fran's Garage site, which is located in two zoning districts. Mr. Goodell noted the building is in two different zoning districts (Commerce and Low Density), which he stated could be a problem if the building sells and they want to locate a new business.

Mr. Goodell stated what he is proposing is when there are lots that are large enough to be subdivided, the provisions of each Zoning District shall be separately applied to the portions of the lot. In other words, if you have a giant lot that could be subdivided, you have each subdivided portion of the lot in its distinct zoning district, then the zoning parameters of that piece of the land have to stay. However, if the lot can't be subdivided because of dimensional requirements, lack of frontage, lack of acreage, etc., then the portion of land in the lot that cannot be subdivided should adopt the usable portion of the land's zoning designation.



Mr. Goodell pointed out that City Staff noted in their Staff report, there are several communities that handle this issue differently. Mr. Goodell referred to how another community handles this issue. It would be an option of the landowner; specifically, the landowner wouldn't be required to have the non-subdividable portion of the lot assume the Zoning of the parent portion of the lot. However, if they wanted to have the lot adopted for whatever project they want to put in place, they could do that. Mr. Goodell stated City Staff have indicated this issue has come up in the past on several occasions. He stated this issue does come up and cause problems for developers or people who want to do something with their land. This concluded Mr. Goodell's presentation.

The Chair asked for Staff comments next.

Ms. Brunner addressed the Committee and stated for the setback and Build-To Dimensions, the proposed changes are to have front setbacks only apply to the first building on a lot, the rear setback would apply to any building on a lot unless otherwise permitted, side setback would apply to a building unless otherwise permitted, and BTZ would apply to the first building on a lot. Ms. Brunner stated that when Staff reviewed this item to see what the potential impacts could be if this ordinance were adopted as presented, it would be a change to how we currently treat setbacks. It could potentially, over time, change the look and feel of residential neighborhoods with established building frontages, because once one building meets the front set back any other buildings would not need to meet the front side back. She noted the main impact is just that it would kind of be out of character with the other buildings along the street. For corner lots, it could be an issue with the site triangle for turning, which is why in residential districts today you have an increased set back on a corner lot to make sure there is clear space for those sight lines. On the flip side, it would also give people more flexibility about where to put buildings on their lot.

As far as consistency with the Master Plan, Ms. Brunner stated she didn't find anything in the Master Plan that would support changing setbacks in areas outside of the downtown. However, within the Downtown Districts, having more flexibility to build outside of the Build-To Zone may be appropriate, if the City is protecting that street facade and the pedestrian realm, as was discussed during the earlier workshop this evening.

With respect to the Neighborhood Business District, this is a zoning district that has 48 parcels along Marlboro Street. They all pretty much front on Marlboro Street. This district was formed at the same time the Business Growth and Reuse and the Residential Preservation Districts were formed along Marlboro Street, which is part of the rezoning project in 2017. Ms. Brunner referred to the intent statement, as the petitioner noted doesn't mention residential uses. However, residential uses are allowed in this district and felt it makes a lot of sense to include residential in the intent statement. Ms. Brunner stated when reviewing this issue, Staff found why it was adopted the way it was adopted; City Council, at that time, felt it was important that the area along Marlboro Street be considered Downtown Districts for the purposes of the 79-E incentive zoning. In order to be eligible to be part of a 79-E district, which is for downtown revitalization, it has to be a Downtown District. Ms. Brunner stated one suggestion Staff would have would be to keep the reference to this district as being an additional downtown district and then just add in the residential uses.

With respect to the uses allowed in this district, almost all of the residential uses are allowed here, so that includes dwelling above ground floor, multifamily dwelling, single family and



duplexes. There are also commercial uses. Many of these uses have size limitations and are meant to be smaller-scale neighborhood serving businesses. The dimensions in siting and the buildout is about the same size as a residential lot and these were mostly because these were residential lots. Ms. Brunner stated the vision City Council had, upon reviewing minutes, was for this area to become more commercial, but they wanted it to be smaller scale and compatible with the neighborhoods that they immediately abut.

In looking at the lot sizes, 24 out of 48 lots are less than 8,000 square feet today. This is a very high percentage that does not conform to the minimum lot size. Ms. Brunner stated, as the petitioner noted, reducing the minimum lot size would make many of the lots in this district conforming, with respect to lot size. However, this is also a district that is highly built out. Lots that are less than 8,000 square feet today that have a use on them are allowed to continue and are considered to be legally non-conforming.

Ms. Brunner referred to the intent statement and indicated what Staff might recommend the language to say *neighborhood business district is intended to serve as an additional Downtown Zoning District that provides for a heterogeneous mix of smaller size businesses, professional uses and residential uses.*

Ms. Brunner went on to say one thing this Committee may want to consider is the impacts of going down to a smaller lot size. It really does decrease the buildable area on a lot if you don't look at the setbacks. Ms. Brunner referred to a table and images on the presentation and explained the number of lots that are non-conforming due to lot size would go down from 24 to 13. The maximum building coverage for the minimum lot size and the maximum lot coverage is 55% and 65% respectively. For a lot that is 8,000 square feet, depending on what the dimensions are, the buildable area comes out to about 4,200 square feet. When you go down to 5,000 square feet, if you keep the setbacks the same, the buildable area goes down further. For a district with a lot size that is small, it would make sense to reduce the setbacks.

Ms. Brunner reviewed the current setbacks for the Neighborhood Business District. The Build-To Zone is 5 to 10 feet for the front, 10-foot side setbacks, which gets doubled if it's a corner lot, and 20-foot rear setbacks. There are a number of accessory structures that can go up to 10 feet of the rear lot line, including accessory dwelling units. Staff have the opinion that reducing the rear setbacks to 10 feet won't have a huge impact, but it will increase the buildable area significantly.

In terms of consistency with the Master Plan, this is a traditional neighborhood mixed-use area. It is an area that is identified as being appropriate for more growth. It specifically says that *it is well suited for increased growth and density if attention is given to compatibility with existing neighborhoods.* A smaller minimum lot size would encourage a more granular development pattern, which is more typical of an urban area. It could also promote more pedestrian activity along the streetscape, if the areas are developed with appropriate building placement and activation.

It would, however, be a Commercial Zoning District, and would have a smaller lot size than the adjacent residential districts. Currently, the adjacent residential districts, which are Low-Density and Residential Preservation, have a 10,000 square-foot minimum and an 8,000 square-foot minimum lot size, respectively.

Councilor Remy referred to the lot sizes Ms. Brunner referred to and felt you might be able to get a little bigger than 1,950 buildable area if you change the lot dimensions. Ms. Brunner stated the effect setbacks tend to have is that they tend to promote a less granular development pattern because you get more buildable area with a larger lot. It encourages people to combine small lots together and build one building instead of building multiple small buildings along the street.

Councilor Haas asked how many of these non-conforming lots also have non-conforming setbacks. Ms. Brunner stated she did not have an exact number but there are quite a few and added there is one that goes right up to the lot line.

Mr. Kost stated what he envisions are smaller scale lots closer together and felt this would change the visual approach, which would be a big change. Ms. Brunner felt some areas would match what is being proposed; 50% of the parcels today are less than 8,000 square feet. The smallest parcel is just over 1,000 square feet in size.

Ms. Brunner next referred to the Medium Density District. This is a residential district that is intended to provide for medium intensity residential development and associated uses. All uses in this district are required to have City water and sewer. Most of the Medium Density parcels are located pretty close to downtown.

However, there are pockets of Medium Density parcels that are located further out. This includes the area along Park Avenue, which has larger undeveloped parcels that are zoned Medium Density.

Along Maple Avenue, there are a few parcels of Medium Density. There are some parcels on Washington Street and few parcels on Route 101, close to the town line with Marlborough.

This district is mostly for residential uses. Ms. Brunner referred to a list and noted that every use on this list with a CUP next to it is only allowed as part of a Cottage Court development, with the exception of a small group home that is allowed as part of a Congregate Living and Social Services Conditional Use Permit. Multifamily currently is only allowed if you have three units or less. More than three units would require a Cottage Court Conditional Use Permit.

Ms. Brunner went on to say that the proposed ordinance is proposing to allow up to six units with each unit being no more than 600 square feet in gross floor area. This type of development would already be allowed today, with the Cottage Court Overlay Development. The main effect that this change would have is that it would allow that to happen by right instead of going through the CUP process. Ms. Brunner went on to say that this could have an increase in impact on the surrounding neighborhood. There might be a higher demand for on street parking, increased traffic issues, screening, and trash areas, etc. However, because this is a residential zoning district, unless it goes through the Cottage Court process, all of those units have to be in the same building. Therefore, some sort of planning review would be required, depending on what level of review. If it meets the threshold for site plan review, there would be a public hearing and a public process. If it doesn't meet the threshold, it could be done as an Administrative Planning Review, which would address some of the impacts. The flip side to that is that there wouldn't really be an opportunity for neighbors to learn about the development ahead of time or participate in the process and be able to voice their concerns.

It would make it easier for more development and add more density in units by right and possibly without going through a public process for the neighbors to find out about it.

Ms. Brunner stated she wasn't entirely sure if these neighborhood areas have heard about this proposed change yet, or how much time they have had to learn about this change to share their thoughts and concerns. Ms. Brunner stated, for this portion, she would recommend continuing the public hearing to give the neighborhoods more time to learn about this, so that they could share what concerns they might have.

Councilor Remy suggested that to ease into the process, for every one of these that comes forward, add a requirement that they have to come before the Planning Board for review. However, five years from now, when this become a routine, the threshold can be changed for lower-level review.

Mr. Kost stated that in theory, to take a 6,000 square foot house and make it into more apartments is a great thing. However, this could increase vehicular traffic and an increase to paved areas around some of these Victorian homes. It would also increase impervious surfaces, runoff, etc. Mr. Kost added it could solve the housing problems but could add other issues to neighborhoods and felt this is something to keep in mind.

Councilor Bosley noted that when you read through the Land Development Code, the different districts have buildable percentage, green space percentage, impervious surface percentage, and every unit is required to have one on-site parking space. Hence, you would be limited by the number of units that you could install in a building based on those parameters. She added in the Medium Density District, 30% of the lot has to remain as open space, 45% maximum building coverage, and 60% maximum impervious coverage. If your building took up 45%, you would be allowed 15% for parking. For a three-unit building, you might be able to get two more spots and limited to the number of units based on the extenuating circumstances.

Councilor Haas stated he is in favor of densification, particularly in the downtown areas. He felt residents of these Medium Density districts already might feel densified and felt the City needs to be careful about pushing more residences and more apartments into these spaces.

Councilor Madison stated he agrees with Councilor Haas to a certain extent, but living in the Medium Density district on Elm Street, they have many lots that are less than half of the minimum lot size. His lot is only 6,500 square feet and it has two apartments. He did not feel densification was going to be too much of an issue.

Councilor Williams stated one reason he likes densification is that it provides more demand for better City services.

Ms. Brunner went on with her presentation and noted that when it comes to consistency with the Master Plan, it can be tricky. The Medium Density District is located in various sections of the Future Land Use maps. Some of those areas the Future Land Use map calls out as being appropriate for increased density, and some of them it calls out as not being appropriate for increased density. She noted the majority of them are in the more downtown areas, where

increased density is called as being desirable and felt engaging with the neighborhoods more proactively is recommended.

With reference to the Downtown Growth District, Ms. Brunner noted to a map and indicated the parcels in dark grey as being Downtown Growth and parcels in blue are Downtown Core.

The intent statement for the Downtown Growth district states as follows: *The downtown growth district accommodates the reuse of existing structures within downtown Keene, as well as new construction of significant size. It is intended to provide the flexibility needed to create a mixed-use environment suitable for commercial, residential, civic, cultural, and open space uses in areas of downtown where growth is desired. The standards for new construction and infill that complement the walkable urban form of Keene's downtown.*

This district is located along the old railroad lands and allows for pretty high intensity uses and with higher massing in scale compared to any other district in the City, except for maybe Downtown Core. For example, the maximum height is seven stories, or 85 feet. Allowed commercial uses include bars, event venues, funeral homes, restaurants, indoor recreation, entertainment facilities and light retail. The zoning requirements for this district vary slightly based on the adjacent street type, which can be either Type A or Type B.

Type A streets are defined as *those streets and or pedestrian rights of way that are designated as areas of greater focus for the design and placement of structures to ensure consistent, walkable pedestrian orientation.*

Type B streets are *all streets and or pedestrian rights of way within the downtown core and downtown growth districts that are not classified as type A streets.*

*They allow for a little bit more flexibility in design and the placement of structures.*

*As well as consideration of both walkability and the interface between building design and automobile.*

Ms. Brunner referred to Type A streets, which include a short section of Washington Street, a short section of Court Street, all of Central Square, Main Street down to the Winchester Street Marlborough Street intersection and then Gilbo Street to where it makes that turn to get to West Street.

Type B streets are West Street, Emerald Street, Roxbury Street, and Railroad.

This ordinance is proposing to allow multifamily dwellings on the ground floor for properties that have a frontage on a Type B street.

Ms. Brunner stated that these are areas where the community has voiced a desire to see the downtown development pattern extend. However, allowing residential uses on the ground floor in some of these areas may be undesirable for a few reasons.

One of the issues could be privacy concerns for residents. Our downtown district does require high transparency on the ground floor (a lot of windows). Along a type A Street, it's a 50% transparency and along a Type B street, it is a 40% transparency.

For residential uses on the ground floor, having that many windows could cause privacy concerns if the units are right up against the street. There can also be noise issues associated with having a lot of foot traffic going past a unit and it creates dead zones along the street where there is a lack of interaction between the street and the building. Going back to the concept of having building activation, residential uses are generally not recommended in areas where you want that active street façade.

However, Ms. Brunner stated she felt it was appropriate for residential uses to be located on the ground floor on the interior of the lot, set back from the street.

She reminded the Committee that in the Commerce Districts, the solution for allowing residential uses on the ground floor was to have some tenantable commercial space along the primary street frontage, which could do well in this area.

Ms. Brunner next discussed consistency with the Master Plan. The Master Plan actually is pretty specific about residential uses on the ground floor. The downtown chapter of the Master Plan states that infill development in the Downtown Growth areas is desired, stating that *community members recognized opportunity to foster new downtown development, specifically redevelopment and expansion of the existing downtown building pattern for the Gilbert Avenue area between Main Street and School Street*. Many community members are concerned that potential development in this area might not reflect the downtown's existing built pattern. Other areas identified that could accommodate infill development include Emerald Street, Railroad Street, Railroad Square area, and areas around Winchester, Marlborough and West Streets. In addition, this chapter states that new buildings in the downtown should be positioned to support a human scale.

Moving building frontages up to the sidewalk and redevelopment areas of the downtown creates a street wall that encloses and focuses street and sidewalk activity.

Under the Downtown Vibrancy section, the Master Plan states *retail and service businesses should continue to be placed on the 1st floor, with office and residential on the upper floors in order to maintain walkability and support downtown as a destination*.

However, the Master Plan is also very clear that residential development in the downtown is highly desirable.

It states that it will *provide Keene with a more consistent street life and sustainable economy and will help attract new talent to the area by allowing for a diversity of housing types that appeals to different demographics*.

Based on this, Ms. Brunner stated it would be appropriate to encourage more residential development in the downtown. However, the Master Plan is pretty clear about having residential uses above the ground floor, specifically to create that street activity component.

Ms. Brunner further stated when a zoning district is created, it generally follows the lot lines. However, over time, property owners may choose to merge lots or do Boundary Line Adjustments that can result in parcels that are located in more than one zoning district and referred to an image as an example. She noted that this lot has just under 10,000 square feet in commerce and the rest is in low density. This does create a hardship for the owner. In this case, they have a legally nonconforming use, but if they try to accomplish this today, it wouldn't be allowed.

This is because their use is only allowed in commerce, but not necessarily in the low-density portion of the lot.

The other example included in the Staff report is the Mint Car Wash site on Winchester Street and Wetmore Street. This is another lot that used to be separate lots that got merged.

Now they are partially in High Density, Commerce and Industrial. Specifically, just under 10,000 square feet in Commerce, 10,000 in High Density and the rest is in Industrial.

What this ordinance is proposing to do is to create rules written in the Land Development Code as to how to treat these split zone parcels today. Staff treats these lots as sub-parcels. The portion that is in High Density on a lot would have to comply with the rules for High Density, the portion that is in Commerce has to comply with the rules for Commerce and the portion that is in



Industrial has to comply with the rules for Industrial. A property owner's recourse is to go through the map amendment process and place the entire lot into one zone. If not, they have to live with those rules.

Ms. Brunner stated, many communities have chosen to give property owners more flexibility than that. Ms. Brunner stated Keene City Staff don't have anything to rely on to do that because Keene's zoning code is silent on how to treat split zoned parcels. This proposal would be, again, for lots that are larger enough to be subdivided. The provisions of each district would be applied separately to each portion of the lot. Ms. Brunner stated in this example on the screen for the Mint Car Wash site, the High Density parcels are big enough that they could be subdivided off and still meet the standards for high density. The rules of High Density would apply to that portion, but then if the lots are not large enough to be subdivided, which is the case for the Commerce portion, they could be treated the same as the largest share of the lot. This is just under 10,000 square feet. The minimum lot size is 15,000 square feet for Commerce in this instance. The property owner could choose to have this portion of the lot that's in Commerce be treated as if it were in industrial.

Ms. Brunner went on to say it would make sense to have flexibility written into the code for split zone parcels. She stated that in the Staff report, there are a few examples of how other communities have handled this issue. Some will give the property owner the ability to extend one district into another district by a certain amount (100 feet is most commonly used). Dense urban communities tend to choose a smaller number like 40 feet or 50 feet.

Councilor Remy referred to language that says *for lots not large enough to be subdivided.....the largest share of the lot, or the district that comprise the largest share of the lot shall apply to the entire lot*. He stated that according to this language, the property owner would have to use the Commerce section as Commerce, they would have to use it as Industrial because it is not large enough to be subdivided and the majority of the lot is Industrial. Therefore, Commercial has to be treated as Industrial. Councilor Remy continued to suggest the term "should" and change the language to read *at the property owner's discretion*.

In terms of consistency with the Master Plan, Ms. Brunner stated this item is very consistent because the top priority of the 2010 Master Plan was to make Keene's regulations more clear, consistent and easy to understand. Right now, a property owner would have no idea, looking at the code, how their property should be handled if it is in more than one zoning district.

Councilor Jones asked if there was another way to accomplish what is before the Committee. There are five amendments, and they are all meant to encourage housing. There are setbacks being built that are not related to 1st floor residential or to split parcels. He stated he did not have an issue with the amendments, but the public might find it to be difficult to understand. He suggested that the ordinance be split up instead of having it all in one document.

Councilor Bosley stated that type of a change would require this ordinance to be re-written and sent back for first reading to be changed to individual ordinances. She felt it would be too much of a change to split them and the Committee would have to make a decision if that was something that the Committee was interested in asking Staff to do. This would require Staff



bring back five individual ordinances or the Committee can follow the path of keeping these together and letting it go to a public hearing and see what we get for public comment.

Councilor Bosley continued and stated she had modifications that she would like to see and felt the item should be continued.

The Councilor stated she would like to see Section 1 removed, because this section is included in Staff's original ordinance. In Section 2, a reference to the Downtown Zoning District be continued in order to protect the 79 E availability.

In Section 3, see setbacks halved to accompany that.

For Section 4, re-densify Medium Density, but take out the 600 square foot minimum.

The Councilor stated she is only comfortable having residential in the Downtown Growth district where it mirrors the Committee's decision about the Commerce district.

The Councilor also suggested to change "shall" to "may" for owner's discretion. She is satisfied with Mr. Goodell's addition of the split zoning definition.

Councilor Remy stated he mostly agrees with Councilor Bosley's suggested amendments.

He stated he would like to reduce the interior side setbacks down to five feet but leave the rear and front setbacks at ten feet.

He stated, with reference to units, three to six units for Medium Density needs to go to Planning Board for review or indicate that they are allowed by special exception.

Councilor Haas stated for split zone parcels, make sure that it's the owner's choice.

As far as the residential dwellings on the ground floor, it is being defined out of the street type.

He felt the Committee should reconsider what streets should be Type A streets, especially in light of the new Master Plan and the potential development the City wants to see on the west side of Main Street and Emerald Street.

Councilor Bosley indicated if this item is continued and it is brought back with changes, to bring all of the things that are affected by the street typing.

Mr. Kost referred to Downtown Growth and noted for first floor residential, the first floor could be the entry and then you go upstairs to the living area. Trying to balance how a first floor can be absorbed so we don't end up with a lot of empty glass fronts in the long run.

The Chair asked for public comment next.

Mr. Toby Tousley of 500 Washington Street addressed the committee. Mr. Tousley stated this will make it easier to put a commercial property in that zone.

For Medium Density, he asked the Committee to give more consideration to the 600 square feet proposal. Primarily, the difference between 600 square feet and 1000 square feet is another bedroom. In addition, 1000 square feet would be a two-bedroom apartment. If they are smaller, you won't add all those extra vehicles. He stated there is a need for smaller apartments, especially for parking reasons.

With reference to Downtown Growth and 1st floor apartments, Mr. Tousley stated some of the issues with many of the buildings in Downtown Growth is that they are too deep, which makes locating a business in such a space not very sustainable. He felt locating a residential area at the rear of one of these buildings makes sense, regardless of the street type. As far as split zones, he felt it should be at the discretion of the landlord.

Mr. Goodell addressed the Committee again and referred to Medium Density. He felt the Committee could again say existing buildings is what this applies to on the additional units. He stated the purpose of all these proposals is to cut the red tape process and hence hope the Committee would not go in the route of Conditional Use Permits or special exceptions. With reference to public notification, Mr. Goodell stated he spent to have this application noticed by certified mail and in the newspaper, and only one person showed up.

With reference to large windows and transparency, Mr. Goodell referred to the Colony Mill site, which has first floor units, and those windows are big and that site has a waiting list, which indicates that people are OK with this type of dwelling units.

With reference to Councilor Jones's point about why these items were submitted under one ordinance, Mr. Goodell stated because it costs money. He stated it costs almost \$300.00, and submitting the ordinance five times would be very costly.

With no further comment, the Chair closed the public hearing.

A motion was made by Councilor Bosley to continue the public workshop for O-2025-15 to the July 14 PB-PLD Committee meeting. The motion was seconded by Councilor Madison.

Ms. Brunner addressed Councilor Remy's point about wanting there to be a public process.

She stated someone can construct six units today with Planning Board review. Hence, allowing up to six units by right, but then requiring Planning Board review doesn't really do anything because this already exists today. The Councilor stated he wanted to make sure it did not go before a lower Board. Ms. Brunner added that all Conditional Use Permits have to go to the Planning Board and all abutters within 200 feet get noticed.

The motion carried on a roll call vote.

**IV) New Business**

**V) Next Meeting – July 14, 2025**

**B. More Time Items**

1. Private Roads
2. Neighborhood / Activity Core areas ("Neighborhood Nodes")
3. Short Term Rental Properties

There being no further business, Chair Farrington adjourned the meeting at 9:23 PM.

Respectfully submitted by,  
Krishni Pahl, Minute Taker

975  
976 Reviewed and edited by,  
977 Emily Duseau, Planning Technician



# CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Five

AN ORDINANCE Relating to Setbacks and Build-to Dimensions

*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:

- I. That Section 1.3.3 “Setbacks & Build-To Dimensions” of Article 1 be amended to modify the definitions of Building Setback, Build-to Line, and Build-to Zone, as follows:
  - A. Building Setback. The required minimum distance all buildings or structures must be located from a lot line, which is unoccupied and unobstructed by any portion of a building or structure, **unless expressly permitted by this LDC.**
    1. Front Setback. The required minimum distance that all buildings or structures must be located from the front lot line, **unless expressly permitted by this LDC.**
    2. Rear Setback. The required minimum distance that all buildings or structures must be located from the rear lot line, **unless expressly permitted by this LDC.**
    3. Side Setback. The required minimum distance that all buildings or structures must be located from the side lot line, **unless expressly permitted by this LDC.** A side setback may be measured perpendicular to the interior side setback or to the corner side lot line.
  - C. Build-To Line (BTL). A build-to line (BTL) is a set line on a lot, measured perpendicularly from the applicable lot line, where all principal buildings or structures must be located. The building façade line of all principal buildings or structures must be located on the build-to line. Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable façade wall.
  - E. Build-To Zone (BTZ). A build-to zone (BTZ) is the area on a lot, measured perpendicularly from the lot line, within which all principal buildings or structures must locate-, **unless they cannot be located within the BTZ due to the presence of existing or proposed principal buildings or structures.** A BTZ sets a minimum and maximum dimension within which the building façade line must be located (e.g. 0-5-ft). Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable façade wall.

II. That Section 8.4.1.C of Article 8 be amended as follows:

- C. Accessory uses and structures shall comply with the dimensional requirements (e.g. setbacks, lot coverage, height) of the zoning district in which they are located, unless an exception is expressly granted below or elsewhere in this LDC.
1. No accessory use or structure may occupy any part of a front setback **or build-to zone** unless the front setback extends beyond the front of a legally nonconforming building; in such case, the portion beyond the front of the building may be used.

III. **That Section 4.2.1 of Article 4, “Dimensions and Siting” for the Downtown Core District be amended to change the label for the Type A and Type B Street Setbacks to “Type A Street Build-to Line” and “Type B Street Build-to Zone,” respectively.**

IV. **That Section 4.3.1 of Article 4, “Dimensions and Siting” for the Downtown Growth District be amended to change the label for the Type A and Type B Street Setbacks to “Type A Street Build-to Zone” and “Type B Street Build-to Zone,” respectively.**

V. **That Sections 4.4.1 and 4.5.1 of Article 4 and Sections 5.3.2 and 5.4.2 of Article 5, “Dimensions and Siting” for the Downtown Edge District, Downtown Limited District, Neighborhood Business District, and Business Growth & Reuse District be amended to change the label for the “Front Setback” and “Corner Side Setback” to “Front Build-to Zone” and “Corner Side Build-to Zone,” respectively.**

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Jay V. Kahn, Mayor



# CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Five

AN ORDINANCE Relating to Setbacks and Build-to Dimensions

*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:

- I. That Section 1.3.3 “Setbacks & Build-To Dimensions” of Article 1 be amended to modify the definitions of Building Setback, Build-to Line, and Build-to Zone, as follows:
  - A. Building Setback. The required minimum ~~or maximum~~ distance a ~~l~~**l**~~ay~~**ay** buildings or structures must be located from a lot line, which is unoccupied and unobstructed by any portion of a building or structure, **unless expressly permitted by this LDC.**
    1. Front Setback. The required minimum ~~or maximum~~ distance that a ~~l~~**l**~~ay~~**ay** buildings or structures must be located from the front lot line, **unless expressly permitted by this LDC.**
    2. Rear Setback. The required minimum ~~or maximum~~ distance that a ~~l~~**l**~~ay~~**ay** buildings or structures must be located from the rear lot line, **unless expressly permitted by this LDC.**
    3. Side Setback. The required minimum ~~or maximum~~ distance that a ~~l~~**l**~~ay~~**ay** buildings or structures must be located from the side lot line, **unless expressly permitted by this LDC.** A side setback may be measured perpendicular to the interior side setback or to the corner side lot line.
  - C. Build-To Line (BTL). A build-to line (BTL) is a set line on a lot, measured perpendicularly from the applicable lot line, where a ~~l~~**l**~~ay~~**ay** **principal buildings or** structures must be located. The building façade line of a ~~l~~**l**~~ay~~**ay** **principal buildings or** structures must be located on the build-to line. Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable façade wall.
  - E. Build-To Zone (BTZ). A build-to zone (BTZ) is the area on a lot, measured perpendicularly from the lot line, within which ~~all~~ **principal buildings or** structures must locate, ~~unless~~ **Principal buildings or structures may locate outside the BTZ only if they cannot be located within the BTZ due to the presence of existing or proposed other principal buildings or structures.** A BTZ sets a minimum and maximum dimension within which the building façade line must be located (e.g. 0-5-ft). Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable



façade wall.

II. That Section 8.4.1.C of Article 8 be amended as follows:

- C. Accessory uses and structures shall comply with the dimensional requirements (e.g. setbacks, lot coverage, height) of the zoning district in which they are located, unless an exception is expressly granted below or elsewhere in this LDC.
  - 1. No accessory use or structure may occupy any part of a front setback **or build-to zone** unless the front setback extends beyond the front of a legally nonconforming building; in such case, the portion beyond the front of the building may be used.

III. That Section 4.2.1 of Article 4, “Dimensions and Siting” for the Downtown Core District be amended to change the label for the Type A and Type B Street Setbacks to “Type A Street Build-to Line” and “Type B Street Build-to Zone,” respectively.

IV. That Section 4.3.1 of Article 4, “Dimensions and Siting” for the Downtown Growth District be amended to change the label for the Type A and Type B Street Setbacks to “Type A Street Build-to Zone” and “Type B Street Build-to Zone,” respectively.

V. That Sections 4.4.1 and 4.5.1 of Article 4 and Sections 5.3.2 and 5.4.2 of Article 5, “Dimensions and Siting” for the Downtown Edge District, Downtown Limited District, Neighborhood Business District, and Business Growth & Reuse District be amended to change the label for the “Front Setback” and “Corner Side Setback” to “Front Build-to Zone” and “Corner Side Build-to Zone,” respectively.

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Jay V. Kahn, Mayor



# CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Five

AN ORDINANCE Relating to Amendments to the Land Development Code to Encourage Housing Development in Keene

***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. Amend Section 5.3.1, titled Purpose, as follows:

The Neighborhood Business (NB) District is intended to serve as an additional downtown zoning district that promotes smaller sized business, ~~and~~ professional uses, **and residential uses** which support adjacent neighborhoods and workplaces, with an orientation toward pedestrian and bicycle access. Some uses are restricted in size to limit adverse impacts on nearby residences and to maintain a pedestrian scale of development. All uses in this district shall have city water and sewer service.

2. Amend Section 5.3.2, titled Dimensions & Siting, as follows:

Min Lot Area	8,000 sf <b><u>5,000 sf</u></b>
Min Road Frontage	50 ft
Front <del>Setback</del> <b><u>Build-to Zone</u></b>	<del>5</del> <b><u>0-10 ft Build-to Zone</u></b>
Min Rear Setback	<del>20</del> <b><u>10</u></b> ft
Corner Side <del>Setback</del> <b><u>Build-to Zone</u></b>	5-10 ft Build-to Zone
Min Interior Side Setback	<del>40</del> <b><u>5</u></b> ft

3. Amend Section 8.3.1(C), titled Dwelling, Multi-family, as follows:

**1. Defined.** A structure containing 3 or more dwelling units located on a single lot, with dwelling units either stacked or attached horizontally, which is designed, occupied, or intended for occupancy by 3 or more separate families.

**2. Use Standards.**

- a. In the Medium Density District, no more than ~~3~~ **6** dwelling units are allowed per lot.

b. In the Downtown Core District, ~~Downtown Growth District~~, and Commerce District, dwelling units shall be located above the ground floor.

**c. In the Downtown Growth District, dwelling units may be permitted on the ground floor if located behind tenantable commercial space.**

4. Add a new section to the end of Article 1, Section 1.3 “Rules of Measurement & Exceptions,” as follows:

**1.3.9 Lots Split by Zoning District Boundaries (Split-zoned lots).**

**Where an existing lot of record falls into more than one zoning district, the provisions of each district shall be applied separately to each portion of the lot, with the following exception:**

a. **For lots or portions thereof which are not large enough to be subdivided, the property owner may choose to apply the provisions of the district which comprises the largest share of the lot to the portion(s) of the lot that cannot be subdivided.**

**For the purposes of this subsection only, when determining if a lot or portion thereof is large enough to be subdivided, the following shall be considered:**

i. **Each portion of the lot in each distinct zoning district shall be evaluated separately to determine whether new legal lots could be created that are not split-zoned.**

ii. **Any portion of a lot that could be subdivided legally based on the underlying zoning district shall comply with the requirements of the underlying zoning district.**

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Jay V. Kahn, Mayor



## CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Five

AN ORDINANCE Relating to Amendments to the Land Development Code to Encourage Housing Development in Keene

*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. Amend Section 1.3.3, titled ~~Setbacks & Build-To Dimensions~~, as follows:**

**~~A. Building Setback.~~ The required minimum or maximum distance a building or structure must be located from a lot line, which is unoccupied and unobstructed by any portion of a building or structure, unless expressly permitted by this LDC.**

**~~1. Front Setback.~~ The required minimum or maximum distance that a building or structure must be located from the front lot line. Only the first building or structure on a lot shall be required to comply with the Front Setback requirement, unless otherwise prohibited by this LDC.**

**~~2. Rear Setback.~~ The required minimum or maximum distance that a ~~any~~ structure building or structure must be located from the rear lot line, unless otherwise permitted by this LDC.**

**~~3. Side Setback.~~ The required minimum or maximum distance that a building or structure must be located from the side lot line, unless otherwise permitted by this LDC. A side setback may be measured perpendicular to the interior side setback or to the corner side lot line.**

**~~a. In residential zoning districts, the corner side lot line shall be measured from the property line adjacent to the street and shall be 10 ft greater than the minimum side setback required in the zoning district.~~**

**4. Structure Setback Exceptions.**

**~~a. The following may be excluded from required setbacks.~~**

- i. ~~Steps and stairs necessary to provide access to a building or structure~~
- ii. ~~Access landings up to 25-sf~~
- iii. ~~Structures necessary to afford access for persons with physical disabilities~~
- iv. ~~Canopies and awnings~~
- v. ~~One detached utility accessory building of less than 125-sf (e.g. garden shed)~~
- vi. ~~Fences~~
- vii. ~~Signs as regulated by Article 10~~

b. ~~Paved and unpaved parking lots and associated travel surfaces associated with all uses other than single and two family dwellings shall comply with the setback requirements in Section 9.4 of this LDC.~~

e. ~~Driveways and parking spaces associated with single and two family dwellings shall comply with the setback requirements in Section 9.3 of this LDC.~~

d. ~~If a front building setback extends beyond the front of a legally nonconforming building, an accessory use or structure may occupy the portion of the front setback beyond the front of the building.~~

e. ~~The following structures may encroach up to 10-ft from the rear lot line of lots in residential zoning districts.~~

- i. ~~Pools, either above or in-ground~~
- ii. ~~Decks, either detached or attached~~
- iii. ~~Garages, either detached or attached~~
- iv. ~~Accessory Dwelling Units, either detached or attached~~

**B. Building Façade Line.** The vertical plane along a lot where the building's façade is located. Upper story building facade lines relate to that part of the façade that requires a setback.

**C. Build-To Line (BTL).** A build-to line (BTL) is a set line on a lot, measured perpendicularly from the applicable lot line, where a structure must be located. The building façade line of a structure must be located on the build-to line. Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable façade wall.

**D. Build-To Percentage.** A build-to percentage specifies the percentage of the building façade that must be located within the build-to zone or at the build-to line. Façade articulation (e.g. window or wall recesses and projections) do not count against the required build-to percentage. Plazas, outdoor dining, and other public open space features that are also bounded by a building façade parallel to the frontage are counted as meeting the build-to percentage. Build-to percentage is calculated by building façade, not lot width.

~~E. **Build-To Zone (BTZ).** A build-to zone (BTZ) is the area on a lot, measured perpendicularly from the lot line, within which a structure must locate. A BTZ sets a minimum and maximum dimension within which the building façade line must be located (e.g. 0-5 ft). Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable façade wall. Additional buildings or structures shall be permitted to be located outside the required build-to zone if at least one structure on the lot is located within the build-to zone.~~

~~2.~~ **1.** Amend Section 5.3.1, titled Purpose, as follows:

The Neighborhood Business (NB) District is intended ~~to provide for a heterogenous mix of smaller sized businesses, professional uses, and residential uses comprising of varied development forms,~~ to serve as an additional downtown zoning district that promotes smaller sized business, ~~and~~ professional uses, ~~and residential uses~~ which support adjacent neighborhoods and workplaces, with an orientation toward pedestrian and bicycle access. Some uses are restricted in size to limit adverse impacts on nearby residences and to maintain a pedestrian scale of development. All uses in this district shall have city water and sewer service.

~~3.~~ **2.** Amend Section 5.3.2, titled Dimensions & Siting, as follows:

Min Lot Area	8,000 sf <del>5,000 sf</del>
Min Road Frontage	50 ft
Front <del>Setback</del> <b>Build-to Zone</b>	<del>5</del> 0-10 ft Build-to Zone
Min Rear Setback	<del>20</del> 10 ft
Corner Side <del>Setback</del> <b>Build-to Zone</b>	5-10 ft Build-to Zone
Min Interior Side Setback	<del>40</del> 5 ft

~~4.~~ **3.** Amend Section 8.3.1(C), titled Dwelling, Multi-family, as follows:

**1. Defined.** A structure containing 3 or more dwelling units located on a single lot, with dwelling units either stacked or attached horizontally, which is designed, occupied, or intended for occupancy by 3 or more separate families.

**2. Use Standards.**

a. In the Medium Density District, no more than ~~3~~ **6** dwelling units are allowed per lot. ~~Notwithstanding the foregoing, if every dwelling unit is not more than 600 sf gfa, then 6 dwelling unit are allowed per lot.~~

b. In the Downtown Core District, ~~Downtown Growth District,~~ and Commerce District, dwelling units shall be located above the ground floor.

**c. In the Downtown Growth District, dwelling units may be permitted on the ground floor if located behind tenantable commercial space. shall be located above the ground floor on lots with frontage on a Type A street.**

~~5.~~ **4.** Amend Add a new section to the end of Article 1, Section 1.3 “Rules of Measurement & Exceptions,” ~~19.2, titled Non-Conforming Uses, to add the following sub-section~~ as follows:



**19.2.8 1.3.9 Lots Split by Zoning District Boundaries (Split-zoned lots).**

**Where an existing lot of record falls into more than one zoning district, the requirements of each district shall be applied separately to each portion of the lot, with the following exception: the following shall apply:**

- a. ~~For lots which are large enough to be subdivided, the provisions of each district shall be applied separately to each portion of the lot.~~**
- a. For lots or portions thereof which are not large enough to be subdivided, or otherwise fail to meet any dimensional standards required, the property owner may choose to apply the provisions of the district which comprises the largest share of the lot shall apply to the entire lot portion(s) of the lot that cannot be subdivided.**

**For the purposes of this subsection 19.2.8 only, when determining if a lot or portion thereof meets dimensional standards is large enough to be subdivided, the following shall be considered:**

- i. Each portion of the lot(s) in each distinct zoning district shall be evaluated considered separately to determine whether new legal lots could be created that are not split-zoned.**
- ii. Any portion of a lot that could be subdivided legally based on the underlying zoning district shall comply with the requirements of the underlying zoning district.**

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Jay V. Kahn, Mayor