

**CITY OF KEENE
NEW HAMPSHIRE**

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

Monday, December 12, 2016

6:30 PM

Council Chambers

Planning Board Members Present

Gary Spykman, Chair
Nathaniel Stout
Douglas Barrett
George Hansel
Pamela Russell Slack
Chris Cusack

Planning, Licenses and Development

Committee Members Present

Councilor Philip Jones
Councilor Bettina Chadbourne
Councilor George Hansel
Councilor Robert Sutherland

Planning Board Members Not Present

James Duffy, Alternate
Tammy Adams, Alternate
Christine Weeks
Andrew Bohannon
Mayor Kendall Lane

Planning, Licenses and Development

Committee Members Not Present

David Richards, Chairman

Staff Present

Rhett Lamb, Planning Director
Michele Chalice, Planner

1. Roll Call

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

2. November 14, 2016 meeting minutes

A motion was made by George Hansel that the Joint Committee accept the November 14, 2016 meeting minutes. The motion was seconded by Pamela Russell Slack and was unanimously approved.

3. Public Workshop

Ordinances – O-2016-18 and O-2016-19 – Relating to Zoning Changes. Petitioner, Mr. Jack Franks, President and CEO of Avanru Development Group LTD, proposes to:

- a) Amend the City of Keene's existing HD-1 Zoning District to include two additional street frontage locations; one section of Old Walpole Road and one section of West Surry Road. (O-2016-19)
- b) Amend the official Zoning Map of the City of Keene by changing the zoning of one parcel of land from Low Density (LD) to High Density-1 (HD-1). The total land area that would be impacted by this request is 12.9 acres. The location of the parcel is 32 West Surry Road and the tax map parcel number (TMP#) is 914-07-019. (O-2016-18)

Mr. Jack Franks of Avanru Development Group and Jocelyn Beiswenger from Sheehan Phinney addressed the Committee. Ms. Beiswenger stated she represents Avanru Development Group for this proposal. Ms. Beiswenger stated she felt this request for change from low density to HD-1 is consistent with the master plan as it encourages mixed uses within a neighborhood, and would allow for more than just single family homes and will allow for vertical development which in turn would make green space possible on this parcel. Additionally the lots developed are within

the secondary growth area and is in the Court Street activity center which again encourages mixed used development within this parcel.

Additionally, the change from Low Density to HD-1 increases walkability in the community; it is close to the Keene Middle School, YMCA and other new development in the area (Dunkin Donuts and a new bank). According to the zoning map, the area consists of commerce, high density, low density, rural, agricultural; there are single-family homes, gas station, a bank, condo association and a mobile home park

Ms. Beiswenger stated the applicant does understand the change from Low Density to HD-1 will have impact on surrounding areas, but this parcel which consists of 12 acres has a significant amount of wetlands (45%) which cannot be developed. She agreed there will be an increase to traffic but because of the area that cannot be developed this impact is going to be significantly less compared to the maximum possible units of 174.

As far as the ingress and egress, the applicant has been in contact with NHDOT and they agree there is good visibility for 12A and Old Walpole Road coming out of this parcel and stated they will work with NHDOT to get their further input. Ms. Beiswenger stated she understands the Committee is not looking at any specific project at this time but eventually things like traffic, buffer impact would be looked at by the Planning Board.

Planner Michele Chalice was the next to address the Committee. Ms. Chalice stated she was before the Committee to give them an overview of the relationship of the applicant's request to the existing ordinances. Ms. Chalice referred to the roundabout on Court Street, Old Walpole Road and West Surry Road. There are single family homes, Stone Arch Village has a variety of complexes (to the southeast), The Court located in the High Density District has about 80 two-bedroom condominiums, Tanglewood Estates with manufactured homes, The Pines with apartments, Dinsmoore Woods along Maple Avenue, commercial development - Savings Bank of Walpole, Dunkin Donuts, Seven Eleven and two other mixed use buildings.

Ms. Chalice referred to a second map which showed Summit Road, Maple Avenue and Park Avenue where there is an HD-1 District which contains an apartment complex consisting of three story buildings and they have quite a bit of setback – this is a unique aspect of HD-1. She noted to a handout which refers to the building sizes permitted in Low Density (two stories) and HD-1 (three stories). There is certainly the ability for maximum percentage occupied by structure in the HD-1 district. Minimum building setback are much broader in HD-1. Minimum greenspace for HD-1 is ten feet but this is not a requirement in Low Density.

Ms. Chalice referred to a second handout which lists allowable primary uses:

Accessory Dwelling Units are allowed by conditional use permit – permit approved from the Planning Board.

Bed and Breakfast with dining facilities – Special Exception with HD-1 – application by Planning Board.

Single family, duplex and multi-family – allowed in both zones

Institutional Uses – is also allowed in HD-1 but needs Special Exception in Low Density.

Ms. Chalice said there is a substantial wetland on the property; staff hasn't seen a full report on this wetland. It compasses 5.7 acres right in the middle of the property. Board standards required a 30 foot setback for construction to happen near a wetland. This does decrease the buildable area and may require NH Environmental Wetlands Permit.

Vehicle trips – page 23 – Southwest Regional Planning Commission has given their professional opinion as to what the increase to vehicle trips would be should this potential 12 acre parcels was to be developed. In low density it could be about 32 trips which would yield about 306 trips daily. HD-1 without the wetland could be up to 174 units in that scenario this would yield about 1,157 trips.

Ms. Chalice referred to page 25 of the Staff Report – Master Plan – she noted as the applicant has stated there are substantial aspects this particular parcel is coherent with the master plan.

Smart Growth – Ms. Chalice stated this item talks about concentrating development in places close to existing utilities, jobs, educational institutional used. This parcel has that but the challenge in this case it is trying to balance potential impacts and how those impacts outweigh how coherent a zoning request change like this would be.

Chair Jones asked if the special exception and conditional use permit requests require public notice. Ms. Chalice stated both of the processes would require abutter notice and added any permit request requires abutter notice.

Chair Spykman asked if the “maximum percentage occupied by structure” considered only in the portions that would be buildable. Ms. Chalice stated for subdivision it is only the area that could be developed and her understanding it is over the entire area. Chair Spykman clarified in that case the entire area not covered by structure in this case could be developed. Ms. Chalice agreed and added it has to be within the appropriate setbacks within the maximum percent of lot in impermeable – they cannot cover more than 75% but the minimum open space is comparatively less in HD-1 (25%) and in low density it is 55%.

Mr. Stout felt this area might be appropriate for a Conservation Residential District (CRD) and asked whether it would be allowed either in the proposed or existing zoning. Ms. Chalice stated this is a separate zoning and would have to be a separate request from the applicant. Mr. Stout asked for added information on CRD. Mr. Lamb stated since the adoption of the CRD 12 years ago there have been two approved projects. He said it was meant for the Rural District and LD and this area wouldn't see a CRD if this area was changed to HD-1 as there would be no reason to do so, as the HD-1 is much more concentrated than a CRD.

Mr. Barrett asked what kind of development could be expected if this area remained in Low Density keeping in mind the wetland area, and asked whether perhaps 10 – 15 single family homes could be expected. Ms. Chalice stated it is hard to be specific as staff doesn't have a final report on the wetlands. In the staff report it calls for 306 vehicle trips for approximately 30 units which could be reduced if there were only 10 -15 single family homes. Ms. Chalice agreed. Mr. Lamb stated he understands the Board is trying to whittle down the numbers based on what they think might be developed but felt this could be risky – waivers to alteration to wetland buffers happen regularly.

Councilor Sutherland noted that one of the permissible uses is institutional use and recalled the recent property on Wyman Road – Hillside Development and noted depending on the formation of institutional use there could be no tax revenue coming into the city.

Chair Jones felt there was a big difference between traffic for LD and HD-1 (306 versus 1,100). He added the intersection of Maple Avenue and Route 12, the route many would travel which at one time was a failed intersection because of the construction of C&S and YMCA. When the Middle School was constructed this roadway was widened but during school hours this is a failed intersection again and felt this could be a concern when project eventually gets developed. Ms. Chalice felt this would be a concern if there was an institutional use constructed here versus residential where traffic go back and forth.

Councilor Sutherland referred to the vagueness of the master plan as it relates to this project. Mixed use neighborhood is encouraged – there is no market, but you could purchase jelly donuts, pizza and alcohol and do some banking. He added language in the master plan also talks about fitting in with each neighborhood scale and density goals. The Councilor stated he has not heard anyone indicate they were looking to increase the density in their neighborhood; this is something that is seen in the downtown. He asked whether this is something the City should be considering adding – high density – given this argument.

Ms. Chalice stated this is an area in the master plan identified as a secondary growth area not a primary growth area. The primary growth is centered around downtown. This is what is referred to one of three nodes in the master plan. When the master plan was written in 2010 it was with the hope that the City would develop a neighborhood plan for each of these nodes. Councilor Sutherland stated the city has not articulated what the density target is for each of these nodes and felt there has been a lot of development in this particular area recently and asked when city planning decides when it stops. Ms. Chalice felt this was a challenging question as the city does not decide when this stops but the city provides sufficient information to a body such as this to balance the advantage versus impact – there are no exact numbers to go by.

Councilor stated this neighborhood already has density with the new development, single family homes, and manufactured homes.

Chair Spykman noted there are a number of large residential developments in this area (southeast) and under proposed zoning change and allowable uses, asked how similar a full build out would look to some of the existing larger developments in this area. Ms. Chalice felt the aesthetic would be similar, for instance to Stone Arch Village, the Court Street condominiums and apartment building. Mr. Lamb stated Ms. Chalice is referring to multi-family uses but it is not clear what a future owner might do with this property with HD-1 zoning designation. Ms. Chalice stated in the most extreme example, it would be coherent with what exists in this area.

Ms. Russell-Slack stated the master plan does encourages mixed use but nothing has been stated about walkability or using a bicycle. Ms. Russell-Slack felt this was a very unsafe area to walk. There is no sidewalk on West Surry Road and there is no room to walk on Old Walpole Road. She asked where Dinsmore Woods and the forested area are located in relation to this property, as no-one has talked about wildlife. Ms. Chalice referred to Old Walpole Road and noted the forested area starts near Sesame Street and extends the length of Old Walpole Road, whereas Dinsmore Woods begins close to the roundabout. Ms. Chalice noted beyond the forested area is completely surrounded by a residential area and did not feel there was any corridor opportunities

for wildlife movement in a coherent strip through the residential area. This concluded the staff presentation.

Chair Jones stated tonight's workshop is a communication tool only. This body does not have the ability to change the zoning. What the Planning Board can vote on tonight is whether this request is consistent with the Master Plan and what the PLD Committee can do is to request the Mayor to schedule a public hearing. Even if both votes come out in the negative the petitioner still has the right to a public hearing for which hearing abutter notice will be provided. The Chairman felt a public hearing won't happen until February.

The Chair asked for public comment.

Dr. Carey Bluhm of 44 West Surry Road addressed the Committee first. Dr. Bluhm stated as the Planning Director indicated assumptions are not being made about development on this property but if HD-1 is approved density will increase and many more uses can be added. He noted there were seven streets identified which could accommodate HD-1 but West Surry Road and Old Walpole Road are not on the list. Dr. Bluhm stated he has heard the term spot zoning and felt the change could bring in that type of zoning. He agreed Court Street has developed quite a bit but it has not existing neighborhoods.

He agreed the Master Plan emphasizes mixed use but "livability" for everyone was important. He felt this area is an entirely different world and don't want to see the area degraded. He noted to the wild life that cross this area even through people's backyards but this probably won't be the case if this area is densely developed. Dr. Bluhm noted to the number of people who are in attendance today; close 60 citizens – the Master Plan encourages citizen involvement and when the time comes to talk about how to define these neighborhoods there are many people who would be happy to work with the City on it.

Councilor Jones stated the City could suggest different zones for different portions of the city, but a petitioner always has the right request to change a zoning in any neighborhood.

Mr. Robert McNichols of 1 Glen Road began by noting to the different wildlife in his backyard. He stated his primary concern is traffic – two weeks ago it took him 15 minutes to go from his home to the hospital. Mr. McNichols stated there is traffic currently which comes in from Walpole and Vermont that come down Old Walpole Road and added to this there is also going to be the elderly housing on Wyman Road. Travelling from Wyman Road via Route 12 can be dangerous so this traffic will also now be using Old Walpole Road and Maple Avenue. He added the current traffic situation is already very dangerous.

Chair Jones clarified from staff the issue about traffic will be addressed during site plan review. Mr. Lamb agreed that this is an item which would be discussed with a more precise estimation but added this is a proper line of analysis for the Joint Committee as well to decide if they wish to change the zoning.

Mr. Dick Hamilton of 14 Southview Drive thanked the Joint Committee for their work. Mr. Hamilton stated single family is part of mixed use and added this neighborhood has already seen a lot of density happen overtime. He felt if this application is approved it invites additional applications along the two roads being addressed today. He asked the Committee to use the roundabout as the transition point between high density and low density as it exists today.

Traffic is a challenge right now and the roundabout is small. Mr. Hamilton felt the wetland area needs to be preserved. In closing, he asked that the Committee to deny the request for zoning change and use the roundabout as a buffer between low density and HD-1.

Joseph Allsop of 41 West Surry Road stated he purchased his home a year and half ago after retiring from the military. He purchased his home because of the serene nature of the neighborhood. He felt the request before the Committee will benefit the petitioner but not the neighborhood. He felt today's turnout speaks volumes to how the neighborhood feels about this request. Mr. Allsop talked about the issues with traffic and the lack of sidewalk on West Surry Road. He felt HD-1 would wreck the neighborhood.

He noted the Master Plan says zoning change needs to be smart and blend seamlessly but did not feel the change being requested would do that for this neighborhood and could affect the integrity of the neighborhood.

Mr. Allsop talked about the brain injury he suffered during his time in the military and this is one of the reasons he chose to live in this quiet neighborhood and did not feel this quiet neighborhood would continue with the requested change.

Ms. Christine Parshell of 28 Old Walpole Road began by thanking the Committee for the questions that I have posed so far which has helped tremendously. She stated as follows:
I am here tonight to voice my opposition to the proposed zoning changes at 32 West Surry Road from low density to HD-1 and the accompanying zoning changes to road frontage on Old Walpole Road and West Surry Road.

I would like to preface my remarks by briefly stating that I understand and appreciate the need for affordable housing in our community. My husband and I have benefited from affordable private market rentals, HUD supported workforce housing, and we used a NH first time home buyer's loan to purchase our home on Old Walpole Road.

I also appreciate the unique character of our city; Keene's Master Plan recognizes the importance of parks, greenways, and other open spaces. By establishing areas of primary growth closer to the city's core, and lower density development around its edges there is an attempt to limit sprawl which would make Keene look like too many other places I have been.

The neighborhoods north of the Maple Avenue rotary consist of low density housing. Creating a new HD-1 zone here disrupts this pattern and disturbs the character of the surrounding community. The fact that higher density development exists south of the rotary on Court Street is not a reason to extent such development on West Surry Road and Old Walpole Road. This is an invitation to further sprawl. I was not surprised when this parcel of land went up for sale, but I'd always imagined that any development taking place across the street from my home would be in keeping with existing housing.

Even here on the city's edge, Old Walpole Road is a very busy road, though thanks to the snowfall today, this morning was one of those rare times when the road was quiet. During the summer, conversations stop as motorcycles speed by, and sleep is disturbed. We keep our front windows closed year round because of the noise and road dust. When I heard the increase to the number of trips it was very disturbing to her.

I have a number of concerns about increased traffic on Old Walpole Road. I walk out into the road daily to get my mail, and on days like today, as I shovel my driveway and mailbox, I must constantly watch for passing cars. This bit of road and the area around the rotary are prone to fog even when it is clear a short way down Court Street and the rotary itself can be quite icy. I worry that these conditions will make driving more hazardous with an increase in traffic. It will certainly make it harder for me and my neighbors to safely leave our own driveways. It is also likely that drivers wishing to bypass the rotary will use side streets such as Sesame Street which have no sidewalks and were not meant to serve as thoroughfares.

Ms. Parshell stated she loves the idea of a walkable community but right now the only things she can walk to are junk food and alcohol and agreed the master plan does not dictate what business could locate in a particular area but this node is of not much use to her.

With respect to the wetland, Ms. Parshell stated it is not contiguous to the other greenways but the animals don't know that. In closing asked that the Committee not consider this zoning change and take into consideration the impact it would have on the neighborhood.

Ms. Susan Landers Gilbert of 8 Southview Drive submitted a letter to the Committee. She further stated the roundabout in this neighborhood came about because of certain grant monies and was not meant for the traffic we are going to see if this HD-1 zoning is approved. She further stated traffic from the new Hillside Village Retirement community is likely to use Old Walpole Road as well to access the hospital.

Ms. Landers Gilbert referred to the following language from the Master Plan Neighborhoods - *Our neighborhoods – whether urban, suburban, or rural – provide a variety of opportunities. These include diversity in age, housing choice, income levels, lifestyles, economic opportunities, and transportation connections. There are even opportunities for preservation of culture and heritage in each of these neighborhood areas.*

Ms. Landers Gilbert felt they have satisfied this requirement in their area and don't need to develop anymore with HD-1 for what the master plan is requiring. She felt changing this area to HD-1 would be detrimental to the neighborhood and once it is changed you can't go back and as a result commercial activity will increase and the character and charm of the area will change. Properties north of the rotary will decrease and hoped this area will not be rezoned.

Ms. Leah Garrapy 41 West Surry Road talked about the Green Wagon Farm the neighborhood utilizes and expressed concern over the extra density that would cause pollution to be sent downstream to this farm. Ms. Garrapy stated she was also concerned about traffic which makes it difficult for her children to play outside and referred to the blind corner close to where she lives. She talked about the already developed properties that have still not been utilized and asked that they be looked at this first before more housing is added.

Ms. Daniel Prial of 67 Forest Street stated he is not an abutter to this property but heard about it at the Friends of Open Space meeting. He indicated the reason they choose to live off Court Street is so that they can walk to downtown where there is activity. However, there are also people who are looking for more peace and quiet and felt this zoning does not match either of those two dreams. He indicated this is not the type of housing he will be looking for and not something he is in support of.

Mr. Michael Smeltz of 11 Bergeron Avenue stated he is not an abutter to this property. Mr. Smeltz stated he wanted to speak against the ecological damage that could happen to the wetlands and wildlife should this zoning be approved. Mr. Smeltz stated it has been recognized there is a need for high density housing but hoped this would be concentrated in the core of the city as noted in the Master Plan.

Ms. Sarah Harpster of 32 Old Walpole Road addressed the Committee next. Ms. Harpster stated she purchased her home five years ago and was looking for a place close to the community but something on the rural side as well. Ms. Harpster stated they have a corridor that is utilized by wildlife and across her home is a forested area which also houses wildlife. Traffic is also of concern to her. Ms. Harpster talked about the property values and talked about a house that was recently occupied for more than the market value yet her property went down in value. She felt if a high density was approved on this land they would look to vacate their home but could be locked in because the value of their property would have decreased. She thanked the Committee for their time and to consider the neighborhood when making their decision as well as including them in this process and could help to define the character of this neighborhood.

Ms. Eloise Clark of 1185 Roxbury Road, Keene read into the record the following letter as a representative of the Friends of Open Space.

At the December 7, 2016 meeting of the Friends of Open Space in Keene Board members passed a resolution in strong opposition to the proposed zoning change for the Kingsbury property located at the juncture of Old Walpole and West Surry Roads.

Friends of Open Space members feel the change from Low Density to High Density is inappropriate for the site. This bucolic 12-acre property currently serves as an attractive gateway at the north approach to Keene. Past Open Space Master Plans have emphasized the desirability of attractive "view sheds" within the City. This property certainly qualifies! This 12-acre site also supports a wetlands complex that would be subject to the Surface Water Protection Ordinance and possible wetland remediation measures.

The Kingsbury property is surrounded on all sides by residential areas. When change comes to this corner it should be in keeping with the current neighboring developments. Change to High Density usage would be out of character for the area. No doubt it would decrease neighboring property values while increasing traffic woes on the principal roads. High density housing in this area might also increase school enrollment in a part of the City that as recently seen the neighboring school close. What might be the implications of that for City taxpayers?

The 2012 Master Plan does not designate this area for High Density use. There are other options on seven other City streets more compatible with High density use. As you know there are currently several high-density housing options being built or under consideration in Keene. Making a zoning exception for this site could be construed as "spot zoning" and be subject to legal challenges.

Thank you for your careful consideration of this issue.

Ms. Eileen Dahl of 51 West Surry Road stated she moved to Keene from a densely populated area in Florida. She stated she is familiar with urban sprawl and inappropriate use of land. Ms. Dahl stated the reason they located north of Keene was to live in a more rural area. She felt any type of high density use would be a detriment to property values and the neighborhood that exists

here and would change the character of this neighborhood. She noted trying to get out of her driveway is already very difficult and any more traffic would only make this situation worse.

Mr. John McGinnis of 2 Southview Drive addressed the Committee next and stated he has been a resident of Keene since the mid-80s. Mr. McGinnis expressed concern about the traffic and pointed out that the rotary that exists here is the smallest rotary in this city and HD-1 would only add to this issue. Any institutional use would add more truck traffic to this rotary which is already hard to navigate. He asked the Committee to consider the impact of traffic for this proposal.

Mr. Quinn Farrar of 67 West Surry Road stated he relocated to Keene about 12 years ago. He indicated he was given the opportunity to relocate to 12 different communities but they chose Keene. He indicated HD-1 does not fit in this area and would have a dramatic impact on this neighborhood. He felt the city as ample opportunity for high density development but this is not one of those areas.

Ms. Jan Lyndes of 44 West Surry noted the HD-1 zone has the capacity to provide for institutional use. She also indicated she has heard commentary that this 12.9 acres could provide for 174 homes causing 1,174 trips at full build out but because of wetlands it could be reduced but it was also stated the wetlands is only 44%. She asked that these numbers be looked at more closely

Mr. Lucius Parshall of 28 Old Walpole Road stated in the last few years the rear portion of his property has seen a change to zoning and now houses a duplex and questioned where this ends. Mr. Parshall asked who decides on the number of curb cuts. Chair Jones this is an issue that would be decided by the Planning Board.

Chair Jones stated the Committee is in receipt of letters from the following individuals:

Eloise Clark on behalf of Friends of Open Space

Tim and Talu Robertson

Brian and Renette Riley

Carey Bluhm

Jill Cielinski

Catherine Snow and Paul Ladelle

Vernon Peter and Geraldine Hogg

Francis Gooding

Robert Nichols

Mimi Barber

Mr. Lamb stated these letters along with the Staff Report will be moved forward to the City Council.

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

Ms. Russell-Slack asked the Chairman to explain the composition of the Joint Committee to those present tonight and the next step in the process.

Chair Jones stated this Body consists of members from the Planning Board and five Councilors who consist of the Planning, Licenses and Development (PLD) Committee. After tonight a report will go to the Mayor (2 cycles of the Council meeting). He will set a date for public hearing

before the City Council (the Body who would vote on this change). That hearing would happen sometime in February. A butter notice will be sent for this hearing. The Mayor will then send the item to the PLD Committee where public testimony is not taken and then sent back to the City Council for a vote.

Jocelyn Beiswenger from Sheehan Phinney addressed the Committee again and stated she appreciated the concerns raised tonight. She went on to say the 45% wetlands does include the buffer area. She noted even with the wetlands there could be about 25-30 single family homes constructed on this property. Ms. Beiswenger added with the zoning change what could be expected is a diverse housing options and affordable housing options which would be consistent with the master plan. Mr. Jack Franks from Avanru Development added the applicant has a taken a long time to pull this application together which would suit the city's needs. He indicated they have heard a lot of concerns and this is something they will address. He talked about the 25-30 single family homes they could construct under the current zoning. With respect to traffic – Mr. Franks stated they would address the city's concerns in the best possible manner.

Councilor Hansel stated zoning change request is always difficult because it is always difficult to see what the proposed development would look like. He stated that once you change the zone it is changed forever. The Councilor stated the city has approved such zoning changes with a development in mind but have seen something entirely different and hence he moves very cautiously with such requests. He felt it is up to the petitioner to tie this request to the master plan and he has not seen this properly addressed. The master plan talks about this type of development should be considered if it fits with the neighborhood scale and density goals. While this is a concept that has not been developed as a city, from the testimony heard tonight, that is not something that is apparent. The Councilor felt as a result he would consider this as not being consistent with the master plan. He also added a public hearing will be scheduled on this item regardless of what the vote is tonight and even though there are individuals on this body who would vote in affirmative to set a public hearing it does not necessarily mean they are in favor of this zone change.

Mr. Barrett stated he agrees with Councilor Hansel and the portion of the master plan the councilor referred to is what he has been focusing on. Because the city has not developed goals and density for this area it is up to the Committee to listen to the neighborhood who have made it abundantly clear in their view this rezoning will not fit their neighborhood density goals and as a result he would have difficult time finding this change consistent with the master plan.

Chair Jones reminded the Committee that the master plan is a template that is subject to interpretation. This is the reason the City has a Planning Board and not a Planning Czar.

Dr. Cusack felt unless there is an institutional use brought into this property he can't see this as being considered a mixed use. He felt there is a distinction between the area south of the roundabout and north of the roundabout. This parcel is surrounded by low density on all sides and hence wasn't convinced this was the best option for this parcel of land.

Councilor Sutherland stated the master plan is six years old and some of the data in it is dated as well. The Councilor stated before the roundabout was constructed the intersection of Court Street, Maple Avenue and West Surry Road was considered to be very unsafe as far as accidents were concerned. . He referred to a recent incident where traffic coming south bound off the roundabout would not yield to children trying to cross this intersection. He felt there are a

number of other challenges to address in this node and increasing the density would not be the way to do this.

Councilor Chadbourne stated she appreciated all the people who came to speak on behalf of this neighborhood and letting the Committee know the quality of life will be negatively impacted by this change. The Councilor agreed it would. She went on to say that she values what the neighbors say and her vote is dependent on that. Safety and traffic is also alarming and as a person who rides a bicycle on West Surry Road, this is already a dangerous street and couldn't imagine what more traffic would do.

Mr. Stout stated he agrees with what has already been said but also recognizes property rights which should also be considered. Mr. Stout agreed this is a beautiful part of Keene. He went on to say there has been no mention of addressing the congestion that occurs in this part of the city. With respect to the wildlife corridor, he felt this is a viable argument as well.

Chair Jones asked whether a buffer zone is possible with an HD-1 zone. Mr. Lamb stated the only other area the City could look at for an option such as this would be the other end of Maple Avenue (Maple & Park) where HD-1 exists now. This area already has relatively high density development already. He felt this is something the Committee could consider but added there are some internal setbacks already built into it (50-foot setback) especially if there are Low Density Districts that abut this parcel.

Chair Spykman asked for the difference between High Density and High Density-1. Ms. Chalice referred to page 20 of the Staff Report refers to some of the differences. For instance the three-story structure set back 50 feet exists in High Density-1 but does not exist in High Density. High Density has a minimum lot size of 6000 square feet and 2 acres for High Density-1. The minimum lot size per dwelling unit is 5,000 square feet for High Density and 3,000 square feet for High Density-1. The building setback for high density is 15 feet and High Density-1 it is 50 feet.

A motion was made by George Hansel that the Planning Board find that O-2016-18 and O-2016-19 – Relating to Zoning Changes consistent with the Master Plan. The motion was seconded by Nathaniel Stout. The motion failed on a 0-6 vote.

A motion was made by Bettina Chadbourne that the Planning, Licenses and Development Committee recommend the Mayor to set a public hearing on O-2016-18 and O-2016-19 – Relating to Zoning Changes. The motion was seconded by George Hansel and carried on a unanimous vote.

4. **Continued Public Workshop**

Ordinances - O-2016-01 and O-2016-02 – Relating to Zoning Changes. Petitioner, City of Keene Planning Department, requests the creation of three zoning districts; a Business Growth and Reuse District, a Neighborhood Business District and a Residential Preservation District and the associated zoning map changes. The two hundred and fifty-six parcels of land affected by this request total an area of 266 acres. The project area is generally east of Main Street, south of Water Street, west of Eastern Avenue and north of Baker Street.

Ms. Chalice began by introducing Gary Schneider of the Code Enforcement Department. Ms. Chalice stated the reason these definitions became part of the project is because of the input received at the public process. Ms. Chalice referred to a handout and stated the terms that have

been problematic are shown in the orange box – staff is suggesting these terms be reserved for further exploration during the landuse code update process, phase 2 project. The terms in the green box are ones the committee had consensus on. The third set are the terms most specific to the issues involved.

Ms. Russell-Slack stated she would like to see a definition for the term Tiny House. Ms. Chalice stated currently there is no definition for Tiny House and this is something staff has not explored. At the moment it is not possible to say if Keene permits Tiny Houses, but the City does have a definition for ADU – Accessory Dwelling Unit. Mr. Schneider stated ADU's are currently only permitted in low density, low density-1 and rural district. Starting in June 2017, state law states ADU's cannot be prohibited in any zoning district. He further stated he thinks of a Tiny House as something on wheels and this is not permitted in the city; a house has to be on a foundation with water and sewer connected to it. Keene has two mobile home parks; Tanglewood Estate does allow recreational vehicles, Wheelock Park does permit these as well – these homes on wheels are not permitted elsewhere in the city.

Ms. Chalice referred to a question raised by Mr. Barrett at last month's meeting about "detached units" – Ms. Chalice stated she had discussed this issue with NH Housing; RSA 674 does give municipalities the authority to permit detached units at their discretion.

Chair Spykman referred to the difference between restaurant and bar; he felt this is a rather difficult term to decipher and felt it should be left in the pink section for right now.

Chair Jones because of the lateness of the hour suggested focusing on section three for tonight. The Committee agreed.

Councilor Sutherland asked about the term for "exterior storage" and the term "restaurant vs. bar". Ms. Chalice stated the definition suggested by staff was deemed too complex and not in keeping with the redevelopment thought of for Marlboro Street. Hence, staff suggests this term be reserved for further study but bulk storage remains within the definitions.

Ms. Chalice stated with reference to the term "restaurant" – currently the definition says as follows:

any place where food or drink is prepared or served to the public for consumption on the premises. The term "food" includes beverages. The suggested change means a structure in which the primary use is the preparation, cooking, consumption and sale of food and beverages.

Ms. Chalice said the issue in November is to go with the term already used by the State but added the State does not have a term for bar. Keene administers the food portion of a restaurant and the Liquor Commission administers the restaurant/beverage/wine/liquor licenses. The suggestion is to look at how other towns similar to Keene are addressing the definition for bar versus restaurant.

Regarding Bed & Breakfast, Inn/Tourist Home vs. Bed & Breakfast, with Meeting/Dining Facilities Ms. Chalice stated:

What is the distinction between these two terms? How are they different from a motel/hotel? The idea is to revise the existing definition to be two different sizes and for the aspect of what the delineation is between hotel and motel is to add "*meals shall be served for registered guests only*" – Bed & Breakfast, with Meeting/Dining Facilities. Councilor Hansel stated he has stayed at Bed and Breakfast facilities where breakfast is served to non-guests as well.

Chair Spykman asked what the difference was between a small hotel and a Bed & Breakfast. Mr. Schneider stated for bed and breakfast the owner has to live on site. Chair Spykman asked why this has to be broken down so finely. Councilor Sutherland felt the reason this is being broken down is because in some neighborhoods bed and breakfast would be permitted but not a hotel. A bed and breakfast is a repurposed home and can go back to being a home and felt it was important to maintain these distinctions. Mr. Lamb referred to the following language:

“...means a house or portion thereof where short term lodging rooms and meals are provided. The operator of the bed and breakfast shall live on the premises.

Mr. Lamb felt the operator living on the premises is the point Mr. Schneider was trying to make – he stated it is clear to him with this sentence the lodging and meal is provided together and this is the premise of the term. Mr. Lamb added guests who do not stay at the bed and breakfast should not be invited to dine in a bed and breakfast because the site would then start looking like a restaurant. He further stated because this is High Density it would be important to limit it to meals associated with lodging.

Chair Jones noted the issue before the Committee is the following sentence:

“...meal served and shall be served to registered guests only.” The Chair asked whether the Committee wants this restriction. Councilor Hansel felt it is hard enough for some of these small businesses to operate and would like to see it without that restriction. The Councilor asked whether a bed and breakfast with a restaurant in it is permitted in the city. Mr. Schneider stated the way it is written now, he would say no. Councilor Sutherland did not feel this restriction was necessary either and referred to a small organized meeting which could meet and provide themselves with a snack. Mr. Lamb stated it is about zoning decisions that are made on a daily basis and language such as this is never anticipated and trying to be precise as you can is important. He stated it could be changed, but when that happens a restaurant will now be permitted in high density where 50 people are now showing up and parking on neighborhood streets. Mr. Barrett stated he is in favor of leaving in the restriction and noted to the example Councilor Sutherland referred to and added a small group meeting like that would not cause for enforcement and felt both of these enforcement issues are complaint driven and common sense would prevail in an instance such as that. Councilor Chadbourne stated she too agrees with leaving in the restriction. The committee decided to leave in the restriction.

Building – means a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property.

Revised definition – Any structure used or intended for supporting or sheltering any use or occupancy.

Ms. Chalice stated the question last month was whether a concrete pad would qualify as a building. Staff feels removing the term “supporting” would disqualify a concrete pad as a building.

Mr. Barrett asked about a gas canopy. Mr. Schneider stated he would consider a gas canopy to be a structure.

Councilor Sutherland asked how this would affect a temporary structure. Mr. Schneider stated anything over 2,000 square feet would require a permit and they would also need to comply with zoning as far as setbacks.

Councilor Chadbourne asked about garden sheds. Mr. Schneider stated if it is 125 square feet or less it does not need a building permit and does not need to comply with zoning. However, only one such structure would be permitted which does not need a building permit and does not comply with zoning.

Bulk Storage – The outdoor storage of a product or material in large quantities.

Ms. Chalice stated this definition was not sufficiently detailed to encompass the scope of potential future uses that could be possible within the proposed Business Growth & Reuse District. However, the suggested “Exterior Storage” term and definition is too complex and needs more work. Staff recommends keeping the current definition of “Bulk Storage” for now with further study to come. Example of bulk storage is Cheshire Oil on Route 101, Hamshaw Lumber and Home Depot also have bulk storage. Mr. Lamb stated “Ground Up” in Swanzey would also fall under this definition.

Duplex/Two Family Dwelling – Ms. Chalice stated the last sentence of this proposed definition adds a level of complexity that is not useful. In answer to other questions posed at the November 14 Joint meeting regarding specifics and differing examples of the term: Access between the units would violate the building code. A multi-dwelling is three or more units, and a two-family with one exterior entrance could still be considered a two-family dwelling if there are two separate entrances in the interior of the building. Staff therefore, recommends removing the last sentence of the proposed definition.

Dwelling, Duplex/Two Family Dwelling – means one building designed, occupied or intended for occupancy by two separate families; each a complete, independent living facility with separate, permanent, full provisions for sleeping, eating, cooking and sanitation. Each of the two dwelling units shall provide complete internal access to all rooms in the unit.

The committee was comfortable with the way this definition is written.

Mr. Barrett asked about a common room that is shared but does not have internal access. Mr. Lamb stated it does not preclude a common space.

Mixed-use Development – Ms. Chalice stated the term “mixed use” has traditionally been used to describe the mix of uses that happens over time, for example, in a strip development. For purposes of the Marlboro Street Rezoning Project, the committee wanted a term that more closely aligns with conscious, planned, mixed uses envisioned for the proposed Business Growth and Reuse District as well as the proposed Neighborhood Business zoning district. A familiar example is that of a bakery shop on the first floor with the baker living upstairs of the same building or a future vision of an innovative bicycle manufacturer for example, living above her workshop. Currently “Mixed Use” means “a combination of different permitted uses within a single building or lot.” Staff agrees with the Committee on not wanting to limit future combinations of possibilities and recommends simply adding the term “Development” to this existing, broad term to clarify intent.

Nursery/Greenhouse – Currently the definition is “a place where plants are raised or grown”. Staff recommends the following: “an enterprise that conducts the retail and/or wholesale business of plants grown on the premises, as well as accessory items directly related to their care and maintenance.” Question posed at the November 14, Joint meeting: “What is Agway - where

plants are delivered for immediate sale?” Answer: Agway is a retail sales establishment. The selling of plants not grown on premises is considered a form of retail. Mr. Schneider stated another example would have been the structure that didn’t get built at the transfer station. Mr. Stout asked about the ELM Institute. Mr. Lamb stated the element here to remember is the selling component – the ELM Institute is more about research and sale is secondary.

Research and Development Laboratory – In this instance as well, staff simplified the definition to focus the allowed activities. The Committee expressed concerns that the second half of the proposed definition unnecessarily limits potential accessory uses. Staff concurs. Therefore, the existing definition of “a place devoted to activities engaged in refinement, investigation or experimental study of methods to improve processes or products. Manufacturing of products is not included within this definition” would change to “a structure or complex of structures designed or used primarily for research development functions.” related to industry and similar fields of endeavor that do not involve the mass manufacture, fabrication, processing, or sale of products. An additional question regarding this term was posed at the November 14, Joint meeting: “Can’t we use a more standardized definition from SIC?” Answer: The SIC or U.S. Standard Industrial Classification has been replaced by the North American Industry Classification System (NAICS). Markem and Timken are definitely examples are accessory uses for research and development.

Chair Jones opened the session for public comment. There was no public comment.

A motion was made by Gary Spykman that the Joint Committee continue this public hearing to the January 9, 2017 meeting. The motion was seconded by George Hansel and was unanimously approved

5. **Next Meeting** – Monday, January 9, 2017

6. **Adjourn**

The meeting adjourned at 10:00 pm.

Respectfully submitted,

Krishni Pahl,
Minute Taker

Reviewed by Rhett Lamb, ACM/Planning Director
Edits, Lee Langella