

BRUNSWICK ZONING ORDINANCE REWRITE COMMITTEE WORK SESSION

APRIL 13, 2015

MEMBERS PRESENT ZONING ORDINANCE REWRITE COMMITTEE: Charlie Frizzle, Chair; Margaret Wilson, Vice Chair; Richard Visser, Anna Breinich, Director of Planning and Development; Jeremy Doxsee, Town Planner; and Jeff Hutchinson, Code Enforcement Officer

MEMBERS PRESENT RECREATION COMMISSION: Tom Farrell, Director of Parks & Recreation, Kristi Hatrick, Recreation Commission

CONSULTANT PRESENT: Don Elliott of Clarion Associates was present via Zoom.

Mr. Frizzle opened the meeting.

Mr. Frizzle opened the meeting to public comments about items not included on the agenda.

Richard Fisco, 2 Lincoln Street, asked about the availability of a second draft of the proposed zoning ordinance, and Mr. Frizzle stated it would be sometime in June. Other missing items are planned to be done by the first meeting in May, said Ms. Breinich. Ms. Breinich stated that the meetings in May would include work sessions on mapping revisions and other public comments for sections that have not been finalized yet.

Carol Liscovitz, 11 Berry Street, is concerned that the issue of possibly separating the zones doesn't get lost, since the discussion has been put off until other items are accomplished, but knowing that the consolidations were an issue at the beginning of the draft zoning meetings. Her concerns revolve around the consolidation itself, rather than the smaller details of each zoning district. Ms. Wilson stated they would get to that discussion, and the Neighborhood Protection Standards are a profound part of the draft ordinance, and Ms. Liscovitz agrees.

Richard Fisco, 2 Lincoln Street, believes the community should have had a readable draft first, before discussions of the details.

Review and approval of meeting summaries:

- Meeting summary from 3/26/15
Mr. Frizzle asked for a correction on page 3. The Committee had no other corrections.

Margaret Wilson moved, Jeff Hutchinson seconded, approval of the March 26, 2015, meeting summary. The motion was approved unanimously.

Recreation requirement draft section:

Ms. Breinich would like to thank Tom Farrell and Kristi Hatrick for the work done on the first draft. Mr. Frizzle stated that the draft looked very good, and the Committee members agreed.

Ms. Breinich turned the meeting over to the Recreation Commission to discuss their additional changes.

Mr. Farrell stated that based on their appearance at last meeting, staff was charged with putting together an initial draft and essentially break down the proposal they had brought to the Committee into two parts; the appendices that would be more appropriate outside of the ordinance, and the drafted language that is more pertinent to the draft ordinance. The Commission has responded by amending some of the draft language to clarify their strong viewpoint that there is adequate acreage to support the recreation facilities that need to be developed going forward, therefore, they wanted to place a greater emphasis on the Town's ability to charge the fees used to develop these lands. The changes place a higher priority on the Recreation Impact Fees, still allowing, in certain circumstances, the Town to seek land instead of the fees. There are areas of land identified as key or critical connections in terms of a larger regional trail system; water access, which is always a high priority because it is seldom received; and areas previously identified by the Town as desirable.

Ms. Wilson asked if public access is required to reserve recreational land that the Recreation Commission would accept, as opposed to access only available to people in the proposed development. Mr. Farrell responded that two different entities are reviewing the proposals, the Conservation Commission and the Recreation Commission. His sense is that it is clear that the developer has a requirement to provide for recreation primarily for residents of the development, and if a proposal comes forward for a trail system only within the development, he cannot speak for the Conservation Commission, but he would say that the Recreation Commission would probably want to negotiate with the developer for an outcome that would go beyond that. Kristi Hatrick of the Recreation Commission agrees with Mr. Farrell's assessment. Mr. Farrell also believes that State law will regulate what the Town can require, and he's not sure the Town can require public access. Ms. Wilson stated the developer could provide public access or levy the fee, and she would like the passage about "preferred option" clarified, as she's not sure if it means the Town's or the developer's.

Richard Fisco, 2 Lincoln Street, thinks it is important to figure out if the Town wants public access or not.

Mr. Frizzle stated that if the proposed reserve lands do not provide public access, then it is clearly the Recreation Department's preference to accept a fee instead. This needs to be said somehow that doesn't totally tie the Town up, but lets the public know exactly what the preferences are. Mr. Frizzle responded to a question about equivalent value of land by saying they could waive a portion of the Rec fee if desired, and that is what is done currently. The Committee asks Mr. Farrell to add the stronger language about the Town's preferences for reserve lands, but the rest of the document is clear and well written.

Use Table (revised):

Ms. Wilson would like Ms. Breinich and Mr. Elliott to review the asterisks in the table. The Committee detailed the changes in the table sequentially, in accordance with discussion at the last meeting. Ms. Breinich stated that they didn't have many changes from their discussion, but

after releasing the changes last week, she received public comments on the uses and dimensions on what was the Medical Use Overlay Zone and what is now GM-8. Mr. Frizzle said they would discuss those comments when they got to that section. The Committee confirmed that boarding house was changing from permitted to prohibited in GC-2.

Carol Liscovitz, 11 Berry Street, asked for some acknowledgment of the density whether Bowdoin's student housing is called residence halls or apartments, because that is what really affects the adjacent neighborhood. Mr. Frizzle believed that the density standard for south of Longfellow, where the apartments are located, has stayed the same, and Ms. Breinich confirmed that.

Catherine Ferdinand, Bowdoin College, does not believe a density standard can be applied to a residence hall by definition. They are looking for flexibility, but are also concerned about the neighbors' views.

Ms. Wilson identified the big issue as being that a residence hall is not associated with density. She said that you could put a lot more kids in the same space, and the neighbors would not like that. Mr. Frizzle said it had not been a problem thus far; he feels relatively comfortable leaving residence halls as undefined in terms of density. He stated if they run into a problem down the road they can address it at that time. They do not have any specifics at this time. Bowdoin also has its own standards and occupancy codes for residence halls.

Carol Liscovitz, 11 Berry Street, said it should be defined now and dealt with when there is a problem, rather than leave it as it is. If there is something decided now, it becomes a right, and that takes away the flexibility on the neighborhood's side.

Catherine Ferdinand, Bowdoin College, responded to Ms. Liscovitz by saying this is the opportunity to improve this ordinance now. She does not want to lose the coupling of flexibility for Bowdoin and Neighborhood Protection Standards for the residents.

Ms. Breinich replied that this issue is difficult because it deals with inner flexibility and outer Neighborhood Protection Standards. She would also argue that student housing is a right in that district.

Mr. Frizzle would like to leave this item for staff to work out some calculations, and hopefully meet in the middle somewhere.

Richard Fisco, 2 Lincoln Street, asked the Committee to keep in mind that the area where the college meets residential will always be in flux, and there will be more growth by the college. Mr. Frizzle asked Ms. Breinich to consider deeming this a conditional use, so it attracts a higher scrutiny and review.

Catherine Ferdinand, Bowdoin College, said they would view that as losing a right because it is currently permitted with a special requirement that is referenced in the ordinance. Mr. Frizzle stated right now Bowdoin's special right is limited to apartments with kitchens and so forth. If you want to do something different, they can make that a conditional use approval. Ms. Breinich said residence halls have always been a conditional use in the zoning ordinance, but the

residence hall Bowdoin is referring to is an apartment, which is a permitted use. In the proposed ordinance, it is a conditional use in GC-2. Mr. Frizzle will leave this issue to Ms. Breinich, to state something along the lines that if Bowdoin wants to do something other than apartments in that area, make it a conditional use, which is currently the case.

Mr. Frizzle stated the next change they had was going from permitted to conditional for libraries, museums, and art galleries in GR-6. Ms. Breinich wanted that same change in GM-8 so it would be consistent with R-3, 4, 5 and 6, which is where most of the residential is. The Committee agreed. The Committee agreed with staff that municipal facilities should be permitted in GM-8 zone, which had been an oversight. The staff suggestion to apply X's for not permitted in telecommunications towers everywhere except the few places in town where we do allow it was agreed to by the Committee. Ms. Breinich added an additional X in GM-8, which was agreed to by the Committee. A staff change to make schools conditional in GC-2 was brought up, but Ms. Breinich questioned whether the Town should be permitting schools in each of the districts because a school is an educational facility, which means any kind of private, more traffic-generating type of school, and should they be allowed in all districts. Mr. Frizzle said there is a huge difference between a small martial arts facility and Jordan Acres School or any other large school structure. Mr. Frizzle said it could be made conditional everywhere, which gives them the opportunity to examine those different scenarios and see if they are appropriate. Mr. Frizzle suggested two categories: public schools and private schools. Ms. Wilson suggested Class 1 and Class 2, in terms of size, which Ms. Breinich agreed with. The Committee agreed with this idea. The next item was veterinary office changing from conditional to permitted in GM-3, and industrial zone. The Committee agreed.

Changes to the GM-8 zone for previously principal uses:

- Recreational facility from permitted to conditional
- Restaurant/dining facility and theater, permitted as an accessory use only
- Campground, prohibited
- Hotel, prohibited
- Bank, permitted as an accessory use only
- Retail Class 1, permitted as an accessory use only
- Retail Class 2, prohibited
- Service business, Class 1, permitted as an accessory use only
- Service business, Class 2, prohibited

Mr. Elliott joined the meeting.

CU-5 and CU-6:

- Office, permitted – this was an oversight

CU-4 and CU-7

- Hotel, prohibited, per Committee discussion at last meeting

Carol Liscovitz, 11 Berry Street, asked why campground was allowed in GC-1 and GC-2, and was told they were not allowed; it was language carried over from the current zoning ordinance. It will be deleted.

GM-8

- Aviation and aviation-related businesses will be deleted; also in GC-1, GC-2, GC-3, GM-1, GM-2 and GM-6
- Studio is conditional use in all the residential districts
- Marina or boat storage, prohibited
- Parking facility as a principal use, prohibited
- Ultra light aircraft, prohibited; also prohibited in GC-1, GC-2 and GC-3
- Vehicle fueling station, prohibited
- Vehicle service and repair, prohibited
- Contractor's space, prohibited
- Industry, Class 1, 2 and 3, prohibited; industry Class 2 allowed in former Cooper Building, as the Committee agreed
- Marine activity, prohibited
- Recycling as a principal use prohibited

Cook's Corner Area

- Changing to permitted from non-permitted for bus or rail station

CU-TC

- Parking facility as a principal use; conditional use in GC-4

TR-1

- Warehousing and storage, prohibited; allowed at Fort Andross

Mr. Frizzle felt there was some redundancy in the Accessory Uses section. Mr. Elliott suggested the Committee decide if they are going to have a full list of accessory uses in the Use Table even though some of the same uses are repeated in primary uses. He offered another suggestion to avoid the redundancy, however, some of the terminology used, for example, multi-family development, is not the same as accessory apartments, and he's not sure it will be easily found by the name, if there is an A there. They could make a shorter table where there is no repetition at all, but the upper part of the table has P's, C's and A's in it. Ms. Breinich feels this might be too confusing, and Mr. Frizzle will not dig his heels in even though he has a natural reaction to redundancy. He stated if it serves the purpose, it's fine. The end result is if staff is looking for an accessory use and don't find it in the bottom of the table, they should look at the top of the table.

Ms. Breinich asked Mr. Elliott about differentiating among the types of schools, and Ms. Wilson's suggestion of Class 1 and Class 2, dependent on size. The issue that came up was how to handle a martial arts school. They currently allow any type of school as a permitted use in almost all of the residential districts, and whether or not they should be doing this is somewhat of a concern. Mr. Elliott will review the definitions, but said the norm would be in the civic and public uses, many codes do have two lines. One is school, elementary and middle, and one is high. Most codes handle martial arts, driving, and training schools as commercial uses, not civic. They are businesses which have the purpose of educating people. He would make sure that the office definition was large enough to cover commercial education. He believes they should be

listed under service or office. The Committee decided not to use Class 1 and 2, and will review the definition of school.

Mr. Hutchinson started another discussion about the use of A's in the Use Table, when they should be P's as they are already accessory. He agrees with Mr. Frizzle's assessment above. Mr. Elliott suggested they change the legend at the top to say "*allowed only as an accessory use to a permitted or a conditional use*". Mr. Frizzle said the Committee would leave it to Ms. Breinich and Mr. Elliott to figure this out. Mr. Hutchinson suggested to have a separate page for accessory uses, and the Committee liked this idea.

Carol Liscovitz, 11 Berry Street, asked for a definition for "*temporary use*", and Ms. Breinich read the new definition from the proposed draft ordinance to the audience.

Mr. Elliott will provide a definition for container.

The Committee moved on to the Rural Area Permitted Use Table. The Committee is deleting College Facility Not Listed, and are putting X's in the telecommunications towers where the towers don't belong, as agreed to. There was one staff change making aviation operations in RM (MU-5) a conditional use.

Density Standards (continued discussion):

After discussion at last week's meeting, Ms. Breinich drafted language that minimum lot size be 7,000 sq. ft. This was Mr. Frizzle's understanding, but not Ms. Wilson's. Mr. Elliott thought they were going to go with density and not minimum lot size, which was Ms. Wilson's understanding, and she thought the agreement of 7,000 sq. ft. was appropriate for non-residential. Mr. Frizzle stated that 7,000 sq. ft. would apply across the board to all non-residential uses. Mr. Doxsee also thought the Committee decided to use density, then divide for the minimum lot size. Ms. Breinich stated they increased maximum densities in GR-3 and GR-4 to 6 units per acre; in GR-8 and GR-9 also 6 units per acre from 5. Mr. Frizzle would like Ms. Breinich to explain why they did not try to raise any of the densities in some of the other districts, for instance, R-1, R-8, or GR-7. Ms. Breinich stated it was primarily based on Ms. Wilson's review. Mr. Frizzle said Ms. Wilson's review was not based on specific districts, but rather across the board, so he's wondering why she increased the density in some areas. Ms. Breinich stated it was in response to discussion held last meeting. Mr. Frizzle does not recall that they broke that discussion down into specific districts. With R-1 and R-8 being in the growth zone, why would they be left with a density of 3 instead of increasing the density. Ms. Breinich replied that all along they had been saying they would leave that at 3, so they never discussed increasing it. Ms. Wilson said at the very beginning of the proposed ordinance changes, the only changes it made in an effort to increase density were to decrease lot sizes, and your question is most relevant to why then were those decreased lot sizes not applied across the board in all of the residential zones. When Ms. Wilson created her charts, she applied either increased density or just eliminating lot size to those districts that Ms. Breinich had already decided were the only ones they were going to attempt to increase. Mr. Frizzle asked what the logic behind deciding those were the only districts where they would try to increase density. Ms. Wilson added that from the very beginning, in R-1 and R-8, there was going to be no change in the lot size, and only in certain R districts would there be diminished lot size in attempt to get increased density. Ms. Breinich responded that R-1 and R-8

were protected from increases in density because it was already built out. Mr. Frizzle said he understood that and assumed the same applied to TR-2, which Ms. Breinich confirmed. Mr. Frizzle stated that by limiting increased density to a few districts, it is further limiting what they are trying to accomplish in response to the Comprehensive Plan. Ms. Breinich said a member of the Comprehensive Plan Committee wanted to remind them that they were not meeting the densities that were proposed in the Comprehensive Plan. Ms. Wilson said she did the density comparisons to show that the proposed ordinance, in spite of saying it would increase density, in fact, did not. Changing the 5's to 6's has made a small difference. Ms. Breinich said that in addition to that increase, they are eliminating lot size, to get to the densities they couldn't get to before. Mr. Frizzle said the effect of eliminating the lot size amplifies some of the numbers on the table and makes their impact on what the Comprehensive Plan is trying to achieve a little greater. Ms. Wilson still feels no reason to exempt 1 and 8, so the Committee discussed this, as eliminating the current lot size has no effect. Mr. Frizzle would address the 3's, 4's and 5's across the board with increases by one, and Ms. Wilson will work on that and compile new charts. The Committee also discussed increasing the impervious surface in R-1, R-7 and R-8 to 35 from 30, trying to strike a balance between concerns about impervious surface and the Comprehensive Plan's intended direction.

Dimensional and Density Table (revised):

- The Committee eliminated Density, Max for Lot Splits from the table.
- Ms. Breinich dropped lot width down to 75 in GM-8 because of residential uses that are permitted there, and dropped front yard from 30 to 20, to be consistent with residential districts surrounding it.
- Ms. Breinich is proposing a 7500 for building footprint in GM-8, and with anything over that, they would allow for the existing allowance for the larger footprints that is done now for the Medical Use Overlay. Anything else over 7500 would be conditional use, which will necessitate a new note.
- CU-5, CU-6: The footprints currently are 8500 sq. ft. and 5000 sq. ft. respectively, but are 10,000 in the proposed ordinance. Ms. Wilson feels CU-5 and CU-6 are more on the edges of the zone, so she doesn't believe they should increase the current measurement.

Catherine Ferdinand, Bowdoin College, stated she would like to keep the flexibility the larger measurement provides. The Committee felt 8500 was reasonable. Note 19 applies to multi-family dwelling units and would allow 10,000 sq. ft.

Neighborhood Protection Standards (continued discussion):

Ms. Breinich explained that at last meeting the Committee talked about addressing noise, traffic, etc., which they have in the ordinance, so she added in that section language that stated where the standards in the section conflict with other standards, the more restrictive provisions shall apply. Mr. Elliott said that sounded reasonable, but he was not aware of any cases where standards in this section were more generous than those elsewhere in the code. The change is fine, but the operational standards apply to everybody, he explained. He doesn't believe there's a conflict where you have to choose the most restrictive, but Ms. Breinich stated that lighting and the noise generated from installed heat or air conditioning units were a few cases. Mr. Elliott is not in

disagreement, and feels there is no harm in leaving that wording in, but doesn't feel there will be a conflict.

Mr. Frizzle stated that in 4.10.2.A., the Committee had already agreed to modify height on a sliding scale with distance, and on 4.10.2.C., Mr. Elliott and Ms. Breinich will work on language for the fence. Mr. Frizzle thought the Committee talked about making traffic standards a little more restrictive in the Neighborhood Protection Standards than in the performance standards in terms of working hours. Ms. Breinich's concern, that she is not sure will be addressed with the Neighborhood Protection Standards, is the many mixed use districts, and even some of the residential districts allow for some nonresidential uses. Those within the districts are not covered; this is just for the edges of the districts. Mr. Elliott said she was right, but he didn't think there was a way to cover everything and still have the mixed use districts serve their purposes. He believes the edges are where the additional protection is needed, because every older town has those adjacencies that are hard to explain. Mr. Frizzle asked Ms. Breinich to note the changes in 4.10.2.A., add the fencing review with Mr. Elliott, and add language for hours of operation, which Ms. Breinich questioned the Committee about and asked for details.

Catherine Ferdinand, Bowdoin College, questioned the hours of operation with respect to residence halls, since they meet the definition of nonresidential use, but Mr. Frizzle replied that one cannot limit the hours of use of a residence.

Mr. Frizzle put a plea out to the public if they are residents of a residential area and they would like to see something else in the ordinance, please let a member of the Committee or staff know. They have heard from few residents about the proposed Neighborhood Protection Standards.

Responses to public comments:

Ms. Breinich stated that they had answered a MacMillan Street resident's questions and an emailed question about density standards in relation to the Comprehensive Plan in earlier discussions at this meeting. The only other question remaining is the definition proposed by Bowdoin for "college". Mr. Frizzle read their definition and asked for one change to make it read better. Mr. Frizzle is comfortable with the definition if the College feels it gives them the flexibility they need. The Committee agreed.

Catherine Ferdinand, Bowdoin College, asked if college be listed as a use, as well as asking to add a definition for hospital, which Committee members said was on their to-do list.

Mr. Elliott feels fine about adding it to the use table. Ms. Breinich and Mr. Frizzle added that there are now several colleges at Brunswick Landing now, and Mr. Elliott said that would be an argument for including it. The Committee and Ms. Ferdinand discussed this issue and its implications at length, and Mr. Elliott discussed how it was done in other college towns.

Next steps:

- Get everything to Clarion by May 1, 2015
- Work on developing draft #2; Clarion hopes to be done by the end of May
- Committee will be working on mapping and any other public comments received.
- Next meeting is not yet scheduled

Mr. Frizzle adjourned the meeting.

Attest

Debra L. Blum
Recording Secretary