

**CITY OF KEENE  
NEW HAMPSHIRE**

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

Monday, April 10, 2017

6:30 PM

Council Chambers

**Planning Board Members Present**

Gary Spykman, Chair  
Douglas Barrett  
Nathaniel Stout  
Andrew Bohannon  
Pamela Russell Slack  
Mayor Kendall Lane  
Chris Cusack

**Planning Board Members Not Present**

Councilor George Hansel

**Planning, Licenses and Development  
Committee Members Present**

David Richards, Chairman  
Councilor Philip Jones  
Councilor Bart Sapeta  
Councilor Robert Sutherland

**Planning, Licenses and Development  
Committee Members Not Present**

Councilor George Hansel

**Staff Present**

Rhett Lamb, Planning Director  
Tara Kessler, Planner

**1. Roll Call**

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

**2. March 13, 2017 meeting minutes**

A motion was made by Councilor Philip Jones that the Joint Committee accept the March 13, 2017 meeting minutes. The motion was seconded by Pamela Russell Slack and was unanimously approved.

**3. Land Use Code Update Phase 1 – Continued Discussion**

Planner Tara Kessler stated that discussion on this topic started in February. The focus for today would be one of the strategies proposed by the consultant, Town Planning Urban Design Collaborative, which is the Unified Development Ordinance.

Ms. Kessler reviewed the objectives for the Land Use Code Update process. She noted that some of the primary goals are to make the regulations easy for users to understand and navigate by improving their organization and incorporating illustrations. Another objective is to make it a more predictable process by making standards less subjective. Ultimately, the City hopes to make the regulations and standards related to land use more consistent and to make the process overall easier to administer.

A core objective of this effort is to align the regulations/standards with the community vision and goals of the 2010 Comprehensive Master Plan (CMP). She noted that the Land Use Code Update is the priority implementation strategy of the 2010 CMP.

Ms. Kessler provided an overview of the project timeframe. She noted that the City brought in a consultant, Town Planning and Urban Design Collaborative, last summer. This consultant produced a report that included six strategies for completing Phase 2, which is the rewrite and update of the land use regulations. The report went before the City Council in December of last year as an informational presentation. Council then referred the item to the Joint Committee to produce a recommendation to City Council on which strategy to pursue for conducting Phase 2. The Committee has held two conversations to date on the topic. At the March meeting, the Committee talked about Form Based Code. This month

the discussion will be about the Unified Development Ordinance. May's meeting will be provide a recap of the issues raised to date with the recommended strategies and the Committee will discuss which strategy would be the best for the City to utilize for Phase 2. The next step would be for this Committee to make a recommendation to City Council of a particular strategy. At this time, staff will draft an RFQ and eventually hire a consultant or consultants to assist with Phase 2.

Ms. Kessler noted that the six strategies identified by the consultant in Phase I can be reduced to three strategies. These include:

Strategy 1 – Clean up existing regulations to address inconsistencies, technical errors, etc.

Strategy 2 – Introduction of Form Based Code in the Downtown and Village Activity Nodes

Strategy 3 – Create Unified Development Ordinance

She noted that although these three strategies build on top of each other, Strategy 2 can be considered an additional option.

Mr. Stout asked whether some form of Form Based Code was the recommendation. Ms. Kessler agreed that this type of Code was recommended for the Downtown as well as the neighborhood village centers identified in the master plan. Mayor Lane asked whether the hybrid zoning mentioned in the past is a combination of the existing zoning and Form Based Zoning. Ms. Kessler replied in the affirmative, and added that the City would then preserve its current form of zoning in all areas except for the Downtown and the neighborhood village centers. This is what was recommended by the consultant. Councilor Sutherland asked whether Form Based Code would also be introduced to the Marlboro Street corridor. Ms. Kessler stated those areas would need to be identified, as it is not one of those nodes identified in the Master Plan.

Councilor Sutherland asked for the difference between Form Based Zoning and the Unified Development Ordinance (UDO). Ms. Kessler explained that the UDO is more of an organizing tool for how a community would structure its regulations and Form Based Zoning is a type of zoning. Zoning addresses the land uses and dimensional standards that are allowed in each zoning district.

Ms. Kessler noted that Strategies 1 and 3 are similar, in that Strategy 1 involves cleaning up the regulations for inconsistencies and make it more organized, and Strategy 3 is the ultimate tool to achieve improved organization. Whereas, Form Based Zoning is more an add-on, that the City can consider if it wants to pursue a different form of zoning. Form Based Zoning would allow the City greater opportunity to achieve its Master Plan objectives than the conventional zoning has.

Vice-Chair Barrett asked whether there could be a scenario where Strategies 1 and 2 were completed but 3 was not put in place. Ms. Kessler stated this is a scenario presented by the consultant, which they called Strategy 5. She noted that this is what Dover has. Vice-Chair Barrett noted Raleigh, NC has Form Based Zoning in some districts but also something called Legacy Districts, which could be an idea for a hybrid district and asked for clarification. Ms. Kessler agreed and added should the city want to adopt Form Based Zoning across the city this could be something they could also look at. However, this is not something that has been discussed.

Councilor Jones asked whether UDO was the same as re-codification. Ms. Kessler stated with a UDO all the land use regulations are being merged into one code.

Ms. Kessler then explained UDOs. She noted a UDO is a combination of number of land use regulations and standards into one document. A UDO is a tool that can help with addressing and reducing inconsistencies, and streamlining the process. UDOs can be presented in an easy to read format with a lot of visuals and graphics. However, UDOs can also be all text. UDOs can incorporate all types of zoning.

Keene has 25 chapters of city codes, of these nine chapters, chapters 102, 18, 70, 82, 38, 54, 94, 98 specifically relate to how land is developed. With a UDO, all these nine chapters could be combined into one chapter.

Common UDO Elements include: Zoning Requirements, Site Development Standards, Subdivision and Site Plan Standards, Natural Resource Regulations, Street/Right of Way Standards Building and Housing Code, Definitions, Administration (Review Authority and Review Approval Procedures).

Mr. Stout asked whether the zoning requirements under UDO would relate to the form based districts or would it be city-wide. Ms. Kessler stated it would be city-wide. The city's zoning regulations live within the City Code of Ordinances. Everything that relates to zoning will live in this one document. There are other ordinances that relate to other City functions, which will remain separate from those chapters that address land use.

Ms. Kessler then went over some examples of cities that have adopted UDOs. She reviewed the City of Buffalo's UDO. She referred to the table of contents and displayed how everything is consolidated into one document, which is easier to navigate. The manner in which Buffalo has chosen to outline their Zoning regulations is graphical.

Ms. Kessler went on to say that has a number of different areas within the City Code that address landscaping (Sec 102-1227, Sec 102-1229, and Sec 102-1230). An applicant would also need to comply with the Planning Board Development Standard #6, which refers to landscaping. However, with the UDO it would be possible to bring all the landscaping standards under one document. Raleigh, NC is the example Ms., Kessler used here to display how this is possible.

Street/Right of Way Standards are not currently located in the zoning ordinance, they are located in a separate chapter of the City Code. In 2015, a Complete Street Guidelines document was adopted but not included in the City Code; although, there are standards regarding streets in the City Code. Ms. Kessler stated that many communities that have adopted UDO's have brought into this one document standards regarding streetscape standards. Ms. Kessler referred to what Buffalo has done which is similar to Keene's Complete Streets Guidelines but it is a requirement of their code (text and graphics).

Ms. Kessler noted that the different communities that have adopted UDO's have outlined who the reviewing authority would be of the various components of the regulations. In Keene, with respect to zoning it would be the Zoning Board of Adjustment that grants special exceptions and variances from the Zoning Ordinance. Site Plans and Subdivisions are reviewed and approved by the Planning Board. Street Standards are reviewed by Public Works and City Council. Ms. Kessler stated when combining these documents, it is important to outline who the reviewing authority would be. Ms. Kessler showed the Board examples of how other communities have handled this item. This code could also help bring building and housing regulations into one document, which is currently chapter 18 of the city code. This would also help with having one definitions chapter. Currently, Keene has definitions in a number of different places.

Ms. Kessler noted some of staff's concerns and questions of UDOs. She noted that as with any significant change to the regulations there is time needed to transition to the new rules and organizational structure. She noted that there needs to be consideration for how any changes might affect property owners. Ms. Kessler noted that a learning curve is a concern and that time would be required for the community and staff to get up to speed with the new regulations.

Ms. Kessler stated that there are questions regarding the extent of structural and substantive changes. She explained that a UDO is a tool for organizing content and Keene could decide to pursue structural changes only. Whereas, the code update is an opportunity to make substantive changes as well as to the regulations. She noted that the adoption of Form Based Zoning would change the content of the ordinances and would be both a structural and substantive change.

Ms. Kessler noted a concern for the lack of precedent of UDOs in NH. To the best of her knowledge, there are no communities in NH that have adopted a UDO. She noted that some communities have expressed concern that a UDO would be in conflict with NH's Enabling Legislation. Specifically, there is a question of whether it is possible to incorporate the Planning Board Development Standards and Site Plan and Subdivision Regulations into the City Code of Ordinances. At the present time, Planning Boards have the authority to amend and adopt the Development Standards and Site Plan and Subdivision Regulations and Council has the authority to amend the Zoning Ordinance and City Code. If these regulations are merged, then the question would arise as to who has the authority to make these changes.

Mr. Stout stated there is also the concern about the authority the Zoning Board has, which is statutory in nature. He asked whether this authority would change in any appreciable way. Ms. Kessler stated that currently the Zoning Board's authority is rooted in the City Code and did not feel there would be any difference as to how the Board would grant variances or exceptions.

In conclusion, Ms. Kessler stated that if the City wants to streamline its regulations it would be possible to consolidate as many relevant chapters of the City Code into one chapter, and the Planning Board standards and regulations into one document.

Councilor Sutherland asked for added clarification on the concern for transition time and process and the impact on property owners. Ms. Kessler stated the City would want to make sure it assess and addresses the potential impact any changes to the regulations would have on property owners. The Councilor stated there could be a large amount of cost attached to these changes and noted Keene is not a very large community. Last year there were 418 permits issued and felt most of those might have been for redoing someone's kitchen, which would have no impact on what is being discussed tonight. The Councilor agreed streamlining this process would reduce city administration costs and would also reduce on financial costs to property owners. Ms. Kessler indicated it has often been stated Keene's regulations are not friendly towards businesses and this might be an opportunity to improve how easily these regulations could be navigated by property owners, staff and developers.

Mayor Lane stated the development process in Keene is complex both for large and small developers. This provides an opportunity to separate out the process so we have a more comprehensive process for large development and simplified process for small development. The Mayor felt for a small city like Keene these changes would be much more recognizable compared to a large city with complex a population.

Councilor Sutherland stated it would be good to have cost associated with the proposed strategies. He stated we can all agree some of these processes need to be cleaned up. Mr. Lamb stated staff did not want the Committee's decision to be driven by cost. Staff will be working on a scope of work based on the conversations they have with the Committee and at that point, costs will be determined. Ultimately, Council will advise if these costs are too much.

Councilor Sapeta stated that Ms. Kessler outlined five goals (simplify, make predictable, align with the master plan, make it consistent and easy to administer) and asked whether these should actually be considered as tools to achieve the following goals: a better environment for Keene, cost savings for property owners, and saving staff time and cost.

Chair Spykman stated one of the attractive things about Form Based Code for the public are the graphics, which make it easier to understand. He felt the City could put in place a UDO and incorporate Form Based Code (with graphics) as suggested by the consultant.

Chair Richards stated he agrees the processes need to be cleaned up and does like UDO as it makes it easy to comprehend. He wasn't sure whether Form Based Code was necessary at this time but it would help move the city forward in the future.

Chair Spykman stated what he understand is that Planners see Form Based as the future of zoning and asked whether this was accurate. Ms. Kessler stated this is a more modern approach to zoning. Planner are looking at this as a more of a visual tool and how to regulate space and the built environment.

Mr. Stout with reference to what Councilor Sutherland had indicated regarding costs, noted that the Zoning Board has asked for an appraisal of fees, which have not been updated in a long time. He agreed to addressing this item by separating it from costs.

Councilor Jones stated UDO and Form Based Code are not terms the city has used in the past but the master plan does call for simplifying and streamlining landuse codes, and this is also something that came out of the City Council Goals Committee. He noted Chattanooga, TN is one of the most recent cities to put in place the hybrid version and stated it was a very transparent process, and felt this is something the Committee should look at.

Vice-Chair Barrett asked whether existing properties would be grandfathered or whether this was up for discussion. Ms. Kessler stated existing properties conforming to the current standards would not be subject to change with the new regulations unless the use was changed. Vice-Chair Barrett added the graphic based version would be much more accessible and easy to understand by everyone. He also noted if Form Based Code is put in place it would first start with the downtown, which he felt would be much easier to do than apply it city-wide all at once.

Chair Richards asked Ms. Kessler what the next step in this process was. Ms. Kessler stated for the May meeting she would bring in questions that were asked about Form Based Zoning, do a summary of what has been discussed to date, and look at a scope of work that will be prepared so cost estimates can be looked at.

4. **Next Meeting** – Tuesday, May 2, 2017

5. **Adjourned**

The meeting adjourned at 7:40 pm.

Respectfully submitted,

Krishni Pahl,  
Minute Taker

Reviewed and edited by  
Tara Kessler, Planner