



KEENE CITY COUNCIL
Council Chambers, Keene City Hall
August 18, 2022
7:00 PM

ROLL CALL

PLEDGE OF ALLEGIANCE

MINUTES FROM PRECEDING MEETING

- July 21, 2022

A. HEARINGS / PRESENTATIONS / PROCLAMATIONS

B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS

1. Confirmation - Partner City Committee

C. COMMUNICATIONS

1. Keene Kiwanis Club - Request to Use City Property - Tree Lighting Ceremony
2. Councilor Filiault - Spectrum Service Issues
3. Councilor Greenwald - Designating City Parks - Drug-Free and Smoke-Free Zones

D. REPORTS - COUNCIL COMMITTEES

E. CITY MANAGER COMMENTS

F. REPORTS - CITY OFFICERS AND DEPARTMENTS

1. Purchase & Sale of City-owned Rail Spur - City Attorney

G. REPORTS - BOARDS AND COMMISSIONS

1. Relating to Amendments to the City of Keene Land Development Code Ordinance O-2022-09-A

H. REPORTS - MORE TIME

I. ORDINANCES FOR FIRST READING

1. Relating to Water and Sewer Utility Charges Ordinance O-2022-10
2. Relating to Amendments to the Business, Growth and Reuse District - Recreational/Entertainment Facility - Indoor Ordinance O-2022-11

J. ORDINANCES FOR SECOND READING

K. RESOLUTIONS

NON PUBLIC SESSION

ADJOURNMENT

A regular meeting of the Keene City Council was held on Thursday, July 21, 2022. In the absence of the Honorable Mayor George S. Hansel, the City Clerk, Patricia Little, called the meeting to order at 7:00 PM. Roll called: Bryan J. Lake, Michael J. Remy, Gladys Johnsen, Michael Giacomo, Randy L. Filiault, Andrew M. Madison, Robert C. Williams, Philip M. Jones, Bettina A. Chadbourne, Catherine I. Workman, Mitchell H. Greenwald, Kate M. Bosley, and Thomas F. Powers were present. Kris E. Roberts was absent. Having declared a quorum physically present, Raleigh C. Ormerod—who had the Council’s permission to participate remotely—stated his location, that he was participating remotely due to health issues, and that he was alone. A motion by Councilor Bosley to elect Councilor Powers as temporary Chair was duly seconded by Councilor Greenwald and the motion carried on a unanimous roll call vote. Councilor Roberts was absent. Councilor Powers acted as Chair of the meeting. Councilor Remy led the Pledge of Allegiance.

ANNOUNCEMENTS

Chair Powers announced Councilor Remy’s birthday on July 17. He also announced the Council’s vacation, beginning with the cancellation of the July 27–28 MSFI/FOP meetings, the August 4 Council meeting, and the August 10–11 PLD/FOP meetings. The Council will return to its normal meeting schedule for the August 18 meeting.

MINUTES OF THE PRECEDING MEETING

A motion by Councilor Bosley to adopt the minutes of the July 7, 2022, regular meeting was duly seconded by Councilor Greenwald. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

PROCLAMATION – SPECIAL OLYMPICS

Chair Powers read a Proclamation extending the official congratulations from the City of Keene to the coaches and participants of the Special Olympics NH team and called upon all citizens of Keene to join in congratulating the members on their outstanding display of athletic ability, strength, and thrilling victories, as well as the pride and joy they bring to this community. Chair Powers presented the proclamation to Director of Parks, Recreation, & Facilities, Andy Bohannon, Mike Sulsey, and four Special Olympics participants. Mr. Bohannon spoke on behalf of the Parks and Recreation program in congratulating the members.

NOMINATION

Mayor Hansel nominated Doris McCollester to serve as a regular member of the Partner City Committee, with a term to expire December 31, 2025. Chair Powers tabled the nomination until the next regular meeting.

CONFIRMATION

Mayor Hansel nominated Pamela Russell-Slack and Justin Somma to serve as regular members of the Library Board of Trustees, with terms to expire June 30, 2025. Mayor Hansel also

nominated Randyn Markelon to serve as an alternate member of the Planning Board, with a term to expire December 31, 2026. A motion by Councilor Bosley to confirm the nominations was duly seconded by Councilor Greenwald. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts absent.

COMMUNICATION – COUNCILOR PHILIP JONES – RESOLUTION IN SUPPORT OF A “PROTECT OUR POLICE BILL”

A communication was received from Councilor Jones, requesting the drafting of a Resolution that would request legislation be enacted which would outlaw the owning, storing, buying, selling, distributing, manufacturing, or custom making of any gun loading ammunition designed to penetrate bulletproof armor. Chair Powers referred the communication to the Municipal Services, Facilities, and Infrastructure Committee.

PLD REPORT – KEENE ELM CITY ROTARY – USE OF CITY PROPERTY – CLARENCE DEMAR MARATHON

Planning, Licenses, and Development Committee report read, recommending the Elm City Rotary Club be granted permission to sponsor the Clarence DeMar Marathon on September 25, 2022, subject to the signing of a revocable license and indemnification agreement and the submittal of a certificate of liability insurance in the amount of \$1,000,000 listing the City of Keene as an additional insured. This license is conditional upon the petitioners providing an adequate number of volunteer race marshals to ensure runner safety along the course and is subject to any recommendations of City staff. The petitioner agrees to absorb the cost of any City services over and above any amount of City funding allocated in the FY 23 Community Events Budget. Said payment shall be made within 30-days of the date of invoice. A motion by Councilor Bosley to carry out the intent of the Committee report was duly seconded by Councilor Giacomo. The motion carried unanimously on a 14–0 roll call vote. Councilor Roberts was absent.

FOP REPORT – ACCEPTANCE OF FEDERAL FORFEITURE MONIES – POLICE DEPARTMENT

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to accept and expend Federal forfeiture monies in the amount of \$22,404.45. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

FOP REPORT – FY22 DOJ JUSTICE ASSISTANCE GRANT – POLICE DEPARTMENT

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to co-apply with the County of Cheshire and to accept the U.S. Department of Justice FY22 JAG in the amount allocated to the City of \$5,554. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded

by Councilor Lake. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

FOP REPORT – PRIMEX CONTRIBUTION ASSURANCE PROGRAM (CAP) – WORKERS COMPENSATION – HUMAN RESOURCES

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to enter into and execute an agreement extending participation with Primex3 in a multi-year Contribution Assurance Program (CAP) through the calendar year 2025 providing for mitigation in the event of adverse experience, and assurance of predictable contributions for future workers' compensation insurance. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

FOP REPORT – LEASE AGREEMENT WITH THOMAS TRANSPORTATION – AIRPORT DIRECTOR

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute a lease with Thomas Transportation for a portion of the Airport terminal parking lot for parking of their customers' vehicles. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

FOP REPORT – ENGINEERING AGREEMENT WITH MCFARLAND JOHNSON FOR THE AIRPORT FENCING PROJECT – AIRPORT DIRECTOR

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute a professional engineering services contract with McFarland Johnson for the Preliminary Design and Environmental Assessment for the airport wildlife perimeter fence project. Discussion ensued with Councilor Williams thanking the Airport Director for his work to keep the fence out of the valuable wetland while also keeping wildlife off the runway and meeting FAA requirements. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent.

FOP REPORT – DESIGN-BUILD SERVICES FOR THE CREATION OF A NEW SKATEPARK – PARKS, RECREATION, AND FACILITIES DIRECTOR

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute a professional service contract with Spohn Ranch, Inc. for design-build services required for the creation of a new skate park for an amount not to exceed \$225,000.00 with funding to come from Project Cost Center (90317). A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake.

The City Manager spoke to this matter. She said the City had negotiated and executed a purchase and sales agreement with Growers Outlet, LLC., for a land swap and purchase of property. The LLC is the owner of the former Findings property at 160 Water Street, which abuts the Patricia T. Russell Park. The land swap is for the City's property at 0 Gilbo Avenue, currently the Skatepark. She was excited to announce this news and move forward with the design of the new Skatepark at 160 Water Street. The land swap and purchase allow for incorporating the Skatepark into the Russell Park improvements and creates options for flood mitigation in this area, which has seen significant flooding in the past. The new owners of the Findings property are interested in a commercial building that they think would fit nicely in the overall development of Gilbo Avenue. The estimated closing date is September 1.

Councilor Jones spoke in favor and asked whether moving the Skatepark would allow Keene State College to extend Wilson Avenue as they have wanted for many years. The City Manager said the land swap would not make that happen in itself; there would need to be additional work to straighten, extend, and connect Wilson Street to Gilbo Avenue. There is language included in the purchase and sales agreement that discusses the need to address Wilson Street in the future. The motion carried on a unanimous 14-0 roll call vote. Councilor Roberts was absent.

FOP REPORT – LOWER WINCHESTER RECONSTRUCTION PROJECT – CONSULTANT SELECTION – CITY ENGINEER

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute an Engineering and Technical Services Agreement with McFarland Johnson, Inc. for the Lower Winchester Street Reconstruction Project for an amount not to exceed \$480,000.00. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous 14-0 roll call vote. Councilor Roberts was absent.

FOP REPORT – THOMPSON ROAD REPAIR – CONSULTANT SELECTION – CITY ENGINEER

Finance, Organization, and Personnel Committee report read, recommending that the City Manager be authorized to do all things necessary to negotiate and execute an Engineering and Technical Services Agreement with John Turner Consulting, Inc. for the Thompson Road Repair & Stabilization Project for an amount not to exceed \$60,000.00. A motion by Councilor Remy to carry out the intent of the Committee report was duly seconded by Councilor Lake. The motion carried on a unanimous roll call vote. Councilor Roberts was absent.

CITY MANAGER COMMENTS

The City Manager began by reporting that due to our work transitioning the City to a new financial software system the Revenue Office will need to be closed next Wednesday, July 27. We encourage people to go to the City's website to access online services.

Next, the City Manager shared that on Tuesday, July 26 at 6:00 PM there will be a community forum regarding the redesign of Wheelock Park campground for a new disc golf and dog park. The City hired Dubois & King consulting firm to facilitate a concept plan with the purpose of understanding the community's needs and mapping out the required space for both amenities to be included. On Tuesday, there will be a public forum to present the draft plan and answer questions from the public. This forum will take place in the horseshoe pavilion located in the rear of Wheelock Park. The City Manager announced that with some compromise from both the dog park interest group and the disc golf group, it does appear there is space for both to be located in this space.

The City Manager continued sharing an anonymous social media post:

Late this morning, I stopped to get gas and apparently was too distracted by the 1957 Desoto Wagon in front of me. I must have left my wallet open on top of my car and drove off. Some wonderful City of Keene employee found my wallet and its contents all over Maple Ave. He stopped to pick up as of as he could and delivered it. Many thanks to the City of Keene employee that took the time to save me so much trouble.

The Manager stated she didn't know who the employee was and it could have been anyone-just a nice example of the great group people we are lucky to have working for the city.

The City Manager wished the City Council a good summer break.

ACCEPTANCE OF DONATIONS – FINANCE DIRECTOR/TREASURER

A memorandum was received from the Finance Director/Treasurer recommending the City Council accept the donations identified in her memorandum. A motion by Councilor Remy to accept the list of donations below and that the City Manager be authorized to use each donation in the manner specified by the donor was duly seconded by Councilor Lake. The motion carried unanimously on a 14-0 roll call vote. Councilor Roberts was absent.

- The Keene Parks, Recreation and Facilities Department received two donations to be used for the Human Rights Committee collaboration with the Keene International Festival. \$1,000 from Jennifer Alexander for event logistics and \$1,000 from Saving Bank of Walpole for event logistics.
- The Keene Parks, Recreation and Facilities Department received a donation in the amount of \$3,500 from the Pathways for Keene and that the funds be used toward a new kiosk at the Ammi Brown Trail trailhead.
- The Keene Fire Department received a \$500 donation from Tobias and Brenna Iselin, parents of Henry Iselin who passed away in November 2020, and was close to the members of the Keene Fire Department.

ORDINANCE FOR FIRST READING – RELATING TO AMENDMENTS TO THE LAND DEVELOPMENT CODE – RURAL DISTRICT AND CONSERVATION RESIDENTIAL DEVELOPMENT SUBDIVISION REGULATIONS – ORDINANCE O-2022-09

A memorandum was received from Senior Planner, Mari Brunner, recommending that the City Council refer Ordinance O-2022-09 to the Joint Committee of the Planning Board and Planning, Licenses, and Development Committee. Chair Powers referred Ordinance O-2022-09 to the Joint Committee.

ORDINANCE FOR FIRST READING – RELATING TO PARKING RATES – ORDINANCE O-2022-08

A memorandum was received from Parking Operations Manager, Chelsea North, recommending that Ordinance O-2022-08 be referred to the Finance, Organization, and Personnel Committee for their review and recommendation. Chair Powers referred Ordinance O-2022-08 to the Finance, Organization, and Personnel Committee.

ORDINANCE FOR SECOND READING – RELATING TO AMENDMENTS TO THE LAND DEVELOPMENT CODE – MILTI-FAMILY RESIDENTIAL DWELLINGS

Planning, Licenses, and Development Committee report read, recommending the adoption of Ordinance O-2022-04. Chair Powers filed the report. A motion by Councilor Bosley to adopt Ordinance O-2022-04 was duly seconded by Councilor Giacomo. The motion carried on a unanimous 14–0 roll call vote. Councilor Roberts was absent. Ordinance O-2022-04 declared adopted.

RESOLUTIONS – ACCEPTANCE OF DEED AND RETURN OF LAYOUT – MAGNOLIA WAY – RESOLUTIONS R-2022-23 & R-2022-24

A petition was received from Attorney Timothy Coughlin, representing Nuevo Transfers LLC., for the acceptance of a deed and the layout of Magnolia Way. Chair Powers set a public hearing 7:00 PM on Thursday, September 1 following a site visit at 5:45 PM, with bus transportation from City Council and a subsequent dinner. The matter was referred to the Planning Board and Municipal Services, Facilities, and Infrastructure Committee.

RESOLUTIONS – ACCEPTANCE OF DEED AND RETURN OF LAYOUT – INTERSECTION IMPROVEMENTS – MATTHEWS ROAD AND WINCHESTER STREET – RESOLUTIONS R-2022-25 & R-2022-26

A petition was received from Attorney Timothy Coughlin, for the layout of intersection improvements to the Matthews Road Right-of-Way at Matthews Road and Winchester Street. Chair Powers set a public hearing at 7:05 PM on Thursday, September 1, following the site visit at 5:45 PM. The matter was referred to the Planning Board and Municipal Services, Facilities, and Infrastructure Committee.

TABLED ITEM – COUNCILOR MITCHELL GREENWALD – AMENDMENT TO THE CITY COUNCIL RULES OF ORDER – REMOTE ACCESS

This item was tabled at the July 7, 2022 regular meeting. Chair Powers removed the item from the table for discussion of Councilor Greenwald’s request for further amendment to the Rules of

07/21/2022

Order that would provide that a member could be allowed to participate remotely for personal reasons up to two meetings per year. This maximum of meetings would not apply to being remote for serious health issues, disability, or out-of-town employment responsibilities.

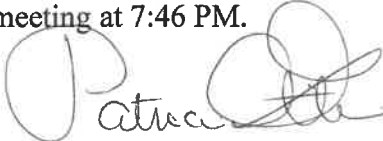
Chair Powers requested comments from the City Attorney, Tom Mullins, who said this item came in at the prior City Council meeting and was tabled to provide him an opportunity to discuss the amendment with Councilor Greenwald. The City Attorney reminded the Council of Rule 33 of the Council Rules of Order, regarding items that were once considered. Rule 33 states that once a final vote is taken by the City Council on a matter, the vote is final for the calendar year and cannot be revisited during that calendar year without a motion to suspend the Rules of Order. In 2021, there was an extensive Council discussion about changes to the Council Rules of Order, and ultimately Rule 4 regarding remote participation and quorum was discussed heavily, and in December 2021, the proposed changes submitted were not adopted. In February 2022, a letter previously submitted to the Council by several Councilors was resubmitted to FOP and then referred to PLD on the topic of remote participation again. The PLD discussed the matter at length and made recommendations to the Council, which included remote participation, and the City Council voted to adopt Rule 4 on March 17, 2022. Within Rule 4 is language regarding remote participation. The City Attorney stated his position is that the matter before the Council was Rule 4 in March 2022, that matter was disposed of, and any further consideration would require a suspension of the Rules of Order.

A motion by Councilor Bosley to suspend Section 33 of the Rules of Order to allow consideration of the issue in the same calendar year of the previous amendment was duly seconded by Councilor Remy. This motion was not debatable. The motion carried on a vote of 10-4 and the matter was referred to the Planning, Licenses, and Development Committee. Councilors Lake, Jones, Madison, and Chadbourne voted in opposition. Councilor Roberts was absent.

ADJOURNMENT

Hearing no further business, Mayor Hansel adjourned the meeting at 7:46 PM.

A true record, attest:


Patricia
City Clerk



CITY OF KEENE NEW HAMPSHIRE

ITEM #B.1.

Meeting Date: August 18, 2022
To: Mayor and Keene City Council
From: Mayor George S. Hansel
Through:
Subject: Confirmation - Partner City Committee

Council Action:
In City Council July 21, 2022.
Tabled until the next regular meeting.

Recommendation:
I hereby nominate the following individual to serve on the designated board or Commission:

Partner City Committee
Doris McCollester, slot 10
172 Liberty Lane

Term to expire Dec. 31, 2025

Attachments:
1. Mc_Collester, Doris_Redacted

Background:

From: [Patty Little](#)
To: [Heather Fitz-Simon](#)
Subject: FW: Interested in serving on a City Board or Commission
Date: Monday, July 11, 2022 8:08:04 AM

From: helpdesk@ci.keene.nh.us <helpdesk@ci.keene.nh.us>
Sent: Sunday, July 10, 2022 5:53 PM
To: Helen Mattson <hmattson@keenenh.gov>
Cc: Patty Little <plittle@keenenh.gov>; Terri Hood <thood@keenenh.gov>
Subject: Interested in serving on a City Board or Commission

<p>Submitted on Sun, 07/10/2022 - 17:53</p>

<p>Submitted values are:</p>

First Name:

Doris

Last Name:

Mc Collester

Address

172 Liberty Lane

How long have you resided in Keene?

54 Years

Email:

[REDACTED]

Cell Phone:

[REDACTED]

Employer:

Self

Occupation:

President of Mc Collester Mgt. Inc . Panache Hair Design , Keene NH and Plaza Beauty Salon Peterborough NH for 30 years.

Retired

Yes

Please list any organizations, groups, or other committees you are involved in

Many Years ago I worked on the Octoberfest Committee with the Keene Chamber of Commerce , it was great for a couple of years until outside influence forced the closing of it .

Have you ever served on a public body before?

Yes

Please select the Boards or Commissions you would be interested in serving on:

Partner City Committee

Please share what your interests are and your background or any skill sets that may apply.

I have been care taker for the last 7 years , so had no time other than my business . My Husband past and now I have the time . I was born and raised in Germany , speak , write and read German . I am very familiar with customs , culture , and history since I was schooled there .

Why are you interested in serving on this committee

I believe I could offer ideas for a positive interaction . I am interested because I am German and a American Citizen , culture , history and customs are different , I feel the difference especially when I visit my Family in Germany . I want to share Ideas how to overcome some of the differences .

Please provide 2 personal references:

Cathy Evans
[REDACTED]

References #2:

Bayr Klaus & Christa
[REDACTED]



CITY OF KEENE NEW HAMPSHIRE

ITEM #C.1.

Meeting Date: August 18, 2022
To: Mayor and Keene City Council
From: Peg Bruce - Secretary
Through: Patricia Little, City Clerk
Subject: **Keene Kiwanis Club - Request to Use City Property - Tree Lighting Ceremony**

Recommendation:

Attachments:

1. Communication - Kiwanis Club

Background:

Annual request from the Keene Kiwanis Club to host the Tree Lighting Ceremony Friday, November 25, 2022, on Central Square.



Kiwanis

CLUB OF KEENE

63 Emerald Street
PMB 451
Keene, NH 03431
keenekiwanis.org

OFFICERS:

Pete Southwell
President

Art Trombly
Vice President

Elizabeth Sayre
Past President

Pam Wilson
Treasurer

Janet Genatt
Assistant Treasurer

Peg Bruce
Assistant Treasurer

Peg Bruce
Secretary

Pam Wilson
Assistant Secretary

DIRECTORS:

Phyllis Custer

David Ganio

Diana Sommer

Patti Spears

Jeff Swenson

Scot Ward

PAST PRESIDENTS:

Elizabeth Sayre 2020-21

Arthur Walker 2019-20

David Ganio 2018-19

Eli Rivera 2017-18

Paul Bothwell 2016-17

Peg Bruce 2015-16

David Ganio 2014-15

Beth Healy 2013-14

Gary Grashow 2012-13

Carl Allen 2011-12

*Keene Kiwanis is a 501 (c) 3
Organization: tax exempt
number - 020458160.*

August 12, 2022

Mayor Hansel and the Keene City Council
3 Washington Street
Keene, NH 03431

Re: 11/25/2022 Kiwanis Tree Lighting, Central Square, Keene, NH

Dear Mayor Hansel and the Keene City Council:

The Kiwanis Club of Keene requests a license to produce the 2022 Kiwanis Tree Lighting Event. The proposed date and time of the event is November 25, 2022, 5 p.m. to 8:00 p.m. This event continues to compliment the Kiwanis' mission of supporting our local youth.

Keeping with tradition, we would once again like to decorate the Bandstand on Central Square with wreaths and lights, decorate the City tree on Central Square and hope to put up a second tree with battery operated mini lights on the Roundabout at the Marlboro Street and Winchester Street intersection. We plan to do the decorating of Central Square on a Saturday in the month of November 2022 and take the decorations on Central Square down by the second week of February 2023. (If possible, we would keep the lights on through the Ice and Snow Festival, weather and City permitting.) We plan to string bars of soap on the trees to deter the squirrel population from damaging the light strings. We had no lights damaged this past year.

In spite of the bad weather, this past year's event was enjoyed by many and the decorations are very much appreciated by our community. The children enjoyed the entertainment with the bands and Mrs. Claus reading "Twas the Night Before Christmas. Santa's grand entrance with assistance from Keene Fire Department was especially spectacular! Each year Kiwanis youth groups participate and provide cookies and cocoa. Kiwanis distributes close to 600 Christmas bells for the children to ring as Santa rounds the Common. We greatly appreciate the support of the City of Keene departments who work together with Kiwanis to make the community event special each year!

Feel free to contact me should there be any questions. I can be reached at 603-762-7276 or at keenekiwanisinfo@gmail.com.

Thank you for your consideration of this request.

Sincerely,

Peg Bruce
Kiwanis Club of Keene
63 Emerald Street, PMB 451
Keene, NH 03431
603-762-7276



CITY OF KEENE NEW HAMPSHIRE

ITEM #C.2.

Meeting Date: August 18, 2022
To: Mayor and Keene City Council
From: Councilor Randy L. Filiault
Through: Patricia Little, City Clerk
Subject: **Councilor Filiault - Spectrum Service Issues**

Recommendation:

Attachments:

1. Communication - Councilor Filiault

Background:

Councilor Filiault is requesting the City Council invite Spectrum to come before them to discuss concerns about the cable and internet services they provide to Keene residents.

To: Mayor Hansel and Keene City Council
From: City Councilor Randy L. Filiault
Re: Unacceptable Cable/Internet Service
Date: July 20, 2022

Many constituents have complained about unacceptable outages and delays in cable and internet service provided by Spectrum. Unfortunately, Spectrum's reply has been "we don't see a problem in your area," when clearly there have been issues. This response to the frequent service interruptions is unacceptable.

I therefore ask the Keene City Council request Spectrum representatives appear before a Council committee to address these concerns.

A handwritten signature in black ink, appearing to read "Randy L. Filiault". The signature is written in a cursive style with a long horizontal stroke extending to the right.



CITY OF KEENE NEW HAMPSHIRE

ITEM #C.3.

Meeting Date: August 18, 2022
To: Mayor and Keene City Council
From: Councilor Mitchell H. Greenwald
Through: Patricia Little, City Clerk
Subject: **Councilor Greenwald - Designating City Parks - Drug-Free and Smoke-Free Zones**

Recommendation:

Attachments:

1. Communication - Councilor Greenwald

Background:

Councilor Greenwald is requesting that the Patricia Russell Park be designated as a "drug free zone" as well as a "smoke-free zone" and that if this made sense for a new park, these restrictions should be instituted for all City parks.



Mitchell Greenwald
Chairman, Municipal Services, Facilities & Infrastructure Committee
Ward 2, City Councilor

August 16, 2022

To: Mayor and Council

Re: Drug Free Zone Designation

Former Councilor Chuck Redfern and I had a conversation recently concerning the idea of designating the new Pat Russell Park a “Drug Free Zone”, which I want to share with the Council, and consider implementing.

I also want to obtain information regarding making it a “Smoke Free Zone”.

If it makes sense for the new park, we should do so at all City parks,

Keene and its citizens have invested significant funds to keep our youth engaged in healthy and active lifestyles.

As a city council, it is our responsibility to keep our youth and neighborhoods as safe as possible. Our call for action will not only help protect the citizenry, but also serve noticed for those who peddle illegal drugs that it is not in their best interest to loiter where our youth congregate for healthy recreation, and enjoyment.

Please refer my communication to the appropriate committee for discussion.

Thank you,

Mitchell Greenwald



CITY OF KEENE NEW HAMPSHIRE

Meeting Date: August 18, 2022
To: Mayor and Keene City Council
From: Thomas Mullins, City Attorney
Through:
Subject: **Purchase & Sale of City-owned Rail Spur - City Attorney**

Recommendation:

That the City Council suspend Rule 26 of the City Council Rules of Order to consider and act upon the purchase and sale of the Rail Spur at the corner of Ralston and Emerald Streets.

That the City Council authorize the City Manager to do all things necessary to execute the Purchase and Sale Agreement for the transfer of the Rail Spur that bisects two parcels of land on the corner of Ralston and Emerald Streets to Shalldu, LTD.

Attachments:

None

Background:

In 2019, Nancy Sheldon, on behalf of Shalldu, Ltd, approached the City with a request to purchase the City-owned Rail Spur located at the corner of Ralston and Emerald Streets. On April 4, 2019, the City Council unanimously voted to authorize the City Manager to negotiate the purchase and sale of the property. However, with the onset of the pandemic, discussion on the purchase and sale stalled. Shalldu, Ltd is still interested in acquiring the 0.11 acre piece of property, and the parties have come to an agreement for the sale of the property.

In order to execute a Purchase and Sale Agreement with Shalldu, Ltd, it is requested that the City Council authorize the City Manager to do all things necessary to effectuate the sale of the property to Shalldu, Ltd.



CITY OF KEENE NEW HAMPSHIRE

Meeting Date: August 18, 2022
To: Mayor and Keene City Council
From: Mari Brunner, Senior Planner
Through: John Rogers, Interim Community Development Director
Subject: Relating to Amendments to the City of Keene Land Development Code Ordinance O-2022-09-A

Recommendation:

A motion was made by Mayor George Hansel that the Planning Board find Ordinance O-2022-09 as amended consistent with the Comprehensive Master Plan. The motion was seconded by David Orgaz and was unanimously approved on a 7-1 vote with Councilor Remy voting in opposition.

A motion was made by Chair Kate Bosley that the PLD Committee recommend that the Mayor set a public hearing on the amended Ordinance. The motion was seconded by Councilor Michael Giacomo and carried on a unanimous roll call vote.

Attachments:

1. Ordinance O-2022-09-A
2. Ordinance O-2022-09-A_Redline

Background:

Included below is an excerpt from the draft minutes of the August 8, 2022 Joint Planning Board and Planning, Licenses and Development Committee meeting where this item was discussed:

"Public Workshop: Ordinance O-2022-09 – Relating to amendments to the City of Keene Land Development Code. Petitioner, City of Keene Community Development Department, proposes to amend sections of Chapter 100 "Land Development Code" (LDC) of the City Code of Ordinances to change the minimum lot size in the Rural District from 5 ac to 2 ac; Display uses that are permitted within the Conservation Residential Development subdivision (CRD) regulations in Table 8-1 and the "Permitted Uses" sections of the Rural, Low Density, and Low Density-1 Districts in Article 3; Modify the density factor and minimum lot size for the Rural District within the CRD regulations to 2 ac per unit and 32,000 sf, respectively; Add density incentive options to the CRD regulations, including an open space density incentive, a solar incentive, and workforce housing incentive; Modify the permitted uses within the CRD regulations for the Rural District and Low Density-1 District to include multifamily dwelling with limitations; and, Remove the requirement to submit a "Yield Analysis Plan" and add additional submittal and filing requirements for CRD applications in Article 25.

Public Workshop

Senior Planner Mari Brunner addressed the committee and recalled that staff came before the Committee in June to discuss this ordinance, which at the time was not yet a formal ordinance but rather an idea. Feedback from that meeting was turned into what is before the committee today in the form of an ordinance. In addition, staff identified a couple glitches that they are proposing to fix with this ordinance. She said that this item started out when staff reviewed the Rural District to identify opportunities for housing that would fit within the intent of that district. As part of that effort, staff researched the history of the Rural District, which was historically referred to as the Agricultural District. Staff felt bringing back the minimum lot size to two acres, which is what it was historically, would make a lot of sense. Along with this, the CRD Subdivision regulations were reviewed to ensure they are consistent with the proposed lot size change. While reviewing the CRD regulations, staff found a couple glitches that need to be fixed. In addition, staff took this opportunity to look at ways to promote some of the other community goals within the CRD regulations, including workforce housing, open space preservation, and renewable energy.

Ms. Brunner went on to say that the Rural District is a residential zoning district that is generally located outside of the valley floor of Keene. She referred to a map, and noted that the Rural parcels are shown in green and are generally beyond where City water and sewer service is available as well. The intent of this district is to provide for areas of very low density development that is predominantly residential or agricultural in nature. Permitted residential uses include: single family dwelling, Two-family/duplex (as part of a CRD development only), and manufactured housing, which can only occur in a manufactured housing park.

There are a limited number of commercial, open space and infrastructure uses that are permitted, such as animal care facility, bed and breakfast, greenhouse/nursery, kennel, small group home, cemetery, community garden, conservation area, farming, golf course, gravel pit, small-scale, medium-scale, and large-scale solar energy systems, and telecommunications facilities. This is the full list of uses permitted within the district.

Ms. Brunner noted that there are about 1,118 parcels of land in the Rural District. This figure doesn't include 407 condo parcels, and she explained that the condo parcels are not parcels of land but rather signify the ownership structure. Excluding condos, there are 1,118 parcels which cover an area of over 14,300 acres. The minimum lot size is five acres. However, the five acres can be reduced to two acres if the parcel has access to both City water and sewer. Ms. Brunner noted there is a high number of parcels in the Rural District which are less than five acres that currently exist. In fact, there are 643 which is about 58% of all parcels which she felt was a high number of parcels to be non-conforming and added it probably goes back to the fact that the minimum lot size used to be two acres. In 1971, the minimum lot size was two acres and prior to 1970 it was 10,000 square feet or one acre if the lot did not have access to City water and sewer. Ms. Brunner further stated staff also believes another reason is the City used to allow a type of development called a Planned Unit Development; an option that existed under zoning and was under the purview of the Planning Board. The Planning Board had the authority to vary the density or intensity of land use, basically they had free range to allow any lot size and any dimensional requirements as long as a holistic plan was presented that showed the full neighborhood plan. There have been a number of PUDs that were approved in Keene, and this is where we see some of the smaller lot sizes in the Rural District. This option ceased to exist prior to 1994.

Ms. Brunner stated the reason for providing this context is because the City is proposing to reduce the minimum lot size in the Rural District from five acres to two acres, partly to bring lots that exist today into compliance with the minimum lot size. Another reason relates to the reasoning for the switch to 5 acres in the first place. Going back to the discussion at the time, it seems that the change to a five acre minimum lot size was meant to slow growth in the City and also because of concerns

regarding access to City water and sewer, and the large land area that was needed for septic systems and leach fields. This technology has improved over time – it is possible to have a septic system and leach field, place it 75 feet from the well, and that can fit on a much smaller lot now. Therefore, staff feels two acres is appropriate in the Rural District, which is still a low density development pattern and would open up moderate amount of development opportunity in the district for people who have developable land.

Ms. Brunner addressed Conservation Residential Development Subdivision regulations (CRD) next. She explained the conservation residential development subdivision is a type of subdivision in which at least 50% of the land is conserved permanently as open space and development is concentrated on the remaining portion of the site. This approach allows the same number of residential units as could be built with the conventional subdivision. However, it provides for more flexibility with the design and placement of those units, in order to maximize the protection of important natural features, such as wetlands, aquifers, steep slopes etc. The flexibility allows for units to be placed in the best location while also maintaining the character of the surrounding area.

In order to utilize the CRD subdivision option, the land must be located either in the Low Density, Low Density 1, or Rural district and it must meet the minimum tract size requirements outlined in Table 19-1 of the Land Development Code. Land in Low Density or Low Density 1 has to be at least five acres to start with and in the Rural District, it has to be at least 10 acres. A CRD is required for subdivisions that meet those criteria that propose a creation of three or more lots and the layout of a new road.

Within the CRD Regulations, staff propose to modify the lot size in the Rural District and the density factor to be consistent with the proposed changes for the underlying zoning district. Under the CRD, the idea is that one would get the same number of units as they would with conventional subdivision. By changing the lot size from five acres to two acres, the density factor would also need to be changed to two acres per unit so it would be the same number of units if someone was to pursue a conventional subdivision. In addition, staff is also proposing to change the minimum lot size from one acre to 32,000 square feet; the reason for that change is so that you can physically fit all the units onto the developable portion of land that is left after someone has placed 50% in conservation.

Ms. Brunner went on to say one thing staff identified after the ordinance was introduced to City Council is that the subdivision regulations currently state that if a lot is created which is less than one acre, it must have the access to City sewer unless otherwise permitted within the LDC. She noted staff provided a red-lined version of the ordinance for the Committee tonight that proposes a minor amendment to clarify that any lots created under the CRD option within the Rural District could have a septic system in place of connecting to City sewer.

Ms. Brunner next addressed what is being referred to as a “menu of incentives” to add to the CRD Regulations to try and promote community goals related to work force housing, renewable energy and land conservation.

The first proposed incentive is an open space density incentive, where the developer would be required to place at least 65% of land in conservation and in return they would get a density bonus of 10% or one dwelling unit, whichever is greater. In order to take advantage of that option the starting tract area has to be at least 10 acres. Referring to the proposed amendment, Mayor Hansel asked why the requirement regarding septic systems cannot be removed in its entirety. He asked if a septic system can fit on a half-acre lot why that could not just be the requirement. Ms. Brunner stated this was a pretty standard requirement from many decades ago when leach fields were a lot larger. However, Ms. Brunner stated staff would not feel comfortable changing this requirement without having a deeper conversation with other City departments, in particular Public Works. The Mayor

encouraged staff to look into this issue.

Ms. Brunner addressed the next incentive which is solar. The intent of this incentive is to encourage the installation of solar photovoltaic energy systems in new construction. It is based on the premise that the ideal orientation for buildings to harvest solar energy is within 30 degrees of true south. The criteria to receive this incentive is that at least 50% of the lots within the subdivision must be solar oriented. This means that the longest lot line dimension is oriented within thirty degrees of a true east-west line. All dwelling units on solar-oriented lots must be oriented so that the long axis faces within 20 degrees of true south, and at least 4 kilowatts of solar PV must be installed for each dwelling unit on a solar-oriented lot. In addition, where practical, this option requires that the predominant street pattern shall be oriented within 30 degrees of east-west orientation.

Staff is proposing that there would be additional submittal requirements for this incentive, including a written request that describes how the development meets the criteria as well as a solar access plan that demonstrates it would be possible to site building areas or structures on solar-oriented lots that are not obscured for a minimum of four hours between 9:00 am and 3:00 pm on any day of the year. The Mayor asked whether community solar placement has been contemplated in this proposed. Ms. Brunner answered in the affirmative and stated

they have to show that it would be possible to place the building or a building area that is oriented south and then they have to install solar PV per unit but it does not have to be a separate array for each unit, so it could be done as community solar but it has to be located in the development. Ms. Brunner noted the incentive for this would be 10% or one dwelling unit, whichever is greater, similar to the open space incentive.

The last proposed density incentive is for workforce housing. The intent of this incentive is to encourage development that provides affordable workforce housing. Workforce Housing is proposed to be defined as housing that is sold at initial sale for a price that can be afforded by a household with an income of not more than 80% of the HUD Median Area Income for a family of four in Cheshire County – this is for owner-occupied. For rentals, it is defined as housing that is rented for a price that can be afforded by a household with an income not more than 60% of the HUD Median Area Income for a family of three in Cheshire County. In order to be eligible for this incentive, a development must guarantee that at least 20% of the total number of units, including any units allowed by a density bonus, will be workforce housing. Ms. Brunner noted according to 2021 numbers, she recalls that \$300,000 is the number for workforce housing with an average rental amount of \$1,300 a month. She added this is workforce housing, not subsidized or low income housing.

Ms. Brunner went on to say in order to ensure that any residential units that are designated as workforce housing remain affordable, this ordinance proposes that units shall either be sold or rented with a deed restriction and recorded housing agreement that names an Income Verification Agent who will verify that the purchaser or renter meets the income requirements. The resale value or rental value shall be restricted to the affordable purchase or rental price for a period of 30 years. In addition, the workforce housing units must be of the same approximate size, character, quality, and construction as the market rate units, and they must be distributed evenly throughout the project.

Councilor Giacomo asked whether the resale value of a purchased house is based on assessed value by the City over 30 years. Ms. Brunner stated the resale value would have to continue to be at a price that is affordable and added there is language built into the ordinance – Planner Evan Clements added it is 80% of the AMI plus 2% of the CPI. Councilor Giacomo stated his concern is if affordable housing prices start to go up but income doesn't, the CPI may not have gained as much and asked how the resale price would be calculated in an instance such as that. Mr. Clements stated the goal is to keep it at an affordable price and the properties are not going to appreciate compared

to a market rate unit. Tying it with the CPI will allow it to appreciate more compared to other communities that don't do that and it is tied strictly to the median area income. If someone purchases a workforce housing unit and in 15 years the average median income goes down and they are forced to sell that home, they will sell it for less because that home is tied to income not the appreciated value of that house. Councilor Giacomo stated he appreciates the intent and was just looking for loopholes which someone could use in the future if it is not addressed. Mr. Clements added there is nothing stopping a workforce housing unit owner from making improvements, but they would not see a return on investment as opposed to what someone would see with a market rate home.

Councilor Remy stated he understands the intent but doesn't like the idea of not being able to take advantage of owning a home. He stated he is in support of keeping it affordable but is worried about the repercussions. Chair Bosley stated she too agrees with what Councilor Remy just stated; home ownership is valuable and qualifying for one of these units is probably going to be even a bigger deal for someone who is striving for this opportunity to own their own home but then to take all those perks a normal home owner would receive by having their property appreciate in value, is of concern to her. The Chair felt a home is most people's biggest asset - it's your retirement, it allows for many opportunities and could be someone's biggest savings account. She felt consideration needs to be given to not harming these homeowners. Councilor Remy felt as long as someone owns one of these units for a longer period they should have some benefits. He felt 30 years was a long time.

Ms. Mastrogiovanni asked where the 30 year time limit came from. Ms. Brunner stated this was a standard period other communities have adopted as kind of a reasonable timeframe and also because the developer is getting a permanent density bonus and is increasing the density into the future permanently, staff felt providing that return should last for at least a certain period of time. Thirty years seems to be the period most communities have agreed on.

Chair Bosley stated if this was an agency constructing multi-unit housing developments with the intent to rent, this type of restriction seems fair where owning this property has the intent of turning a profit. However, when one of these properties is sold to a citizen in Keene who is just looking for an opportunity, perhaps lessening those restrictions might be prudent. Most people who move to Keene, do so because they like this community to raise a family but once their kids move away they perhaps want to move closer to them and this type of restriction could be harmful to them.

Chair Russell Slack asked whether there was any type of percentage that can be added. She used an example of a housing grant where each year you live in the home the percentage of return is more. She felt the proposed program is a good opportunity for young families to be able to purchase a home in Keene. Most people moving out of their home in the first 5 to 10 years is slim. People who would qualify for this type of housing are not ones who would get the kinds of raises other type of homeowners do, and this is one way to make it affordable for them. Chair Slack stated many communities across the state are trying to figure out how to make affordable housing available in their communities. She stated she is in favor but would not want to see it go less than 25 years, as most people are going to have a difficult time maintaining these homes.

Councilor Ormerod stated if the Committee was looking to modify the language, NH Housing Authority has guidelines and suggested perhaps looking at the FHA Guidelines for guidance. Mr. Clements noted this program is about incentivizing developers to create affordable dwelling units, it is not necessarily about creating vehicles for wealth building. He stated he understands what was said about what a home can do for most people (a way to build wealth) but indicated this is not the intent of this proposal. It is about creating affordable places for people to live not just for the first person who lives there but for the second and third person. If it doesn't work for the first person and they have to move on because life happens, the unit is then available for the next person.

The Mayor asked whether staff has checked with developers to see if this something they would be interested in. Ms. Brunner stated it is challenging right now with the market that the way it is, but assuming the market does come down, staff did reach out to some other communities that have workforce housing options to this to see how successful they have been. Mr. Clements did have a conversation with the Town of Exeter and their ordinance sounds like has been successful but it sounds like they only offer a density bonus of 15% but they had indicated if it was put in place again they would like to increase that density bonus to make it more attractive developers.

Mayor Hansel felt a 30 year mortgage for a homeowner seems fine but for an investor it seems too long.

Councilor Jones noted in the Rural District and Agriculture District, when someone constructs a structure and there is no access to water service, they are required to construct a cistern. He asked whether this was part of the zoning ordinance or part of fire code. Ms. Brunner stated it is part of the fire code. Chair Bosley asked whether it would be one cistern for an entire development or whether it would for one unit. Mr. Clements stated a 50,000 gallon cistern has a service radius of 2,500 feet.

Councilor Remy stated he could support 30 years for rental and understands the intent is to create affordable housing and that would also mean providing opportunities for more people to own homes, not just provide a roof over their heads. With the 30 year cap it could potentially trap people in their homes if the market rises.

Councilor Johnson asked how the City would make sure someone from out of state doesn't purchase these homes to make a profit. Ms. Brunner stated this is where the income verification agent would come in. The City has already had a discussion with Keene Housing about this issue and there are agencies elsewhere in the State that will also provide this service. What an income verification agent does is that they verify the buyer or the renter meets the income limits.

Mayor Hansel asked staff to verify that developers will take advantage of this ordinance. He stated he would like to see this clarified before this ordinance is adopted. Chair Russell Slack felt the City should move forward with this ordinance as there are other communities within the state that are going to try this. She felt it was time for the City to do something about affordable housing and this is a start in that direction.

She felt if the City did not wish to start with 30 years that is ok, but it needs to find a period that would work and move this forward. She referred to her own experience purchasing her home, which was in a land trust, which is not something that exists anymore. She indicated the proposed ordinance is a way for someone to be able to own a home in this community.

The Mayor stated he appreciates what the Chair just stated but what he is looking for is verification from developers to see if what is being proposed is sufficient enough incentive.

Chair Bosley stated there was a lot of discussion about this issue during the June Joint Committee meeting. She did not feel there was a perfect answer until we see how it is received. She felt this Committee could be back in 18 months and there might be nothing that has been proposed by a developer with the incentives being proposed. She felt it needs to be a priority to put this item on the books and but not walk away, it needs to be reviewed after a period of time. She stated staff needs to be updating the Committee on how these changes are impacting the community. She stated she was comfortable leaving the 30 years in the language. She indicated she agrees with Councilor Remy, if properties around you have significantly increased in value more than what you could sell your home, now you are back at a disadvantage. Hence, she would like to see that number be significant – perhaps 15 years. She felt 30 years was a long time to hold someone accountable for a property.

Councilor Giacomo stated the longevity that used to exist with employment does not exist anymore and employment and housing tend to go hand in hand. He felt there is a shift from people owning homes for 30-40 years versus the generation that is coming up in their twenties; it is very common to leave a job every two to four years and he is concerned the City is not taking this into consideration and are using habits we are no longer in. He stated he was agreeable to discussing this with contractors but constructing this type of housing is better than not having any affordable housing at all. He felt data regarding homeownership needs to be looked at. He stated he appreciates what Mayor Hansel says, but felt the item needs to be moved forward.

Chair Russell Slack stated she can't see any 20-30 year olds who are purchasing homes right now as most are burdened with student loans and a majority of them still live with their families. She indicated she was fine with revisiting this issue if that is what the Committee wished to do but felt we need to start somewhere and staff can always do the necessary research. She indicated there are communities who already have this in place and Keene needs to move forward with it.

Chair Bosley agreed the City needed to move forward with it but stated she would like an update within the next 12 months to see how this program is working.

Councilor Jones asked whether the City was creating a reverse incentive; are we taking away the incentive if people want to use property for farming, conservation or open space.

Ms. Brunner stated with the CRD option, they have to put at least 50% of land into permanent conservation, hence it is actually a conservation tool; it is meant to protect more environmentally sensitive areas. It is a way to help protect steep slopes, wetlands and surface waters in the Rural District where there is a lot with those types of natural features. The intent is to preserve more land overall. However, with conventional subdivisions the use of the lot is maximized with the amount of units that you can fit on it to get the best return on investment for that land. With the CRD option it is double the incentive because they put at least 50% of the land in conservation so there is automatically 50% of the land that is protected. With the remaining land it is clustered closer together, so they get the same number of units, and the infrastructure they have to build is not as much – there is no need to build a longer roads or extend the utilities – hence, there is a cost savings there as well. It is an incentive for developers to create a subdivision that works better with the topography and the land features on the site.

Ms. Brunner reminded the committee that this is the public workshop phase, so if they wanted to make changes to the ordinance as long as they are not substantive changes (changing the 30 years would not be considered a substantive) it won't necessarily restart the process.

Mayor Hansel stated he wanted to move forward but wanted to point out to the Committee how the cluster housing models incentive has been an option in the City and maybe that's one permitted in last year. Ms. Brunner stated with the Land Development Code (LDC) there were a number of changes made to the CRD regulations. Before the LDC was adopted there was one application, since the adoption last year there have been two submittals. The Mayor added we have to be conscious that this plan is used. Chair Bosley stated she understands what the Mayor is saying but the market in Keene has changed over the last ten years and if the City can pursue development and save its green space which something this community enjoys it would be a win for everyone.

Councilor Remy stated at this point he could not support 30 years and also noted he does not see a requirement for primary residency, it only refers to owner occupied.

Ms. Brunner continued with the workforce housing incentive. In return for meeting the workforce

housing criteria, the developer would be eligible for a bonus of 20% or one dwelling unit, whichever is greater. In addition, staff is also proposing to allow triplexes in conjunction with the workforce housing density bonus. This would be a change, because it would be allowing triplexes in LD-1 and in the Rural District if the developer pursues the workforce housing density incentive. The thinking behind that is, it is a lot cheaper to build a triplex than to sell three units or to build three single family, still being cautious that this is still the Rural District and we want to make sure that whatever is built fits in the character of the surrounding area.

Chair Bosley referred to condo developments outside of Tanglewood Estates and asked how those structures are designed. Ms. Brunner stated the condo developments she is aware of are located in the Low Density District and they are three to six unit condos. She stated she recalls one condo development in the Rural District but wasn't quite positive.

Councilor Remy asked for clarification on the construction of triplexes; if you provide workforce housing triplexes would a developer also need to provide market rate triplexes as well. Ms. Brunner explained if a developer meets the criteria for workforce housing incentives, then they could add triplexes into their development but only 20% of the dwelling units would have to be workforce housing (some of the units in the triplexes could be market rate).

Ms. Brunner went on to say any applications for the Workforce Housing Density Incentive would need to include the following submittal items: A written request that includes a calculation of the number of workforce housing units provided, a description of each unit's size, type, number of bedrooms, estimated cost, and location within the development; A written statement explaining how the dwelling units will remain affordable for a period of 30 years (i.e. deed restriction, restrictive covenant, etc.); and any additional information the Planning Board may request in order to determine whether the requirements of the Workforce Housing Density Incentive have been met.

Ms. Brunner further stated one of the things the staff identified is that when the LDC was adopted, staff changed the CRD option from a conditional use permit (CUP) application to a subdivision application. She stated she wasn't entirely sure why that change was made, perhaps to make things simpler and easier. Prior to the LDC, the CRD CUP used to be located in zoning, and then the actual CRD regulations were with the Planning Board. However, when the City changed it just to a subdivision application, the part that was in zoning was removed. Currently there is no connection between the zoning ordinance, which is chapters 1- 18 of the Land Development Code, and the CRD Regulations, which are in chapter 19. When the LDC was adopted, it was all adopted as one document through the same process. Because there is nothing about the CRD Regulations in zoning, the City Attorney has advised that a connection has to be re-establish between the Zoning Ordinance and the CRD Regulations. Hence, what is being proposed tonight is to fix that oversight.

The other glitch that was found during a recent application for a CRD subdivision application. When the LDC was adopted, one thing that was done to make the CRD an easier process was a change to the way density was calculated. There are two ways density can be calculated; The first is a simple formula method which is what we have today. The second is using something called a Yield Analysis Plan, which is where a developer has to create a whole plan showing the number of units that they could fit in a CRD if they were to build it as a conventional subdivision. Then they have to verify with the Planning Board that this is the number of units that they could get. They have to then do a separate plan for the CRD. Ms. Brunner stated this is a long involved process and have heard from developers that this is one of the reasons they were previously not in favor of the CRD option.

Hence, with the LDC adoption, the yield analysis method was changed to the formula method, but the requirement to submit a yield analysis plan was not deleted. Hence, staff is proposing to delete

this requirement.

Ms. Brunner stated with the Menu of Incentives that is being proposed, the developer is able to choose more than one incentive. However, staff is proposing an overall density cap at 30%.

Chair Bosley opened up the public workshop for public comments.

Mr. Kendall Lane of 5 Hastings Avenue addressed the Committee first. Mr. Lane stated the reason he was invited to address the Committee tonight is because he has been involved in most of the changes that have taken place over the years with the zoning ordinance. Mr. Lane stated as everyone is aware Keene has a housing crisis – the question is why Keene has this housing crisis. Mr. Lane stated between 1950 and 1960 the City grew by 12%. Between 1960 and 1970 the City grew by over 16% (close to a 30% increase in 20 years). In 1960 Keene had the second fastest growing community in the State of New Hampshire, which became a real concern. Mr. Lane stated he first became involved in 1978 when he was part of the Housing Authority, to look at the impact as to the growth that was taking place. Schools were at capacity and water and sewer were having issues due to being over capacity. Development was happening everywhere in order to support the increased population.

Keene knew it had to do something. The first thing was to move the minimum lot size from one acre to five acres. Keene did away with Planned Unit Development as well as all cluster housing proposals. This lasted about 20 years before the CRD came in. He added in the 10 years he was on the Planning Board there was not a single CRD proposal that came before the Board due to its complexity.

After these changes were put in place, between 1970 to 1980 the growth rate fell from 16% to 4%, and continued to fall. It was down to 2% from 2000 to 2010. This served the purpose that the City set out to do. However, times have changed, the City now has a new water treatment plant. The freeze that was placed on new water connections is not an issue. The City has a new Middle School, a third of which is vacant. The High School has half the number of students it had 30 years ago. The City has closed two elementary schools in the last few years.

Mr. Lane stated when he stepped down as Mayor there were nearly 1,000 industrial jobs in Keene unfilled. He noted Keene is a desirable place to live, but without housing it is almost impossible to attract people to this community. He stated he was on the Re-districting Committee and had chance to look at the census figures early; overall census figures show that the City of Keene's population dropped by 392 people which he said was very misleading. The college population dropped by over 2,000 people. The actual population, people who are not associated with the college grew by about 1,800 people. This is the fastest rate of growth Keene has had since 1970. The reason there are no apartments or houses available is because Keene brought in 1,800 people to fill those positions. The real estate market vacancy rate in Keene is 0.3%.

Mr. Lane noted Keene was successful in bringing people to live, work and support the economy but not when it came to housing. He indicated there are things the City itself can do and felt this proposed ordinance is a reflection of that. He stated Keene has an aging housing market. This needs to be refreshed, new housing needs to be built and make it possible by creating ordinances that are easy to understand, simple and straightforward.

Housing needs the support of Council, not because Keene is going to build affordable housing or workforce housing. But Keene needs to create a level playing field that will support all types of housing so that the City can continue to prosper. Mr. Lane stated he has heard from many businesses that have indicated they can't stay in Keene because of the lack of housing.

Chair Bosley felt Covid has magnified this housing crisis, because we have created a unique community and people who can work remotely have discovered us. This is pushing people who are born and raised in Keene out of Keene.

Chair Slack thanked Mr. Lane for his presentation and stated Keene has housing that is available but unfortunately none of them are affordable housing. She felt what is being proposed is one way to bring in affordable housing.

Mr. Lane stated when creating workforce housing it needs to be maintained, there has to be enough of an incentive on the owner to maintain that property.

Councilor Jones stated in addition to technology and industrial jobs, since Covid began hospitals are having a difficult time finding doctors because the hospital can't find homes for them. SAU29 is having the same issue.

Mr. Lane felt childcare is another big issue when it comes people's ability to work.

Ms. Janet Furcht of 64 Park Avenue addressed the Committee. Ms. Furcht is a member of the Monadnock Interfaith Project and on the Board of Directors for Monadnock Habitat for Humanity. Ms. Furcht stated the issue that was raised previously about denying people the opportunity to cash in on the appreciation of their home, they are not being denied everything. What people are looking for is a place to live and if at the end of 20 or 30 years, they don't make as much as the person down street, they would have at least had secure housing for their family. Their kids could have stayed in the same school, in the same neighborhood. She stated if it equates to renting a house for 30 years versus owning a house, most families would like to own their own home. She stated she did not want the City to lose sight of that.

She indicated it is great that people who work remotely are owning some of these houses. However, if we don't have a place for people who look after us in the hospital, look after us in the nursing home, look after us when we go shopping, etc., there will be people would have a terminal illnesses at home and not be able to find a homecare worker to help them.

Ms. Laurie Jameson addressed the Committee on behalf of being a member of Monadnock Interface Project. She thanked the committee for all the work that is being done. She indicated workforce housing is not the same as affordable housing. She felt working people in Keene, police, fire etc. deserve a secure housing. She asked that this item be moved forward as there are problems that exist today that need to be handled.

Mr. Thomas Lacy of 241 Daniels Hill Road was the next speaker. He stated he understands the need for housing. He stated he wasn't sure he is comfortable with the changes being considered for the rural zone - 60% change of minimum acres from five acres to two acres, which he felt could have some serious consequences in the rural zone that are independent to workforce housing. He felt there will be some very creative options coming into the rural zone, which is going to make the rural zone not look like what it currently is.

Mr. Lacey did not feel there has been proper analysis and attention paid to what could happen as a result of these changes to the rural zone. He indicated a lot has happened since 1972; there have been two or three real estate booms and busts. There has been the introduction of current use assessment. Many rural properties are in current use if they have a minimum of 10 acres.

He stated the taxes in the rural zone will go up because properties that are between four and ten

acres are now going to be identified as potential development area and will be taxed as such. He felt these are consequences of making such a change.

Mr. Lacey further stated between the period of 2005 to 2008, there were extended meetings on land use and the importance limiting development in the rural zone because of storage of water, storage of nutrients that additional upland development would cause. He stated he understands the momentum but has not heard the consequences for the owners there currently live in the rural zone and how it is going to affect them. Mr. Lacey stated the three uses that help a town's tax base is commercial, industrial and open space – open space doesn't require city services. He added he does acknowledge the need for the housing, but felt the rural zone is going to be affected negatively based on these proposed changes.

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

Mayor Hansel felt in reading this documents the housing authority and the nonprofit developers are the ones who are going to take advantage of these incentives. He stated he would like staff to make sure that the City is not creating some kind of a unfair advantage for nonprofit developers to do affordable housing.

Chair Slack stated Housing Authorities will never have an unfair advantage and stated she cannot think of any other way to solve the housing issue. The Chair stated there will never be a perfect solution.

Councilor Remy stated he would be okay with 30 years if the language says it has to be their residence for 10 years.

Chair Bosley stated she heard the term "housing security" mentioned today by a member of the public and felt this adds another layer to the discussion that she hadn't considered. When you rent you are always at the mercy of your landlord, but when you own you have more stability and freedom.

Mr. Clements clarified that with the owner occupied units, if someone were to immediately turn the property into a rental or an investment, it would be considered mortgage fraud and there are securities built into the contract and there are financial practices that are in place for added protection.

Councilor Remy noted the header refers to "owner occupied" but nowhere in the language does it talk about the unit having to remain as owner occupied. Mr. Clements stated the deed will outline this language. It is not in the ordinance, but it becomes the applicant's responsibility to guarantee that these units do remain owner occupied for the term outlined in the ordinance.

Councilor Jones asked Councilor Remy whether his concern is that the property would be used as a rental or a second home (vacation). Councilor Remy stated he wasn't sure if owner occupied would mean it is being used as a primary residence.

Chair Bosley stated that, to qualify for an owner occupied mortgage, you would have to live in the residence only for the first 12 months. At that point it can be rented out and felt language would either have to be built into the deed or into the ordinance. She asked what happens in a situation where someone has to sell their home because they have to move for a job and can't sell the property and would have to then rent the property.

Councilor Giacomo, with reference to the CPI issue, said that with the exception of a period in the

late 1920's, any 30 year period will give you about a 150% return and did not feel that is a terrible return and hence did not have an objection to the 30 years.

A motion was made by Mayor George Hansel that the Planning Board find the Ordinance O-2022-09 as amended consistent with the Comprehensive Master Plan. The motion was seconded by David Orgaz and was unanimously approved on a 7-1 vote with Councilor Remy voting in opposition.

A motion was made by Chair Kate Bosley that the PLD Committee recommends the Mayor set a public hearing on the amended Ordinance. The motion was seconded by Councilor Michael Giacomo and carried on a unanimous roll call vote."



CITY OF KEENE

Twenty-Two

In the Year of Our Lord Two Thousand and

Relating to Amendments to the Land Development Code

AN ORDINANCE

Be it ordained by the City Council of the City of Keene, as follows:

That Chapter 100 of the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended by deleting the stricken text and adding the bolded and underlined text, as follows:

1. That Section 3.1.2 “Dimensions & Siting” of Article 3 be amended as follows:

Min Lot Area	5 acres 2 acres
Min lot area per dwelling unit without city water & sewer	5 acres
Min lot area per dwelling unit with city water & sewer	2 acres
Min Lot Width at Building Line	200 ft
Min Road Frontage	50 ft
Min Front Setback	50 ft
Min Rear Setback	50 ft
Min Side Setback	50 ft

2. That Section 3.1.5 “Permitted Uses” of Article 3 be amended to display “Dwelling, Two-Family / Duplex” and “Dwelling, Multifamily” as permitted uses by a Conservation Residential Development Subdivision in the Rural District.
3. That Section 3.3.5 “Permitted Uses” of Article 3 be amended to display “Dwelling, Two-Family / Duplex” and “Dwelling, Multifamily” as permitted uses by a Conservation Residential Development Subdivision in the Low Density District.
4. That Section 3.4.5 “Permitted Uses” of Article 3 be amended to display “Dwelling, Two-Family / Duplex” and “Dwelling, Multifamily” as permitted uses by a Conservation Residential Development Subdivision in the Low Density 1 District.
5. Update Table 8-1 “Permitted Principal Uses by Zoning District” in Article 8 to display “Dwelling, Two-Family / Duplex” and “Dwelling, Multifamily” as permitted uses by a Conservation Residential Development Subdivision in the Rural, Low Density, and Low-Density 1 Districts.

6. That Section 19.3.2.C “Density” of Article 19 be amended as follows:

~~C. Density. The maximum number of dwelling units allowed within a conservation residential development subdivision shall be determined by dividing the total area of the existing tract by the density factor per dwelling unit specified in Table 19-2.~~

1. The number of dwelling units allowed within a conservation residential development subdivision shall be determined by dividing the total area of the existing tract by the density factor per dwelling unit specified in Table 19-2.
2. A density bonus may be granted to developments that meet the criteria for one or more of the density incentives detailed in Section 19.3.6. In no instance shall a total density bonus of more than 30% above the standard allowable density be granted to any single development. This section shall not be waivable.

7. That Table 19-1 “Dimensional Requirements for Conservation Residential Development Subdivisions” in Article 19 be amended to change the minimum lot area for the Rural District from 1 acre to 32,000 square feet.

8. That Table 19-1 “Dimensional Requirements for Conservation Residential Development Subdivisions” in Article 19 be amended to add a footnote that states “New lots in the Rural District that are created as part of a CRD that are less than 1 acre in size may utilize an approved Subsurface Disposal System.”

9. Remove Section 19.3.2.D “Open Space Reserve,” sub-section 2 of Article 19, which states “Conservation residential development subdivisions in the Rural zoning district that permanently reserve 60% of the existing tract area or greater as open space shall be eligible for a density bonus, as noted in Table 19-2.”

10. That Table 19-2 “Density & Open Space Requirements” in Article 19 be amended as follows:

Zoning District	Density Factor per Dwelling Unit ¹	Min Open Space
Rural	4-acres 2 acres	50%
	3-acres	60%
Low Density-1 (without city water)	1 acre	50%
Low Density-1 (with city water)	20,000 sf	50%
Low Density	10,000 sf	50%

¹ **Density bonus(es) may be granted as specified in Section 19.3.6**

11. That Table 19-3 “Conservation Residential Development Permitted Uses” be amended as follows:

Permitted Use	Rural District	Low Density-1 District	Low Density District
Single-Family Dwelling	P	P	P
Two-Family Dwelling	P	P	P
Multifamily Dwelling	P ¹ (max of 3 dwelling units per structure)	P ¹ (max of 3 dwelling units per structure)	P (max of 6 dwelling units per structure)

"P" = Permitted Use " - " = Use Not Permitted

P1 = Use permitted with workforce housing density incentive

12. That a new Section entitled “Optional Density Incentives” be added after Section 19.3.5 of Article 19, as follows:

Section 19.3.6: Optional Density Incentives

Conservation Residential Development Subdivisions that meet certain performance criteria shall be eligible for a density bonus above the standard allowable density, up to a maximum of 30%. The 30% density cap shall not be waivable. If a density incentive is granted, the minimum lot size specified in Table 19-1 shall be waived.

- A. Open Space Density Incentive. Conservation Residential Development Subdivisions with a minimum tract size of 10 acres that permanently reserve at least 65% of the existing tract area as open space shall be eligible for a density bonus of 10% or one dwelling unit, whichever is greater.**
- B. Solar Density Incentive. Conservation Residential Development Subdivisions that meet the following criteria shall be eligible for a density bonus of 10% or one dwelling unit, whichever is greater:**
 - 1. At least 50% of the lots shall be solar-oriented. A "solar-oriented lot" shall mean a lot with its longest lot line dimension oriented to within thirty (30) degrees of a true east-west line.**
 - 2. The long axis of all dwelling units on solar-oriented lots shall be oriented so that the long axis faces within 20 degrees of true south.**
 - 3. At least four (4) kilowatts of solar PV shall be installed for each dwelling unit on a solar-oriented lot.**
 - 4. Where, as determined by the City, topographic, environmental, and soil conditions, and existing street configurations permit, the predominant pattern of new streets in subdivisions subject to this section shall be oriented within thirty (30) degrees of east-west orientation.**

C. Workforce Housing Density Incentive. Conservation Residential Development Subdivisions that meet the criteria below shall be eligible for a density bonus of 20% or one dwelling unit, whichever is greater. In addition, the permitted uses for a development that meets this section in the Rural District or Low Density-1 District shall include "multifamily dwelling" (max of 3 units per structure).

1. Workforce Housing, Owner-Occupied. A Workforce Housing Density Incentive will be granted to developments that guarantee the following:

- a. Twenty percent (20%) or more of the units constructed will be sold at initial sale for a price that can be afforded by a household with an income not more than 80% of the HUD Median Area Income for a family of four in Cheshire County.**
- b. Units will be sold with a deed restriction and recorded housing agreement that names an Income Verification Agent who will verify that the purchaser meets the income requirements. The resale value of the unit shall be restricted to the affordable purchase price for a period of 30 years. The resale value of the unit is not to be more than the original purchase price plus two times the accumulated consumer price index.**
- c. All units built under this provision shall be of the same approximate size, character, quality, and construction as the market rate units, and shall be distributed evenly throughout the project.**
- d. Affordability shall be defined as housing that can be purchased under a conventional mortgage whereby the combined annual expenses for principal, interest, property taxes, homeowner's insurance and condominium fees (if applicable) will not exceed 30% of household income.**

2. Workforce Housing, Rental. A Workforce Housing Density Incentive will be granted to developments that guarantee the following:

- a. Twenty percent (20%) or more of the units constructed will be rented for a price that can be afforded by a household with an income not more than 60% of the HUD Median Area Income for a family of three in Cheshire County.**
- b. Units will be rented with a deed restriction and recorded housing agreement that names an Income Verification Agent who will verify that the renter meets the income requirements. The rental value of the unit shall be restricted to the affordable rental price for a period of 30 years.**
- c. All units built under this provision shall be of the same approximate size, character, quality, and construction as the market rate units, and shall be evenly distributed throughout the project.**
- d. Affordability shall be defined as housing that can be rented whereby the combined annual rental and utility expenses will not exceed 30% of household income.**

3. Assurance of Continued Affordability. In order to qualify as workforce housing under this section, the application shall make a binding commitment that the dwelling units will remain affordable for a period of 30 years. This shall be enforced through a deed restriction, restrictive covenant, or some other contractual arrangement through a

local, state or federal housing authority or other non-profit housing trust or agency to administer this provision. No dwelling unit created by this bonus shall be occupied until written confirmation of the income eligibility of the tenant or buyer of the unit has been documented.

13. That Section 25.10.5 “Submittal Requirements,” sub-section C “Conservation Residential Development Subdivision Applications” of Article 25 be amended as follows:

In addition to the submittal requirements for a subdivision or boundary line adjustment in Section 25.10.5.B, a completed application for a proposed conservation residential development subdivision shall include the following.

1. An overview plan (1-copy on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17- in paper; and, an electronic pdf file), which displays the entire tract and any existing public roads, public or private protected lands, woodlands areas, surface waters, and precautionary or prohibitive slopes located within 200-ft of the tract.
2. An existing conditions plan displaying the location of primary and secondary conservation values as defined in Section 19.3 of this LDC.
- ~~3. A yield analysis (1-copy on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file) to determine the number of residential units that may be permitted within a conservation residential development subdivision. Although this plan shall be drawn to scale, it need not be based upon a field survey. The yield analysis may be prepared as an overlay to the existing conditions plan.~~
 - ~~a. The yield analysis shall be performed by applying a conventional subdivision layout, including lots conforming to the dimensional standards of the underlying zoning district and streets needed to access such lots. The conventional layout shall reflect a development density and pattern, taking into account surface waters, floodplains, steep slopes, existing easements or encumbrances, and the suitability of soils for private subsurface wastewater disposal if City sewer service is not available.~~
- 4 ~~3~~. A proposed conditions plan including the following.
 - a. The area(s) designated as Open Space, any common land and any specifically protected conservation values.
 - b. Any proposed uses of the Open Space (e.g. agriculture, recreation, forestry, etc.) and/or common lands shall be noted on the plan.
 - c. The location and dimensions of any proposed roads, sidewalks, and trails.
- 5 ~~4~~. A landscaping plan (1-copy on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file) providing the following information:
 - a. The location of existing wooded and vegetated areas and proposed changes to the outline of these areas.
 - b. The location, species and size of all landscaping materials proposed to be installed on the site,

including street trees.

- c. A table listing all plant species to be installed on the site, indicating the size (average height and width) at planting and at maturity as well as the number of each species to be installed.
- 6 **5.** Written documentation of the process applied by the applicant in the layout of the proposed conservation residential development subdivision to ensure that proposed or future development does not adversely impact primary and secondary conservation areas as defined in Section 19.3 of this LDC.

6. Applications that include a request for the Solar Density Incentive in Section 19.3.6.B shall include the following information:

- a. **A written request for the density incentive that describes how the application meets the requirements of Section 19.3.6.B.**
- b. **A solar access plan that displays the building areas or locations of structures on all solar-oriented lots in order to demonstrate that it would be possible to site a structure which is unshaded by other nearby structures, site features, or topography. This solar access plan shall demonstrate that the building areas or structures on solar-oriented lots are not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year. This plan may be included as an overlay to the subdivision plan or site plan, if required.**

7. Applications that include a request for the Workforce Housing Density Incentive in Section 19.3.6.C shall include the following information:

- a. **A written request for the density incentive that includes a calculation of the number of units provided under this section and a description of each unit's size, type, number of bedrooms, estimated cost, location within the development, and other relevant data.**
- c. **Written statement describing how the proposed development will meet the requirements of Section 19.3.6.C.3.**
- d. **The Planning Board shall request additional information if, in their judgment, it is necessary to determine whether the requirements of Section 19.3.6.C have been met.**

14. That Section 25.10.9 "Filing," sub-section C of Article 25 be amended as follows:

- C. For approved conservation residential development subdivision applications, applicants shall also submit written documentation of any legal instruments required for the management of the designated Open Space land to the Community Development Department. **In addition, applicants shall submit written documentation of any legal instruments required to demonstrate compliance with the criteria of any and all optional density incentives granted by the Planning Board.** Such documents **shall be submitted to the Community Development Department and** are subject to the review and approval of the City Attorney prior to signature.

George S. Hansel, Mayor

Twenty-Two
Relating to Amendments to the Land Development Code

That Chapter 100 of the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended by deleting the stricken text and adding the bolded and underlined text, as follows:

1. That Section 3.1.2 “Dimensions & Siting” of Article 3 be amended as follows:

Min Lot Area	5 acres <u>2 acres</u>
Min lot area per dwelling unit without city water & sewer	5 acres
Min lot area per dwelling unit with city water & sewer	2 acres
Min Lot Width at Building Line	200 ft
Min Road Frontage	50 ft
Min Front Setback	50 ft
Min Rear Setback	50 ft
Min Side Setback	50 ft

2. That Section 3.1.5 “Permitted Uses” of Article 3 be amended to display “Dwelling, Two-Family / Duplex” and “Dwelling, Multifamily” as permitted uses by a Conservation Residential Development Subdivision in the Rural District.
3. That Section 3.3.5 “Permitted Uses” of Article 3 be amended to display “Dwelling, Two-Family / Duplex” and “Dwelling, Multifamily” as permitted uses by a Conservation Residential Development Subdivision in the Low Density District.
4. That Section 3.4.5 “Permitted Uses” of Article 3 be amended to display “Dwelling, Two-Family / Duplex” and “Dwelling, Multifamily” as permitted uses by a Conservation Residential Development Subdivision in the Low Density 1 District.
5. Update Table 8-1 “Permitted Principal Uses by Zoning District” in Article 8 to display “Dwelling, Two-Family / Duplex” and “Dwelling, Multifamily” as permitted uses by a Conservation Residential Development Subdivision in the Rural, Low Density, and Low-Density 1 Districts.

6. That Section 19.3.2.C “Density” of Article 19 be amended as follows:

C. Density. ~~The maximum number of dwelling units allowed within a conservation residential development subdivision shall be determined by dividing the total area of the existing tract by the density factor per dwelling unit specified in Table 19-2.~~

1. The number of dwelling units allowed within a conservation residential development subdivision shall be determined by dividing the total area of the existing tract by the density factor per dwelling unit specified in Table 19-2.
2. A density bonus may be granted to developments that meet the criteria for one or more of the density incentives detailed in Section 19.3.6. In no instance shall a total density bonus of more than 30% above the standard allowable density be granted to any single development. This section shall not be waivable.

7. That Table 19-1 “Dimensional Requirements for Conservation Residential Development Subdivisions” in Article 19 be amended to change the minimum lot area for the Rural District from 1 acre to 32,000 square feet.

7.8. That Table 19-1 “Dimensional Requirements for Conservation Residential Development Subdivisions” in Article 19 be amended to add a footnote that states “New lots in the Rural District that are created as part of a CRD that are less than 1 acre in size may utilize an approved Subsurface Disposal System.”

8.9. Remove Section 19.3.2.D “Open Space Reserve,” sub-section 2 of Article 19, which sates “Conservation residential development subdivisions in the Rural zoning district that permanently reserve 60% of the existing tract area or greater as open space shall be eligible for a density bonus, as noted in Table 19-2.”

9.10. That Table 19-2 “Density & Open Space Requirements” in Article 19 be amended as follows:

Zoning District	Density Factor per Dwelling Unit ¹	Min Open Space
Rural	4 acres 2 acres	50%
	3 acres	60%
Low Density-1 (without city water)	1 acre	50%
Low Density-1 (with city water)	20,000 sf	50%
Low Density	10,000 sf	50%

¹ Density bonus(es) may be granted as specified in Section 19.3.6

~~10.11.~~ 11.11. That Table 19-3 “Conservation Residential Development Permitted Uses” be amended as follows:

Permitted Use	Rural District	Low Density-1 District	Low Density District
Single-Family Dwelling	P	P	P
Two-Family Dwelling	P	P	P
Multifamily Dwelling	P ¹ (max of 3 dwelling units per structure)	P ¹ (max of 3 dwelling units per structure)	P (max of 6 dwelling units per structure)

"P" = Permitted Use " - " = Use Not Permitted

P1 = Use permitted with workforce housing density incentive

~~11.12.~~ 11.12. That a new Section entitled “Optional Density Incentives” be added after Section 19.3.5 of Article 19, as follows:

Section 19.3.6: Optional Density Incentives

Conservation Residential Development Subdivisions that meet certain performance criteria shall be eligible for a density bonus above the standard allowable density, up to a maximum of 30%. The 30% density cap shall not be waivable. If a density incentive is granted, the minimum lot size specified in Table 19-1 shall be waived.

- A. Open Space Density Incentive. Conservation Residential Development Subdivisions with a minimum tract size of 10 acres that permanently reserve at least 65% of the existing tract area as open space shall be eligible for a density bonus of 10% or one dwelling unit, whichever is greater.**
- B. Solar Density Incentive. Conservation Residential Development Subdivisions that meet the following criteria shall be eligible for a density bonus of 10% or one dwelling unit, whichever is greater:**
 - 1. At least 50% of the lots shall be solar-oriented. A "solar-oriented lot" shall mean a lot with its longest lot line dimension oriented to within thirty (30) degrees of a true east-west line.**
 - 2. The long axis of all dwelling units on solar-oriented lots shall be oriented so that the long axis faces within 20 degrees of true south.**
 - 3. At least four (4) kilowatts of solar PV shall be installed for each dwelling unit on a solar-oriented lot.**

- 4. Where, as determined by the City, topographic, environmental, and soil conditions, and existing street configurations permit, the predominant pattern of new streets in subdivisions subject to this section shall be oriented within thirty (30) degrees of east-west orientation.**
- C. Workforce Housing Density Incentive. Conservation Residential Development Subdivisions that meet the criteria below shall be eligible for a density bonus of 20% or one dwelling unit, whichever is greater. In addition, the permitted uses for a development that meets this section in the Rural District or Low Density-1 District shall include "multifamily dwelling" (max of 3 units per structure).**
- 1. Workforce Housing, Owner-Occupied. A Workforce Housing Density Incentive will be granted to developments that guarantee the following:**
- a. Twenty percent (20%) or more of the units constructed will be sold at initial sale for a price that can be afforded by a household with an income not more than 80% of the HUD Median Area Income for a family of four in Cheshire County.**
 - b. Units will be sold with a deed restriction and recorded housing agreement that names an Income Verification Agent who will verify that the purchaser meets the income requirements. The resale value of the unit shall be restricted to the affordable purchase price for a period of 30 years. The resale value of the unit is not to be more than the original purchase price plus two times the accumulated consumer price index.**
 - c. All units built under this provision shall be of the same approximate size, character, quality, and construction as the market rate units, and shall be distributed evenly throughout the project.**
 - d. Affordability shall be defined as housing that can be purchased under a conventional mortgage whereby the combined annual expenses for principal, interest, property taxes, homeowner's insurance and condominium fees (if applicable) will not exceed 30% of household income.**
- 2. Workforce Housing, Rental. A Workforce Housing Density Incentive will be granted to developments that guarantee the following:**
- a. Twenty percent (20%) or more of the units constructed will be rented for a price that can be afforded by a household with an income not more than 60% of the HUD Median Area Income for a family of three in Cheshire County.**
 - b. Units will be rented with a deed restriction and recorded housing agreement that names an Income Verification Agent who will verify that the renter meets the income requirements. The rental value of the unit shall be restricted to the affordable rental price for a period of 30 years.**
 - c. All units built under this provision shall be of the same approximate size, character, quality, and construction as the market rate units, and shall be evenly distributed throughout the project.**
 - d. Affordability shall be defined as housing that can be rented whereby the combined annual rental and utility expenses will not exceed 30% of household income.**

- 3. Assurance of Continued Affordability. In order to qualify as workforce housing under this section, the application shall make a binding commitment that the dwelling units will remain affordable for a period of 30 years. This shall be enforced through a deed restriction, restrictive covenant, or some other contractual arrangement through a local, state or federal housing authority or other non-profit housing trust or agency to administer this provision. No dwelling unit created by this bonus shall be occupied until written confirmation of the income eligibility of the tenant or buyer of the unit has been documented.**

12.13. That Section 25.10.5 “Submittal Requirements,” sub-section C “Conservation Residential Development Subdivision Applications” of Article 25 be amended as follows:

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2. An existing conditions plan displaying the location of primary and secondary conservation values as defined in Section 19.3 of this LDC.
- ~~3. A yield analysis (1-copy on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file) to determine the number of residential units that may be permitted within a conservation residential development subdivision. Although this plan shall be drawn to scale, it need not be based upon a field survey. The yield analysis may be prepared as an overlay to the existing conditions plan.~~
 - ~~a. The yield analysis shall be performed by applying a conventional subdivision layout, including lots conforming to the dimensional standards of the underlying zoning district and streets needed to access such lots. The conventional layout shall reflect a development density and pattern, taking into account surface waters, floodplains, steep slopes, existing easements or encumbrances, and the suitability of soils for private subsurface wastewater disposal if City sewer service is not available.~~
- 4 **3.** A proposed conditions plan including the following.
 - a. The area(s) designated as Open Space, any common land and any specifically protected conservation values.
 - b. Any proposed uses of the Open Space (e.g. agriculture, recreation, forestry, etc.) and/or common lands shall be noted on the plan.
 - c. The location and dimensions of any proposed roads, sidewalks, and trails.
- 5 **4.** A landscaping plan (1-copy on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file) providing the following information:

- a. The location of existing wooded and vegetated areas and proposed changes to the outline of these areas.
 - b. The location, species and size of all landscaping materials proposed to be installed on the site, including street trees.
 - c. A table listing all plant species to be installed on the site, indicating the size (average height and width) at planting and at maturity as well as the number of each species to be installed.
- ¶ 5. Written documentation of the process applied by the applicant in the layout of the proposed conservation residential development subdivision to ensure that proposed or future development does not adversely impact primary and secondary conservation areas as defined in Section 19.3 of this LDC.
6. **Applications that include a request for the Solar Density Incentive in Section 19.3.6.B shall include the following information:**
- a. **A written request for the density incentive that describes how the application meets the requirements of Section 19.3.6.B.**
 - b. **A solar access plan that displays the building areas or locations of structures on all solar-oriented lots in order to demonstrate that it would be possible to site a structure which is unshaded by other nearby structures, site features, or topography. This solar access plan shall demonstrate that the building areas or structures on solar-oriented lots are not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year. This plan may be included as an overlay to the subdivision plan or site plan, if required.**
7. **Applications that include a request for the Workforce Housing Density Incentive in Section 19.3.6.C shall include the following information:**
- a. **A written request for the density incentive that includes a calculation of the number of units provided under this section and a description of each unit's size, type, number of bedrooms, estimated cost, location within the development, and other relevant data.**
 - c. **Written statement describing how the proposed development will meet the requirements of Section 19.3.6.C.3.**
 - d. **The Planning Board shall request additional information if, in their judgment, it is necessary to determine whether the requirements of Section 19.3.6.C have been met.**

~~13.14.~~ That Section 25.10.9 "Filing," sub-section C of Article 25 be amended as follows:

- C. For approved conservation residential development subdivision applications, applicants shall also submit written documentation of any legal instruments required for the management of the designated Open Space land to the Community Development Department. **In addition, applicants shall submit written documentation of any legal instruments required to demonstrate compliance with the criteria of any and all optional density incentives granted by the Planning Board.** Such documents **shall be submitted to the Community**

Development Department and are subject to the review and approval of the City Attorney prior to signature.

George S. Hansel, Mayor



CITY OF KEENE NEW HAMPSHIRE

ITEM #1.1.

Meeting Date: August 18, 2022
To: Mayor and Keene City Council
From: Kurt Blomquist, ACM/Public Works Director
Through: Elizabeth Dragon, City Manager
Subject: **Relating to Water and Sewer Utility Charges
Ordinance O-2022-10**

Recommendation:

That the City Council perform first reading of Ordinance O-2022-10 Water and Sewer Rates and the Mayor refer the Ordinance to the Finance, Organization and Personnel Committee.

Attachments:

1. Ordinance O-2022-10

Background:

The City's Sewer and Water Funds operate as Enterprise Funds. This requires that expenses associated with the production, distribution, and treatment of drinking water and the collection and treatment of wastewater be recovered through associated rates.

The City Council in 2021 reviewed the rate structure for both sewer and water. The City Council chose a rate structure of two components: a fixed cost based on meter size and a single volumetric charge per hundred cubic feet for all users. During the discussions on the rates, the City Council chose to maintain the fire service charges at the level they were in 2019. It was also discussed that sewer and water rates would be reviewed annually and adjustments be made as appropriate.

With the development and adoption of the FY23 Operating Budget and the FY23-FY29 Capital Improvement Program, City staff has completed the review of the Sewer and Water Funds and the associated rates.

The largest influence on revenue for the Sewer and Water Funds is the amount consumed by users. Over the last 10 years, consumption has been decreasing and leveling off. There are many influences of this trend that include: businesses developing and using processes that are more efficient, consumers using water more wisely, as well as the construction industry and appliance technology trends that are using less water. As a result, staff is using a flat consumption projection.

Sewer and water operations are heavily dependent on electricity, chemicals, and materials. These items have seen a significant increase in cost and it is anticipated that this trend will continue.

The unassigned fund balances were reviewed for both funds. The Sewer Fund has a healthy unassigned fund balance while the Water Fund is at a low level. The reason for the low fund balance in the Water Fund was the result of the unplanned replacement of the Drummer Hill Water Tank and Booster Station during FY20 and FY21.

Based on the review of both funds, City staff is recommending that the sewer rates be held at the current amounts (both fixed and volumetric) and the water rates (both fixed and volumetric) be increased.

In FY21, the City Council did not update the fire services charges. As reported during the FY21 discussion, when the fire services charges were held at the existing level, approximately \$300K of expenses were shifted from non-residential customers to residential customers. These charges have not changed since 2009 and in the proposed ordinance, it is recommended that these charges be updated.



CITY OF KEENE

O-2022-10

In the Year of Our Lord Two Thousand and Twenty-two

AN ORDINANCE Relating to Water and Sewer Utility Charges

Be it ordained by the City Council of the City of Keene, as follows:

That Appendix B Fee Schedule of the Ordinances of the City of Keene, as amended, are hereby further amended by deleting the stricken text and inserting the bolded text under effective 11/1/2022 in the accompanying rate schedule in Section 98-511 of Appendix B so that Section 98-511 (a) and Section 98-511 (g), and the accompanying rates in Appendix B, would read as follows:

Appendix B

	effective <u>11/1/2021</u>	effective <u>11/1/2022</u>
<u>Section 98-511 (a). Water Meter Rates</u>		
Volume Rate (\$ per hcf)	\$ 5.06	\$ 5.35
Fixed Quarterly Charge (meter size in inches)		
5/8 inches	\$ 24.36	\$ 24.33
3/4 inches	\$ 36.53	\$ 36.50
1 inch	\$ 60.89	\$ 60.83
1 1/2 inches	\$ 121.78	\$ 121.65
2 inches	\$ 194.84	\$ 194.64
3 inches	\$ 365.33	\$ 364.96
4 inches	\$ 608.88	\$ 608.26
6 inches	\$ 1,217.76	\$ 1,216.52
	effective <u>1/1/2009</u>	effective <u>11/1/2022</u>
<u>Section 98-511 (g). Public and private fire protection service charges:</u>		
Private Fire Protection (per connection, per year)		
Private Fireline 1 1/2"	\$ 36.13	\$ 29.42
Private Fireline 2"	\$ 64.22	\$ 62.70
Private Fireline 4"	\$ 256.89	\$ 388.14
Private Fireline 6"	\$ 578.00	\$ 1,127.46
Private Fireline 8"	\$ 1,027.56	\$ 2,402.66
Private Fireline 10"	\$ 1,605.57	\$ 4,320.81
Private Fireline 12"	N/A	\$ 6,979.30
Private Hydrant (perhydrant, per year)	\$ 578.00	\$ 1,127.46

PASSED

George S. Hansel, Mayor



CITY OF KEENE NEW HAMPSHIRE

Meeting Date: August 18, 2022

To: Mayor and Keene City Council

From: Randall Walter
310 Marlboro Street LLC

Through: Patricia Little, City Clerk

Subject: **Relating to Amendments to the Business, Growth and Reuse District -
Recreational/Entertainment Facility - Indoor
Ordinance O-2022-11**

Recommendation:

Attachments:

1. Application to Amendment Zoning Ordinance_Walter
2. Ordinance O-2022-11

Background:

Randall Walter has submitted an application and Ordinance that would amend the Land Development Code by permitting a "recreational/entertainment facility - indoor" as a permitted primary use for the Business Growth and Reuse District.



APPLICATION TO AMEND THE ZONING ORDINANCE

Petitioner 310 Marlboro St., LLC Date

Address 310 Marlboro St, Keene NH 03431

Telephone (603) 721.1227 Email: 310marlborostreetllc@gmail.com

Existing Section Reference in Chapter 102, Zoning Ordinance 5.4.5/Table 8.1

Does the amendment affect "Minimum Lot Size" Yes No [X]

Does the amendment affect "Permitted Uses" Yes [X] No

Brief Description of Proposed Change Allow Recreation/Entertainment Facility - Indoor in the BGR zone/district

R Walter Digitally signed by R Walter DN: cn=R Walter, o=310 Marlboro St., LLC, ou=Manager, email=310marlborostllc@gmail.com, c=US Date: 2021.10.17 17:14:29 -0400 Petitioner's Signature

Submittal Requirements which must be complete at the time of submission to the City Clerk.

- A properly drafted Ordinance containing the amendment in a form meeting the requirements of the City Clerk.
A typed or neatly printed narrative explaining the purpose of, effect of, and justification for the proposed change(s).
\$100.00 application fee.
As provided for in RSA 675:7, if the proposed amendment would change the minimum lot sizes or the permitted uses in a zoning district that includes 100 or fewer properties, the petitioner shall submit a notarized list of property owners/agents impacted by the zoning amendment. The list shall include the tax map number and address of each abutter or owner, and must be current with the Assessing Department's records within ten days of submittal. The list shall also include the name of any agent who should receive notice. Two sets of mailing labels shall be provided.

Date Received by City Clerk 8/15/22 Fee Received \$ 100.00 application fee

Ordinance # O-2022-11 On City Council agenda 8/18/2022

Workshop to be held _____ Public Hearing to be held _____

The petitioner is also responsible for the publication costs for the workshop and hearing notice. The Keene Sentinel will bill for the publication cost if the petitioner has an account with them. If the petitioner does not have an account, \$90.00 will be collected to cover the cost of the public hearing notice. Additional costs will be collected by the Planning Department for the publication of the public workshop notice.

15AUG2022

To the Keene City Council and staff:

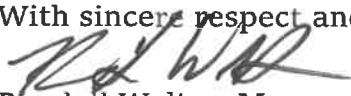
310 Marlboro Street continues the process of redevelopment and a return as a vital location on the Marlboro Street corridor. There are features of this building and others in the Business Growth & Reuse District that inspire the following request. The scale, height and dimensions of former industrial spaces allow for indoor activities that are not found in other portions of the city. We request that Recreation/Entertainment Facility - Indoor be considered to be allowed in the BGR.

Recreation/Entertainment Facilities have minimal traffic and parking impacts due to the large amount of square footage per person required. The activity is consistent, and is a blend of the allowed small Restaurant (up to 50 people), and the activity of fitness facilities already permitted in the district.

The interest of 310 Marlboro St., LLC is to develop a community of businesses @310 that are socially responsible, environmentally sustainable and vibrant contributors to the active culture of Keene.

Thank you for your continued commitment and effort to overseeing the development and prosperity of Marlboro Street and the greater Keene community.

With sincere respect and appreciation,


Randall Walter, Manager
310 Marlboro St., LLC



CITY OF KEENE

O-2022-11

Twenty-two

In the Year of Our Lord Two Thousand and
Relating to Amendments to the Business, Growth & Reuse District -
Recreation/Entertainment Facility
AN ORDINANCE

Be it ordained by the City Council of the City of Keene, as follows:

That Chapter 100 entitled “Land Development Code” of the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended as follows:

1. That “Recreation/Entertainment Facility – Indoor” be added as a permitted primary use to the Business Growth and Reuse District.
2. Update Table 8-1 “Permitted Principal Uses by Zoning District” and Section 5.4.5 “Permitted Uses” in Article 8 to display Recreational/Entertainment Facility – Indoor as a permitted use in the Business Growth and Reuse District under the category of Commercial Uses.

George S. Hansel, Mayor