

City of Keene
New Hampshire

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

Monday, January 8, 2023

6:30 PM

Council Chambers, City Hall

Planning Board

Members Present:

Mayor Jay Kahn
Councilor Michael Remy
Roberta Mastrogiovanni
Armando Rangel
Ryan Clancy
Kenneth Kost
Randyn Markelon, Alternate
Hardold Farrington, Chair

Planning Board

Members Not Present:

Gail Somers, Alternate
Tammy Adams, Alternate

Planning, Licenses &

Development Committee

Members Present:

Kate M. Bosley, Chair
Ed Haas
Philip M. Jones
Raleigh C. Ormerod

Planning, Licenses &

Development Committee

Members Not Present:

Robert Williams

Staff Present:

Jesse Rounds, Community
Development Director
Mari Brunner, Senior Planner

I) Roll Call

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

II) Approval of Meeting Minutes – November 13, 2023

A motion was made by Councilor Jones that the Joint Committee approve the November 13, 2023 meeting minutes. The motion was approved by Councilor Ormerod and was unanimously approved.

III) Presentation: Cottage Court Overlay Project

The City's consultant, Bill Eubanks of SGA NW, was present to provide an overview of the project, discuss outreach efforts, and present preliminary recommendations. Mr. Eubanks began his presentation by explaining that the Cottage Court Overlay is a working title and other titles are always welcome. The purpose of this project is to address housing needs in the community in areas where there is already existing infrastructure. It also places an emphasis on senior housing and workforce housing, which is a huge need in most communities. Mr. Eubanks stated the agreement

is that the best way to do this is by creating an overlay district utilizing a Conditional Use Permit approval process.

Mr. Eubanks explained that the Housing Needs Assessment that was recently completed in the City laid out facts about housing needs in the community. He explained that one of the conclusions of the report is that households are increasing in number, but declining in size. Keene's population has decreased by 2%, but the number of households has increased by 3% and there is a certain kind of housing to address this trend. He added that 40% of the population lives alone, which seems like a large number. Keene also has a displaced workforce – only 5,200 of the 17,500 workers live in Keene, whereas the rest commute into Keene, which is not very sustainable. Approximately 34% of Keene's population is cost-burdened (rent and ownership), as they spend over a third of their income on household costs. This number increases to 39% for seniors. For rentals, 43% seniors are cost-burdened. The assessment also indicated that Keene needs at least 1,400 new housing units within the next ten years and noted that he felt the proposal before the committee could ease some of this need.

Mr. Eubanks went on to say that Keene allows for Accessory Dwelling Units (ADUs), which he felt was a great option that most communities are not permitting. Keene also has Conservation Residential Development (CRD) Subdivision process, which is mostly for larger parcels compared to what would be required for the Cottage Court Overlay District; however, CRDs are also a great option. Keene has also made some other changes to its land use regulations, such as increasing the permitted building height to seven stories by right in the downtown; creating form-based zoning; permitting multifamily housing in commercial zoning districts (above the ground floor); changing parking requirements, including creating the possibility of an administrative reduction of the number of required parking spaces by up to 10% and further reduction up to 50% by Special Exception along with increasing the distance allowed for remote parking.

Mr. Eubanks stated he came to Keene in November, conducted lengthy meetings with staff, and also attended public hearings. He stated that what came out of the public hearing is that the public preferred traditional architecture and they are not afraid of density. He added that the public was given the option of building their own site plans.

Mr. Eubanks then talked about the utility requirements for these types of developments, which could only occur where there is access to City water and sewer.

Parcel Size – There is no minimum or maximum parcel size.

Dwelling unit size – There is no minimum dwelling unit size, but a maximum 1,200 square feet per dwelling unit is being proposed.

Chair Bosley clarified that the Low Density 1 District (LD-1) does not have the requirement to have access to water and sewer. Mari Brunner, Senior Planner, stated that LD-1 has different dimensional requirements depending upon if whether the parcel has access to sewer or not. She added that parcels in the Rural and LD-1 Districts can be developed without access to water or sewer. Mayor Kahn added that he knows of a three-acre lot in Concord, MA consisting of approximately nine units that don't have public water and sewer. He felt this option works and

asked whether this has been tried and has not worked for any development Mr. Eubanks has been involved with. Mr. Eubanks stated the issue is locating septic for multiple units on very small lots. He stated the lot the Mayor referred to must have very good percolation rates and added he has not worked on any development on a small lot with multiple units where it was necessary to locate septic.

Economic Development Director, Med Kopczynski, added that the other limiting factor could be sprinkler systems. If there is a five-unit building, a sprinkler system would be required and access to water would be necessary to feed that system. This would be difficult to configure with a well. Chair Bosley added that if they are detached units, then the issue with having sprinkler system would not exist. The Mayor explained how the septic issue was addressed in the example he provided and felt this requirement could be a limiting condition. Chair Bosley stated her initial reaction to this type of overlay is that it is an opportunity to put density on smaller lots. When you get into the rural area, there is the option to perform a CRD subdivision and the residents in the Rural District are not looking for high density development in that area. Hence, she felt that if there was water and sewer available to a parcel in the Rural District, someone could apply for a zoning change for that lot.

Councilor Jones noted Mr. Kopczynski made a good point about the sprinkler system and asked if something like an un-mechanized pressure of 85 psi would work. Mr. Kopczynski stated the question would be whether the system would have enough pressure to operate a sprinkler system; it could be challenging as well as costly, but he added that there is nothing prohibiting such an installation.

Mr. Eubanks went on with his presentation and addressed density next. He indicated with this proposal there are no minimum or maximum density requirements. The goal is to create more housing. Density will be determined by the shape and size of the parcel, building height, underlying zoning, parking requirements, and the need for open space.

He indicated they are looking at two development scenarios. The first is that a parcel could be developed under a common regime with a property management entity with all units on one lot and parking provided on that lot.

The other scenario is that it parcel could be subdivided with all of the units on individual lots. In this scenario, there would be the requirement for frontage along a public right-of-way, so this type of development scenario could be limiting. If a parcel is subdivided, then each lot would be required to have 26 feet of frontage along a public right-of-way. If there is open space as part of the project, stormwater calculations would need to be considered.

Under the common regime development scenario, there is no frontage requirement.

Mr. Eubanks next talked about the building types that will be allowed (based on the zoning district):

1. Single-Family detached homes built on a foundation will be allowed in the Rural, Low Density, Low Density 1, Medium Density, High Density and High Density 1 Districts.

2. Single-Family attached homes (including duplexes, triplexes, and townhomes) will be allowed in the Medium Density, High Density and High Density 1 Districts.
3. Multi-Family dwellings will be allowed in the High Density and High Density 1 Districts.

Attached or detached carports and garages are allowed in any district and dwelling units will be allowed above those structures.

Mr. Eubanks stated there is also a suggestion to permit non-residential uses as part of this project, including corner stores, coffee shops, etc. A non-residential use must be located on a corner, must be a maximum of 1,000 square feet in size, and uses will be limited to food and beverage services with residential units located above the non-residential use on the first floor.

Parking – One space per unit minimum, maximum of one space per bedroom – it would be up to the developer to make that decision. If the units are for seniors or are workforce units, the parking requirement drops to 0.75 spaces per unit.

Mr. Eubanks provided this example: for a 12-unit project with a 50/50 split between one- and two-bedroom units, the minimum number of required parking spaces would be 12 and the maximum would be 18. For senior or workforce units, the minimum number of required parking spaces would be 9 and maximum would still be 18.

He went on to explain that parking can be provided on or off site. Offsite parking can be within 500 feet of the units or parking above the minimum requirements can be up to 1,000 feet from the units.

In reference to offsite parking, Chair Bosley asked whether any loading areas were considered. Mr. Eubanks stated this option has been discussed. The Chair referred to the residential units located downtown and some of the struggles those residents have with offsite parking, including transporting groceries, laundry, moving, etc. Mr. Kost asked whether any consideration was given to on-street parking. Mr. Eubanks stated this idea was discussed. The downside to on-street parking is that it can be used by anyone. Ms. Brunner added that another element to on-street parking, specifically in Keene, is that during the winter there is a parking ban from November through May where no overnight parking is allowed on streets. In order for on-street parking to work, the City would have to look at an on-street parking program where there is permitted parking allowed overnight, year-round. She indicated that this is being explored as part of another project.

Councilor Haas asked whether the parking area could count as pervious coverage (since there is a maximum impervious coverage). Mr. Eubanks stated pervious parking in an area that deals with snow has many challenges. Pervious area also has maintenance challenges. Ms. Brunner added that if someone came with an engineered pervious system, the City would take that into account; however, there are challenges in regards to maintenance, as was mentioned.

Councilor Ormerod asked for clarification on the requirement for one space per unit. If someone purchases a one-bedroom home and they get married, then their spouse may also have a car. Mr. Eubanks stated he looks at this as a self-healing issue. This might be an instance when someone

would have to rethink their living situation and perhaps move to a larger home. He added that the developer would address their target audience and make that decision as the developer. Councilor Ormerod stated his experience with realtors is that they do not always present the whole picture and felt the City needs to make sure those parking requirements are known to the buyer.

Mr. Eubanks then moved on to Building Height – At the present time in Keene, a 2-story or 35-foot maximum building height is permitted in the Rural, Low Density, Low Density 1, Medium Density Districts. The proposal is to change that to 2.5 stories or a 35 foot maximum. The usable portion is being increased, but not the height. In High Density and High Density 1, it would be a 3-story maximum with a 50 foot max height.

Mayor Kahn asked how this would affect the occupancy square footage of the building. Mr. Eubanks stated this would depend on the size of the building. For example, with a 400 square foot footprint, 2 stories would give you ~800 square feet of space. Finishing the attic space and putting in some dormers would probably give you another 250 square feet, which could be used for a couple of bedrooms or a bonus room.

Mr. Kost asked whether the rendering with large garages could be left out. Chair Bosley stated that what was presented is more like a project that would occur in the Low Density District. She went on to mention condo associations and referred to condos located on Arch Street and Base Hill Road. The Chair noted that the current zoning does not have allowances for condo projects. The manner in which condominiums have been developed in the City of Keene was under a method called Planned Urban Developments (PUDs) and at some point, the City discontinued that style of development. There have not been any condo projects recently because there is no mechanism in our zoning to allow for it. In the Low Density Zone, you might see something that resembles what exists on Arch Street or Base Hill Road.

Mr. Eubanks noted that if parking is located under a structure and is not in a flood zone, it is considered a floor. In a flood zone, the building height is measured from the finished flood elevation plus one foot, whichever is less.

Drainage and Stormwater Management – Stormwater impacts and the strategies to address it are applied to the larger project and not individual lots.

For screening, the proposal is to have a minimum of a five foot landscape buffer if the density is more intense than the adjacent building type. Mr. Eubanks stated that he is not a fan of landscape buffers. He felt that they are a waste of space and at times could perpetuate sprawl. On a small parcel where you are trying to get as many lots as possible, a fence to screen between neighbors instead of landscaping would be better option.

Architectural Guidelines – Projects that utilize this overlay should endeavor to fit in or be respectful of the context of the surrounding neighborhood. Mr. Eubanks stated his question is who would review architectural guidelines for the City. He went over a list of easy to approve and more difficult to approve items that he has used previously in Charleston, South Carolina. He asked the committee how they feel about design guidelines. Chair Bosley in response stated what stands out

for is the mullions. She asked the committee whether design guidelines are something that should be included in the ordinance or whether it should be left up to the discretion of the developer.

Mr. Clancy stated he felt it was worth exploring because there have been projects in the recent years; he used the Roxbury Street project as an example, where the façade does not fit the neighborhood. To preserve the character of Keene, it would be worth exploring so that the charm of Downtown could be preserved. Councilor Jones asked if this is something the Planning Board would review. Chair Bosley noted that the Roxbury Street project moved forward with some negative implications and asked whether more restrictive guidelines should be created for this particular type of overlay. Councilor Jones stated that he is more about being open to choice. If the Planning Board feels that a proposal fits, then it should be left to their discretion. Chair Bosley asked for staff's opinion.

Ms. Brunner stated the Planning Board does have architectural and visual appearance standards as part of their Site Development Standards. In the specific example that Mr. Clancy raised, because that property was located in the Historic District, the Historic District Commission (HDC) is actually the one that reviewed the visual appearance. That project was exempt from architectural and visual review by the Planning Board and the HDC's regulations for new construction were vague and broad at the time, which did not really give them a lot of tools to work with in terms of reviewing the visual appearance of the building. That has since changed and today, a brand new building like the one on Roxbury Street would have to follow the City's Form-Based Code. It would also have to go through the Planning Board's site plan review process and they would be subject to the Architectural & Visual Appearance Site Development Standard.

She added that architectural and visual appearance is something staff and the Board have struggled with in the past because it is hard to come up with standards that will fit every situation. When architectural and visual appearance standards are made more specific, applicants feel the City is dictating their architectural style. When it is left too broad, the Board doesn't have much to fall back on, as they cannot impose their opinions on an application. Ms. Brunner felt it is always hard to strike that balance. In this instance because it is a specific type of development, the ordinance could include specific guidelines that could be helpful to developers.

Mr. Eubanks felt this ordinance is not prescriptive and does give the Planning Board some discretion. Councilor Ormerod stated it first looked like it was a useful checklist for the zoning, but it was suggested that it be written into an ordinance and he wondered how that would be completed. He noted that when the CRD regulations were adopted, there were incentives that were offered and he felt that this item would probably have to follow that same path. Chair Bosley asked where this list would live - would it live inside the ordinance that is specific to this overlay or would an applicant go by the Planning Board standards?

Mr. Eubanks stated that in most municipalities that have design guidelines that are reviewed by a Design Review Board or a Board of Architecture – a separate Board that deals with those issues. He noted that this responsibility doesn't typically fall to a Planning Board. Mr. Eubanks agreed that another layer of approvals for developers is not ideal and would definitely not be an incentive; however, it has worked well in many municipalities and he added that he would hate to saddle the Planning Board with making those kinds of design decisions. Chair Bosley stated they are already

assigned this task and creating another Board would not be an approach the City would tend to take. She added that it sounds like there is interest in this and creating guidelines specific to this overlay for the Planning Board to utilize could be a solution.

Mr. Eubanks asked when a project comes before the Planning Board and they review the architectural aspect of the project, whether the Board has the authority to send them back to rework their design. Planning Board Chair Harold Farrington answered the affirmative. Mr. Eubanks stated that personally he likes this kind of list because it gives the City some enforcement without being prescriptive and it gives an applicant room to make good decisions.

Chair Farrington asked staff whether the expectation is that all such projects will come before the Planning Board. Ms. Brunner answered in the affirmative and added the plan is for this type of project be approved through a Conditional Use Permit (CUP) process. This is actually a change to zoning, as it is an innovative land use technique that requires a CUP in New Hampshire. The way the City of Keene has handled CUPs in the past has been to send them to the Planning Board, so that a site plan and CUP review can be done concurrently and the project is only reviewed by one Board.

Mr. Eubanks went on with his presentation and stated that one item that he did not address, is if there was ever a big enough project that needed to be subdivided and required a new internal street – what would this look like. What most would like to see are smaller narrower streets as part of a project like this. Hence, it would be up to that developer to go through a waiver process for street standards. Chair Bosley asked that if when this ordinance is written if this could be included as the expectation. She went on to say she can only think of a couple of lots that are large enough and urban enough to see that happen – one of them being the Kingsbury lot.

Mr. Eubanks stated it would be out of the ordinary to encourage an applicant to go through a waiver process in an ordinance; however, he added that perhaps language could be included that says, “they could vary from street standards if waivers are granted”. Mr. Kopczynski added that the Kingsbury lot has a City street that runs down the middle of the property. He went on to say that he is glad the Committee is not going the down route of creating an Architecture Review Board, which can become a tedious task for the applicant to pursue. He stated that perhaps staff could review with the consultant the concept of the form-based elements, as the City has been discussing extending the form-based design concept beyond the downtown districts. He added that there are two projects in town that have pervious paving that work well; the parking lot at the CVS Plaza and the parking lot at the Food Co-op.

Mr. Eubanks stated that the other item he did not discuss is setbacks. Internally there will be no setback requirements, applicants will just have to meet fire codes. However, any building that fronts an existing street has to match the setback of the adjacent structures.

Mr. Kost felt using the Kingsbury property for a use like what is being discussed would be an under-utilization of that site. Mr. Eubanks stated there are no maximum density caps for this proposal. Chair Bosley added that regardless of the ordinances and the standards the City proposes, every developer has the right to develop a site in any manner they like and added she used that property as an example because that is one of the few sites in the urban area that could

accommodate a development like this. Ms. Brunner added the parcel being discussed is not in the residential district it is located in the Business Growth and Reuse District. This ordinance being proposed would only be an overlay in the residential district where City water and sewer is available. The parcel being discussed would be for higher density development. However, if the committee wanted this development to happen outside of the residential zoning districts, that could be a conversation that could be undertaken.

Chair Farrington asked Mr. Eubanks whether this type of development is attractive for developers. Mr. Eubanks stated for years he always thought there was an un-met demand for smaller homes. He stated he has a client who has 11 single-family detached lots (on a three-acre) site that will have 16 micro-homes that will be 16' x 24' in size with a sleeping loft. They would sell for about \$200,000. Mr. Eubanks stated we are going to see a shift in development with more and more of this type of housing being proposed.

Mr. Clancy asked in addition to the 0.75 parking spaces, what other incentives are available. Mr. Eubanks stated the incentive is that a developer can get more units on a piece of land than anywhere else in the City. Mr. Clancy stated he wanted to address what Mayor Kahn had raised earlier regarding limiting it to only areas where water and sewer are available. Mr. Clancy noted we are in a housing crisis and supply needs to be increased and felt opening it up to areas where water and sewer are not available is something that should be considered.

Chair Bosley stated that after experiencing the process of changing the zoning in the Rural District very recently and reviewing a project that was proposing a zoning change in the Rural District and seeing the neighborhood's reaction to that, she felt that the City needs to tread really carefully. She asked whether there was a way of getting some sort of zoning waiver, if they could prove that their project was viable with the onsite septic and well access. Ms. Brunner stated there is always the option of getting a variance.

She explained that this could be a separate process. For example, by getting a Special Exception from the Zoning Board of Adjustment, the site could be developed without City water and sewer. She stated that the City would want to think carefully about what those requirements are to demonstrate that they can provide adequate water and sewer. There is also a limit when a shared well automatically becomes a public well and this is something staff would need to do more research on. Staff's thought was that this type of development should be something that should be considered where public infrastructure is available and this is based on the discussion staff heard during the public hearing regarding that Rural District discussion.

Mayor Kahn asked whether this is a progress report that is before the committee tonight. Chair Bosley stated this project was created in response to the Housing Needs Analysis and accompanying funds that were made available to the City through Invest NH. She indicated it does have a timeframe requirement and the Ordinance needs to be adopted by July in order to use the funds that the City has set aside for this. The plan is to have Mr. Eubanks come back and hopefully have a written ordinance for first reading by the City Council. It would probably go before the Joint Committee sometime in April and back to full Council for a vote during the May - June timeframe. Mr. Eubanks stated his understanding is that he will be back only when the item is before Council for a public hearing and the other meetings he would join virtually. Ms. Brunner

stated the plan is to submit something in February, schedule the workshop in March, and public hearing in April.

The Mayor asked whether there are other communities considering this type of small home overlay ordinance in New Hampshire. Ms. Brunner stated there was a development in Dover that received a lot of publicity. It was a project proposed by a business owner who could not find housing for his employees. They worked with the City of Dover to amend their regulations to propose something very similar to this - a small-home development in a community setting.

The Mayor asked with reference to the shared narrow street, if it would be more prudent to refer to it as a shared driveway. Mr. Eubanks stated it will be a shared driveway; however, if they are developed as a subdivision and have to front along a public right-of-way, there are requirements that need to be looked at, such as the setback requirements for the street, the requirement for sidewalks, etc. Chair Bosley agreed public streets at times don't make these projects work and the only way these projects work is with this overlay. Mr. Eubanks noted his prediction is that 98% of these types of projects are going to be developed under a Common Regime rather than fee simple lots.

Councilor Jones asked whether private streets would work with this type of development. Mr. Eubanks stated it could be, but added that most of the municipalities he has worked with require private streets to be constructed according to a certain standard.

This concluded Mr. Eubanks' presentation. He reminded the committee of a public workshop scheduled for Tuesday, January 9th at the Hannah Grimes Center from 3:30 pm to 5:30 pm.

The Chair closed the public hearing.

IV) New Business

A motion was made by Councilor Jones that the Joint Committee adopt the 2024 Meeting Schedule and noted the meetings are scheduled to be held on the second Monday of each month with the exception of the October and November meetings which will be on the second Tuesday due to holiday conflict. The motion was seconded by Councilor Ormerod and was unanimously approved.

V) Next Meeting - Monday, February 12, 2024

VI) Adjournment

There being no further business, Chair Bosley adjourned the meeting at 8:06 PM.

Respectfully submitted by,
Krishni Pahl, Minute Taker

Reviewed and edited by,
Megan Fortson, Planning Technician