

**CITY OF KEENE
NEW HAMPSHIRE**

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

Tuesday, May 2, 2017

6:30 PM

Council Chambers

Planning Board Members Present

Gary Spykman, Chair
Douglas Barrett, Vice-Chair
Nathaniel Stout
Councilor George Hansel
Chris Cusack
Martha Landry

Planning Board Members Not Present

Andrew Bohannon
Mayor Kendall Lane
Pamela Russell Slack
David Webb, Alternate
Tammy Adams, Alternate

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

Councilor Philip Jones
Councilor George Hansel
Councilor Robert Sutherland
Councilor Bart Sapeta

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

David Richards, Chairman
Councilor Bettina Chadbourne

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. April 10, 2017 meeting minutes

Martha Landry stated she was not present at the meeting and should be indicated as such.

Councilor Sapeta asked for the following change on page 6 of 14:

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.

A motion was made by Councilor Phil Jones that the Joint Committee accept the April 10, 2017 meeting minutes as amended. The motion was seconded by Councilor George Hansel and was unanimously approved.

3. Continued Public Workshop

Land Use Code Update Phase 1 – Continued Discussion

Planner Tara Kessler addressed the Committee. The Chair asked that all questions be held until the presentation is over. Ms. Kessler stated this is a continuation of the landuse code update discussion that the Committee has had in the prior months.

She started with some of the key project objectives and thinking along the lines of what Councilor Sapeta had proposed last month to clarify that this project is tool to achieve broader objectives.

Key project objectives:

- Create more business and user friendly regulatory environment.
- Reflect current community goals and land use policies.
- Provide more flexibility and streamlined process while insuring appropriate community review.
- Contribute to quality neighborhood communities and businesses.

Ms. Kessler stated there have been a number of strategies discussed as to how the City would achieve these objectives and take on phase 2 – rewrite of regulations. The consultant for phase 1 proposed six strategies the City could consider. These have now been consolidated into four strategies.

Proposed strategies:

1. Clean up existing regulations
2. Introduce form-based zoning and strategy #1
3. Create a unified development ordinance and strategy #1
4. Create a unified development ordinance and strategy #2

Strategy #1 – Correcting inconsistent and outdated provisions in the ordinance, e.g., there are complete street guidelines which are an internal document and at times they conflict with the streetscape standards. This would be one of the ways to correct such issues.

There will be minimal reorganization.
Simplifying language and have more graphics.
Provide explanatory material where useful.
Basic formatting improvements.

Ms. Kessler stated for Strategy #1 by addressing inconsistencies it will improve readability, it might improve predictability, it will address technical errors and inconsistencies, create an easy to administer process but it won't address or support community goals. The hi-lite is that it addresses technical errors and inconsistencies.

Strategy #2 would be form-based zoning everything mentioned in strategy #1. Consultant recommended a hybrid approach; introduce form-based to downtown and neighborhood activity centers.

Form-based zoning focuses on building form, massing and compatibility with surrounding development. Addresses streetscape and public spaces.

The City currently has Euclidean (Conventional) zoning which focuses on segregation of land use types and permissible property uses.

Uses numeric standards and texts rather than graphic illustrations

Uses minimum setbacks but the ultimate location and form of the building are often unpredictable.

If the City was to introduce form-based zoning how would it impact what we have now? Ms. Kessler used the Fairfield Inn block on Main Street as an example. In the central business district there are very few dimensional standards. In the downtown there are no setback requirements and currently buildings downtown have zero setbacks. However, with the form-based zoning you can impose a maximum or a range. With form-based zoning there could also be a height minimum, today there is a height maximum of four stories. Another consideration would be how much of the building occupies the frontage, this calls for adequate space between buildings.

In Dover in their downtown business district they have set a range for setback, zero to ten feet at the front property line as well as ranges for side and rear setbacks. They have also introduced height minimums and height maximum and have also introduced pretty basic graphics.

Town of Portsmouth has also introduced form-based/character based zoning in their downtown. Their maximum front setback is five feet, front line buildout is 80% minimum, and maximum building setback length is 225 feet. They also have introduced height minimums and height maximum but they also have height minimum for ground story versus second story height.

Project goals for Strategy 2 by introducing more graphics it will improve readability, might improve predictability, it will address technical errors and inconsistencies, it might not create an easy to administer process but it would address and support community goals.

Ms. Kessler stated Strategy #3 – Creating a unified development ordinance (UDO) – it would be an enhanced version of strategy 1.

It would combine regulations into one document, remove inconsistencies, streamline process, have clear and consistent language and it would be in an easy to read format.

Ms. Kessler referred to the 9 City Code Chapters that relate to land use as well as the Planning Board Development Standards, Subdivision/Site Plan Review Regulations, and the Historic District Commission Regulations. The UDO will bring all this under one document.

In term of Project Goals it will improve readability, might improve predictability, it will address technical errors and inconsistencies, it will create an easy to administer process but it might not completely address and support community goals.

Ms. Kessler stated Strategy #4 is everything that was mentioned with the UDO option plus the form-based zoning component. Strategy 4 achieves most of the goals – it is easy to read, it would improve predictability, it will address technical errors and inconsistencies; it will create an easy to administer process and will address and support community goals.

Ms. Kessler stated Strategy 4 is what the City seems to be leaning towards. She added the committee however, is still in the process of reviewing the strategies before them. The next step is to provide a recommendation to City Council but there are still questions about cost. She added she hoped for today's meeting the Committee could decide on one strategy to move forward with.

Ms. Kessler went over a Proposed Scope of Work regardless of which option the committee decided to move forward with:

- Background review and analysis
- Upgrade and reorganize land use regulations

- Integrate form-based elements – focus on downtown Keene, using this as a test area and perhaps get rid of some of the overlay districts and pull them into one set of standards for the downtown.
- Improve application forms and review processes – for anyone who wants to develop in the City.
- Adoption and post adoption – training for everyone who will be involved in this process and how to engage the community.

To undertake this effort there would need to be a number of different skills sets that would need to be brought in. The first would be a NH Land Use Attorney to make sure the standards are in keeping with state and federal law. A Graphic Design Professional to help make the code more visual. An Outreach and Engagement Specialist to help bring in the public in all phases of this work and an Urban Design and Planning professional to provide guidance in form-based code. This concluded Ms. Kessler's presentation.

Councilor Sutherland stated Ms. Kessler had referred to Guidelines for Complete Streets and separate Streetscape Regulations and asked how the Streetscape Regulations can be changed without having to go through this process to incorporate Complete Streets. Ms. Kessler stated a City Code Chapter addresses Streetscape Standards – looking at where there is conflict and amending that code chapter. The City Council will need to conduct a public hearing and approve this change. The Councilor expressed concern about how much this will cost.

Councilor Sutherland felt it was not the code that was inhibiting development downtown and referred to the Coop Building which was the first building in 40 years to be constructed. He felt it was cost that was inhibiting development. The Chair felt at this time the discussion is about whether our codes need rewrites not what the particulars should be. Mr. Lamb stated one of the aspects of what is being proposed relates to economic development and the changes that need to be made so people can make changes to their property.

Councilor Hansel felt form-based code works best and agreed downtown does have redevelopment potential. He also felt broadening the scope of where we apply it so the City gets more for its dollar and so the code actually shows what it is meant to do; don't put it in place just for the sake of applying it for the few projects that might come up in the next few years. He asked what staff felt about UDO and whether they thought this could be warranted for Keene. Ms. Kessler stated the strategy being proposed follows UDO where consolidation of much as possible can happen.

Councilor Jones referred to what Ms. Kessler had previously said and asked why form-based code is being presented first before the inconsistencies of the code and regulations are cleaned up. Ms. Kessler stated it would be a parallel process and form-based is being presented because it focuses on a particular geographic area. Addressing inconsistencies is one of the project goals whereas form base code talks about achieving some of the master plan goals and guide the type of development we might want to see downtown.

Mr. Stout stated there hasn't been mention of the timeframe. Ms. Kessler stated the timeframe would be about 18 months. Mr. Stout asked after the 18 months whether the education component would be completed by all Boards, Commissions and staff people affected by this change and also what can be expected at the Zoning Board/Code Enforcement level. Ms. Kessler stated the education material will be developed as the adoption process goes forward but these might need to be amended post adoption and stated she couldn't commit to a timeframe. This

would depend on the strategy that is chosen and the consultants brought on Board. As far as the impact to Zoning Board/Code Enforcement level, it would be handled in the same manner as it is being handled today; if something is not permitted in a zone the applicant would have to apply for a variance.

Dr. Cusack with reference to a UDO asked when the City would find out whether this is something that could be put in place. Would it be once the work is done and then an Attorney says it doesn't meet state law? Ms. Kessler stated she had an initial conversation with the City Attorney whose first impression was that not all the codes could be merged into one ordinance and this is one of the reasons most communities have avoided putting a UDO in place.

Chair Spykman noted the Planning Board and Historic District Commissions have jurisdiction over the Historic District but felt the rest of the landuse codes could be combined into one document. He referred to a slide Ms. Kessler had showed which could be published in the format of a Guidebook and could have the UDO, followed by the Planning Board standards and the Historic District Commission standards. They are still all in one place but not all in one code.

Councilor Sapeta felt this update to the landuse code is an investment in the future of the community and is something that should be carefully planned out. The Councilor stated the terms form-based code and character based code are being used as terms that mean the same thing and noted the key word here is "character". Keene has a lot of character and this process should make sure this character is retained and not something that would be detrimental to the character. The Councilor further stated when the RFP is sent out whether the City could receive bids for option 3 and an add-on for option 4 so the costs can be structured appropriately and perhaps the ability to make changes overtime.

Vice-Chair Barrett noted other developments in addition to the Food Coop that have also taken place downtown (Marriott, Arcadia Hall, Railroad Development) and felt if something like the UDO was in place, it could have been applied to these projects and felt there are other projects that would come up in the future which this could be applied to. Vice-Chair Barrett referred to Strategy 2 which talks about supporting community goals compared to UDO and asked for added clarification. Ms. Kessler stated one of the master plan goals is to address design guidelines for the downtown and form-based zoning will get closer to this goal; where buildings are located to be compatible with the surrounding area. Form-based Zoning will guide the built environment in a certain direction. A UDO that incorporates form-based zoning will look at the development standards and make sure they are in keeping with the master plan goals. Mr. Lamb added that the UDO is an organizational step not a content step. Vice-Chair Barrett asked whether it would be correct to say that form-based zoning is more about outcome and the UDO is more about implementation. Mr. Lamb agreed.

Ms. Landry asked about the cost for each strategy. She felt 2 and 4 would have a fair amount of difference with reference to cost. Ms. Landry asked whether there would be an opportunity for the Committee to look at the cost difference of these different strategies. Ms. Kessler stated what staff is looking for is for the committee to choose a strategy that best suits the goals of the project and based on that staff will identify costs and then might have to scale back depending on costs. Mr. Lamb agreed this was staff's assumption.

Ms. Landry referred to a slide which showed Form Based Zoning vs. Euclidean Zoning and asked how this would ensure there is a good mix of housing and businesses downtown. Ms. Kessler stated form-based code will look at uses and is believed to produce more mixed use

environment and can be more flexible with its uses. Whereas, Euclidean Zoning is about segregating uses where incompatible uses don't mix. Mr. Lamb added a use based ordinance is always going to be a use based ordinance and you are going to have to inject character, form or other aspects of buildings.

Ms. Landry asked with form-based zoning whether the downtown would have the same look and feel. Mr. Lamb stated it is more about the compatibility question, the overall pattern. Ms. Landry asked whether this would prevent the City from evolving into something different. Ms. Kessler stated this is a question that came up from the committee who was working with the consultant on phase 1 as to whether everything looks and feels the same way in communities that have adopted form-based code and does it rob developers of creativity. Ms. Kessler stated Keene has options as to how it wants to regulate the placement of a building and not lose the creativity aspect.

Councilor Sapeta felt strategy 3 is more conducive to business development; it cleans up the regulations but it does not address community character as much. He indicated his preference would be to use strategy 3 as a baseline and have an add-on for the RFP to add form-based code to it. If Keene went with strategy 1, this does not move development forward as much.

Strategy 2 does address community goals to a certain extent and is something that could be completed in-house.

Councilor Hansel agreed with Councilor Sapeta in that he too would not want to recommend strategy 1 and 2 at this point. However, wasn't completely sold on form-based code as he wasn't sure what to expect from it and stated he was in favor of Councilor Sapeta's suggestion of using strategy 3 and adding on form-based code to it.

Councilor Sutherland felt it would not be prudent for this group to move forward a recommendation without looking at cost analysis. He indicated the City is still beyond its fiscal policies when it comes to its debt. He did not feel the Committee had enough information to be able to vote on this item today. Ms. Kessler stated the goal today is to choose an option that best achieves their goals and staff can obtain cost estimates for the June meeting which can be reviewed at that time. She noted in 2012 the CIP allocated \$200,000 towards this effort of which some funds have been used for phase 1. The goal here is to make Keene more business friendly, streamline the process but whether this could envision as to how many buildings will be built is not something that could be estimated at this time. The Councilor stated what he is looking for is guidance on cost. Chair Spykman stated the decision is to choose a strategy that staff can obtain costs for. The Councilor stated that would mean the Committee would have only one strategy for which costs have been obtained; he is looking for costs for all the different options. Ms. Kessler stated this would be the choice the Committee would need to make as to whether staff should get cost estimates for all four options. Mr. Lamb agreed. A scope of for each option can be obtained for June. The Councilor noted one of the community goals is to be fiscally compliant.

Mr. Stout felt talking about the financial picture at this time is too premature and stated he could not understand why an investment in the future has to be based on costs of the past. Mr. Stout referred to the benefits of form-based code which allows for infill opportunities, mixed use development, provides for diverse housing, allows for urban design standards and felt the conversation should be about these items and the finances should be something discussed later and noted this committee is not going to be careless about the financial aspect. He noted to the "nebulous" concept which is something that was discussed when form-based zoning was talked

about. Mr. Stout felt form-based code has many advantages and not considering this because of financial reasons might be doing the City a dis-service.

Dr. Cusack stated when he thinks of form-based code, he thinks of Keene State and noted manufacturing does not belong at Keene State. However, the first floor of the TDS Center consists solely of a machine shop and this would not be permitted in the Euclidean Zone. He felt these are things that could be made possible with form-based code. He asked whether any of these strategies would respond easily to changes in technology and landuse. Ms. Kessler stated the goals of the community goals address issues such as this; looking at what kind of environmental protections the City would like to have and what the community should look like needs to be vetted through the community; strategy 3 or 4 could respond to these change and would look at all the existing regulations.

Ms. Landry stated she could support 3 and 4 as this would enable to City to add in form-based zoning.

Councilor Jones referred to Andre Duany who is the founder of form-based code who also talks about cost but he also talks about return on investment and asked whether “predictable process” looks at return on investment. Ms. Kessler stated “predictable process” refers to someone who wants to do business in Keene and how clear the standards are for a developer to follow. The Councilor asked whether there was a way to look at return on investment and agreed that Councilor Sutherland is correct in that we have to look at costs. Ms. Kessler stated what we adopt in Keene is unique to Keene. Portsmouth brought in form-based code to mitigate the development pressure that existed in that community, but we are not Portsmouth and trying to provide numbers might be difficult.

Councilor Hansel stated he does like form-based code and if it is going to be done it should be done in a significant way. He asked whether it was possible to expand the scope of work to include other neighborhoods and not just the downtown and how that would affect cost. Mr. Lamb stated phase 1 called for village nodes to be included and agreed this is something that could be added in.

Councilor Sutherland stated all he was looking for was guidance not hard numbers. Ms. Kessler stated the consultant for phase 1 did provide such guidance; they had six strategies and went from \$1 sign to \$6 signs to indicate a range of costs. Strategy 1 would be the easiest strategy to handle and is something staff would be able to handle in-house, whereas strategy 4 (in their case strategy 6), with no staff time spent would be the most expensive option. What they were not able to provide are hard numbers. Mr. Lamb stated if the Board cannot make a decision by June it would be ok for the Committee to wait another month.

Chair Spykman stated it has been indicated \$200,000 was set aside for this work and asked where that number come from. Mr. Lamb stated this is an internal estimate. The Chair asked whether it would be accurate to assume this is the number the Committee could expect. Mr. Lamb agreed. Phase 1 cost \$66,000.

Vice-Chair Barrett stated he supports Councilor Sapeta’s suggestion of option 3 and 4 would be the best way for the City to precede; getting prices for an add-on. The Vice-Chair asked what happens if this committee chose just one option and the council felt it was too expensive. Mr. Lamb stated the City will rewrite the scope and start over.

Chair Spykman stated the manner in which the phase 1 report read it was assumed that work for phase 2 would be done in its entirety by a consultant. However, the proposal by the staff breaks the work into different assignments to be completed by different groups of people; City staff, City Attorney, graphic designer etc. and asked what staff had in mind. Ms. Kessler stated nothing definite has been determined yet. There are different options being looked at.

A motion was made by Councilor Sapeta that the Planning, Licenses and Development Committee request staff to develop a scope of work for Strategy 3 and 4 and with an expanded option for form-based zoning that goes beyond the downtown area. The motion was seconded by Councilor Hansel.

Vice-Chair Barrett asked whether the area going beyond downtown needs to be defined. Ms. Kessler stated the Marlboro Street corridor was discussed but this is not a village node. Councilor Hansel stated his concern was the Marlboro Street corridor and the eastern portion of the City; these are areas that need to be redeveloped. Ms. Landry asked whether it would be appropriate to say arterial streets instead of village nodes. Mr. Lamb felt the committee should rely on what the comprehensive master plan refers to. Ms. Landry asked where these nodes are located – Court Street south of the roundabout, Maple Avenue by the Middle School, Park Avenue by Jack's Hardware. Ms. Kessler asked if this committee wanted to focus form-based zoning in areas other than the nodes whether it would be appropriate. Mr. Lamb stated it would be.

Vice-Chair Barrett at this juncture it might not be necessary to include every street that needed to be included in the estimate, that type of accuracy might be necessary when the RFP is sent out.

Councilor Sapeta asked whether form-based code is something that can be replicated in other areas of the City and perhaps also make changes overtime. Ms. Kessler stated it is specific to an area; form-based code in the downtown would be different to form-based code being applied on Court Street. The process however, would be similar. The Councilor asked whether the motion should be amended to include a primary growth area. Chair Spykman stated he was comfortable with the motion as presented because what are being requested now are just estimates.

Councilor Jones asked what the committee can expect on June 12. Mr. Lamb stated the committee will have a report from staff regarding costs.

The motion made by Councilor Sapeta carried on a unanimous vote.

4. Next Meeting – Monday, June 12, 2017

5. Adjourn

The meeting adjourned at 8:45 pm.

Respectfully submitted,
Krishni Pahl,
Minute Taker

Reviewed by Rhett Lamb
Edits by Lee Langella