

BRUNSWICK ZONING ORDINANCE REWRITE COMMITTEE WORK SESSION

MAY 21, 2015

MEMBERS PRESENT ZONING ORDINANCE REWRITE COMMITTEE: Charlie Frizzle, Chair; Margaret Wilson, Vice Chair; Richard Visser; and Anna Breinich, Director of Planning and Development

MEMBERS ABSENT ZONING ORDINANCE REWRITE COMMITTEE: Jeremy Doxsee, Town Planner; and Jeff Hutchinson, Code Enforcement Officer

CONSULTANT ABSENT: Don Elliott of Clarion Associates

Mr. Frizzle opened the meeting.

Mr. Frizzle opened the meeting to public comments on items not included on the agenda. Seeing no citizens offering public comments, he closed the public comments section of the meeting.

Project update:

Ms. Breinich gave an update on the work and revisions completed and given to Clarion since last meeting and thanked Ms. Wilson for her help. Ms. Breinich compiled a list of things the Committee still needed to review, which will be discussed at upcoming meetings. She would recommend that some of the items be held until draft 2 to see how they fit in with the proposed draft ordinance and to continue work on some of the items. Two of the upcoming meetings will focus primarily on mapping; smaller scale requests, map review, and staff suggestions at next week's meeting, and larger scale mapping comments and requests will be reviewed on June 10, 2015. The Committee will also be looking at what was R-1 and R-8, CU-1 and CU-2 at that meeting. The last meeting scheduled, June 17, 2015, will consist of anything else that comes up. Her hope is to have the second draft from Clarion for internal review in approximately 2 weeks. Items wrapped up today will be forwarded to Clarion for inclusion in the second draft.

Density standards (continued discussion, including possibly establishing minimum densities for new neighborhoods in growth area:

Discussion materials include Ms. Wilson's 6-page document comparing existing tables to proposals to see what happens to the density. The Dimensional and Density standards finalized on April 13, 2015, will be included in the next draft, and possibly the Use Table as well. Mr. Frizzle stated that thus far they had established a minimum square footage of 7,000 for nonresidential uses in a growth zone, and eliminated any minimum lot size with respect to residential uses. They allow the density and setbacks that exist in that area to determine the minimum lot size. In the past, specifying a minimum lot size in a residential area has provided a barrier to achieving maximum densities.

Ms. Wilson created a set of alternative scenarios directed towards evaluating whether the Committee's current effort at reducing lot sizes allowed increased density. She began with an

analysis that showed that even reducing lot sizes only increased density by a small amount, if at all. Ms. Wilson brings today Alternatives 1, 3, 4 and 5, and a final document which compares how many single family homes, duplexes, and multi-family units can be built in each of the zoning districts in the current ordinance, the initial proposed draft, and alternatives 1,3,4 and 5. The final document, *The Comparison of Current, Proposed and Alternatives 1,3,4, and 5*, summarizes her findings. In Alternative 1, Ms. Wilson took the Committee's initial recommendation of dropping lot sizes to 7,500 in districts R-2, R-3, R-4, R-5 and the TR zones, but increasing the density to see what would happen. Alternative 3 basically eliminates lot size entirely, but in the same districts as Alternative 1, and increases densities slightly. Alternative 4 leaves density as it is in the current ordinance, which will eliminate lot size, and examines what that would do in regards to density. Alternative 5, which was recommended to Clarion, eliminates lot size for residential, but recommends that commercial lots be 7,500 sq. ft. In response to Mr. Frizzle's prior meeting inquiry, she considered all residential districts instead of the districts selected above. Ms. Wilson explained the density changes in Alternative 5. Ms. Wilson stated that the current ordinance allows the fewest housing units in town, so whatever alternative is used will provide slightly more density. The current ordinance allows the fewest single family residences, and the reason for that is that the current minimum lot size in R-3, R-4 and R-5 is 15,000 sq. ft. The alternatives that allow the most single family residences are Alternative 3 and Alternative 5, because they eliminate lot size entirely, relying on density. That allows six residences in R-3, R-4 and R-5, instead of the current two. Ms. Wilson also reviewed changes to duplexes, which would only allow a slight change to even the most liberal of the proposals of one or two additional duplexes. She then reviewed the changes to multi-family units. Mr. Frizzle believes this will be a valuable document, because the effect is minimum. He's unsure if the minimum is enough to satisfy the Comprehensive Plan. Ms. Wilson said Alternative 5 has the most housing options, which has no minimum lot size, and density is increased by one in many of the residential areas. Mr. Frizzle mentioned, for anyone that's concerned with minimum lot size, that when you get to some of the other requirements of the ordinance, like setbacks, those serve to define your minimum lot size anyway. This discussion relates only to the growth area. Mr. Frizzle is satisfied that Alternative 5 is probably the best the Committee can do at this time, although a suggestion has been made that they might want to consider minimum densities, as the Comprehensive Plan also suggests. Mr. Frizzle's concern with minimum density is who sets it and how do they come to the right minimum. He's also not sure what the Comprehensive Plan had in mind when they suggested minimums. He also feels it would be taking away some portion of the market from developers, and he's not sure that's a wise move. He is not ready to recommend minimum densities unless there is a compelling argument for their institution. Ms. Breinich read from the Comprehensive Plan and the Committee discussed the implications.

Bill Morrell, 732 Mere Pt. Road, does not believe minimum densities would work in Brunswick. He has great concern about it through his experience developing lots. He mentions the many mentions in the Comprehensive Plan about allowing denser developments, but not minimum. There is only one spot where it is mentioned and it wasn't an action item. He believes the Committee has addressed the density issue well. He spoke about a survey done by the Comprehensive Plan and Planning Decision, who concluded that all the subdivisions looked at in the 14-year time span that they had used, were dense. He spoke of a subdivision he built that neighbors had petitioned because they thought it was too dense, and mentioned that every

piece of land poses its own challenges for building. He agrees with Mr. Frizzle that it would handcuff the developers. Mr. Visser believes the Committee should go with what is proposed.

Carol Liscovitz, 11 Berry Street, questioned what the Committee considered minimal impact when they were discussing infill density; a number impact, or neighborhood impact. Ms. Wilson replied that she was thinking in terms of numbers of developable lots that homes could be put on, and there aren't that many.

The conclusion of the Committee was that minimum density was not going to be recommended at this time.

Ms. Wilson was concerned with the density increase from 5-6 in the highway connectors, when the Comprehensive Plan clearly stated that they were not to be increased. She wonders if it should be taken out of the draft, or if perhaps it is appropriate to keep the higher density on lots that do not front the connectors. Mr. Frizzle doesn't think the increase will have a serious detrimental effect, because there are limiting factors there currently.

Treatment of actual use of a municipal facility, if no longer a municipal facility:

Ms. Breinich said this had been an issue at times. Currently, a municipal facility is a use, and it can go practically anywhere. The use itself can be a number of different things, such as garage, office, or school building. There are a number of different types of uses that may not necessarily be permitted within that district. The Committee has tried to consider use rather than ownership in this process of a proposed new draft of the zoning ordinance. She would like to begin the discussion about how to treat those municipal uses which are no longer municipal uses. Ms. Wilson asked if Ms. Breinich still intended that all municipal uses should be allowed anywhere in town. Ms. Breinich replied that is currently the case. Related to that is a utility, for example, a sewer district facility, that is located in a residential district. Ms. Breinich asks first if it is a municipal use or a quasi-municipal use, and Ms. Wilson added to make sure their definition includes quasi-municipal, which she believed this was. Mr. Frizzle felt that whatever the Committee does about abandoned municipal facilities, it needs to be flexible, but also appropriately account for the neighborhood's concerns, and that's where Neighborhood Protection Standards could be useful. There will be a lot of abandoned municipal facilities that will not be of use to anyone. Mr. Visser asked how other municipalities dealt with this subject, and Ms. Breinich stated she would get more information. Ms. Wilson said ideally the municipality would be able to sell the facility, but she believes the new use should be regulated. Ms. Breinich also mentioned grandfathering, which would have happened with the former municipal building on Federal Street if it had been private property, but does not happen with a municipal facility. This is an example of zoning by ownership, not by use, which is what the Committee is changing with the proposed draft ordinance. Mr. Frizzle believes a property should be permitted to continue the same use as it had previously, regardless of the owner. Ms. Wilson stated that because of its municipal use, it is allowed in any district, where it may not necessarily been even imagined in that district. Ms. Breinich added that they could do a supplemental on it, stating that the actual use could be continued through a special permit, rather than a conditional use, because that would be much more neighborhood-based. Mr. Frizzle wondered how many uses would be approved with this approach, and thought conditional use

was more appropriate. Ms. Breinich said they could say it must be for a same or less intensive use as a conditional use. Ms. Catherine Ferdinand made comments about the special permit process, which the Committee found helpful.

Carol Liscovitz, 11 Berry Street, understood that the only difference between conditional use and a special permit was for a use that's omitted or not listed, and Ms. Breinich confirmed that was correct and it would need to be a conditional use.

Ms. Breinich will review this information with Mr. Elliott and they will attempt revisions to this section.

Supplemental standards for Brunswick Landing:

Mr. Frizzle and Ms. Breinich met last week with many different groups and interested citizens about how to move forward with respect to the land use restrictions that the Navy is transferring to new owners at Brunswick Landing, and how to make sure that those restrictions are properly conveyed and enforced. He believes last week's meeting achieved a consensus with the entities around the methodology that he proposed. The developer of the property will be required by the ordinance to supply to the reviewing authority all of the deed restrictions associated with the property or properties. Many of the deed restrictions are on file at the town, which will be able to help developers if they do not know the deed restrictions, but they will have to be part of the submittal to build. The town or the reviewing authority, as far as performance standards are concerned, will need to make sure:

- the developer is aware of the restrictions
- the developer is prepared to implement or enforce those restrictions

Ms. Breinich stated that within the supplementary use standards are the additional standards for any use that basically needs to have the supplementary standards. She is proposing 3.4.1.V. – Former Brunswick Naval Air Station (BNAS) Land Use Controls, because that is what they are referred to by the Navy. She has added three standards at this point, but believes it covers everything. The standards apply across the board, and not just to Development Review. Ms. Breinich read the three standards, two of which referred to the standards listed above, and the third dealt with complying with Land Use Controls established for specific sites. Ms. Breinich said these sites and deed restrictions would also be put on the town's GIS on the website to be available to the public.

Carol White, technical advisor for the Brunswick Area Citizens for a Safe Environment (BACSE), asked a question about the overlay zones, which the Committee answered, and asked about the final language, which Ms. Breinich answered. She would encourage the Committee to include the map, and Ms. Breinich agreed, and said it would also be put online.

Dave Page, BACSE member, thanked the Committee members for going through this long process, and stated his issue is the groundwater in the future. He wonders if everyone is comfortable that there will not be any groundwater extraction or installation of septic systems, and should it be stated that town water and sewer were to be used. Ms. Breinich stated that it's in the growth area, so by state law public water and sewer can't be required past 200 feet unless the

town pays for it. That's been the ongoing issue for connections throughout town. Mr. Frizzle said that if someone wanted to develop that lot in the future, they would need to pay to extend beyond 200 feet because they don't have the option of drilling a well. Ms. Breinich and Mr. Frizzle stated that condition is in the conveyance documents, and it was referenced rather than repeated because the conditions are different for every lot at Brunswick Landing. The suggestion from a member of the audience was to state "*no pumping of groundwater unless approved by the Navy*", but Mr. Frizzle said that is what the conveyance documents state already.

Catherine Ferdinand, Bowdoin College, provided another perspective on this issue by referencing a college-owned piece of property, not impacted by development, that has groundwater restrictions in the deed covenant in terms of extraction. Their understanding, in talking to the Navy and to the regulators, is that those deed restrictions are on this particular piece of property not because they think the groundwater is impacted, but because there are data gaps. Should Bowdoin want to do some hydrogeological studies and further understand how groundwater moves on that property, they could go forward and have those restrictions potentially lifted, and would then need a zone change. They are more comfortable with dealing with the regulatory layers and the understanding that it makes sense to have the Planning Board also aware of those regulations, and that they are complying going forward when they are trying to develop, but it's a fluid situation.

Carol White, technical advisor for the Brunswick Area Citizens for a Safe Environment (BACSE), and hydrogeologist, believes that you can't really look at the property as an individual entity; rather, it's a system that's interconnected, and in the evaluation of lifting restrictions it would be essential that the whole Base hydrogeologic system be evaluated. It is a challenge because that information is not available currently. It's a base-wide rather than site-specific issue.

Ms. Breinich said the reason groundwater is not specified is because there could be other environmental factors, and these would be specified through referring to the documents. In response to Ms. Wilson's suggestion of highlighting the issue currently being discussed, she said something could be missed, and they didn't want to paraphrase what was in the conveyance documents. She elaborated on the process of Development Review and the scrutiny that these properties and their restrictions would receive. She believes the goal is to protect the town, and this accomplishes that goal.

Dave Page, BACSE member, doesn't think it would hurt to make people clearly aware that there is likely to be an issue by putting some wording in addressing the groundwater issue.

Mr. Frizzle said they could add a paragraph to what Ms. Breinich has proposed stating that these restrictions may include, but are not limited to, extraction of groundwater, soil disturbance, and three or four others that apply generally, and leave it at that, knowing that some things have been left out and some will change. Ms. Wilson agreed with Mr. Frizzle's idea. Ms. Breinich cautioned that this is an ordinance, not a prose document, and minimal language is used. She will work with Mr. Elliott of Clarion on this section.

Carol White, technical advisor for the Brunswick Area Citizens for a Safe Environment (BACSE), and hydrogeologist, wanted the Committee to change groundwater management zone to groundwater restricted zone because she believes it sends a clearer message, and doesn't believe the Navy would have an issue with a terminology change.

Ms. Breinich responded that she would leave the term as defined for clarification, but would add language stating "as being within the soils and water groundwater management zones, meant to further restrict future development." She agreed that the same term should be used throughout.

An audience member interrupted by saying Ms. Breinich was putting it in the wrong place.

Catherine Ferdinand, Bowdoin College, cautioned that the groundwater on the base is not necessarily contaminated or compromised in all areas, which is why she likes the term management, but the other element is protecting the Navy's remedy for the eastern plume. While there are restrictions placed upon it, part of it is protection of the Navy's remedy, which is the Navy's baby, so she cautions sending a message that if you put your finger in a stream at the base, you'll end up with an issue. This issue is twofold.

Ms. Breinich is viewing a copy of a matrix (Former NAS Brunswick Layering Strategy) dealing with land use controls by objective, natural land use controls themselves, and implementation actions. The one they are looking at and discussed last week was Governmental and Administrative Controls, which included Groundwater Management Zone and Soil Management Zone. She will gladly call Paul Burgio and ask him about the name being requested, but she personally thinks the term management is the correct term, not just restriction, but everything in the zoning ordinance could be termed a restriction. Mr. Frizzle said they would check with the Navy about the term.

Ms. Breinich summarized the directions from this meeting.

- to add a sentence to 3.4.1.V.1. stating that these restrictions may include, but are not limited to, extraction of groundwater, soil disturbance, and environmental as discussed above
- insert the groundwater management zone map within the appendix
- check with the Navy about changing the wording to restricted zone – Ms. Wilson asked to leave the word management, and Carol White of BACSE acquiesced
- all Development Review criteria will be included in Chapter 5, and may need to be fine tuned

District Purposes:

Ms. Breinich explained that these were taken from the Comprehensive Plan. Ms. Wilson commented that some terminology had changed from 2.2.1. to 2.2.2. , which seemed disjointed. Ms. Breinich stated that she did not change anything from the current document, but she would review using Ms. Wilson's notes.

Catherine Ferdinand, Bowdoin College, had a few comments on the purpose statement. In 2.2.3., and in general, all of the college use districts include language with the intent of buffering,

and even with all other districts subject to neighborhood buffering standards, there is no intent to buffer in the purpose statement. Her argument is that these purpose statements are about what is allowed instead of restricted, except in CU-1. She doesn't believe the purpose of the district is to buffer. Buffering is an element and an aspect of the development, and the development should be compatible or sensitive to neighboring residential districts, but buffering is treated in another section. Ms. Breinich will alter the language.

Ms. Breinich then spoke about GC-4, which is a mixture of town-owned and Bowdoin-owned properties, and pointed out this section on the zoning map. It is the conveyed land from the former BNAS. The way GC-4 is now structured, it is basically the equivalent of a college use district, but it isn't. Part of it is, but not all of it. The way it was structured originally, these were the uses that were permitted on Bowdoin properties, and on town-owned properties the conservation uses kicked in. Ms. Breinich explained that this was a mapping issue that then translates into it gets put into the other district, which is the Growth Natural Resource zone.

Catherine Ferdinand, Bowdoin College, questioned the sentence included in the GN district that supplementary standards provide for established, budding neighborhoods. She did not find any supplementary standards relative to GC-4, and Ms. Wilson stated she did not know if there were any. Mr. Frizzle said it had nothing to do with use, and Ms. Breinich said they do not belong in the district purposes, so the Committee will take that language out. It will be moved to the Supplementary Standards section. They will also move the use standards under the rural for the same reason.

The Committee discussed Appendix V. Ms. Breinich stated that some of the changes may need to be addressed in draft 2 of the proposed zoning ordinance. Ms. Wilson said it appeared that the use standards, which currently apply to the town-owned properties of what will be GN need some clarification as to where they fit, but they do not fit in the summary description of the districts.

Planning Area Descriptions:

Mr. Visser had a question about a comment, and Ms. Breinich stated that the comment was meant for Don Elliott of Clarion. Ms. Wilson had comments about the BNAS Reuse section, 8.6. The last sentence mentioned that conveyances to the town needed to serve as passive recreation areas with minimal disturbance, but this doesn't account for the town's Recreation Center, which is active. Ms. Breinich mentioned that it was a mix of active and passive, and Ms. Breinich will deal with that. She questioned the third paragraph of the Industrial Planning Areas, which Ms. Breinich said was not supposed to be there. She thought that agriculture was too limited and restrictive of a phrase in the Rural Farm and Forest section, and proposed that it be changed to the vision language in the Comprehensive Plan. The Committee agreed. They discussed a buffer area along Rt. 1 consistent with the Comprehensive Plan, and Ms. Breinich said that could be added to the proposed zoning ordinance, but would probably appear in the second draft.

Bill Morrell, 732 Mere Pt. Road, commented on A.1.3. Town Extended Residential. The language says new residential uses should be allowed at a minimum of 1.5-2.0 units per acre, and

he thought that should be removed. The Committee agreed. Ms. Breinich explained that it had been left in because it was a vision, not a restriction, and there are some things that have changed since the Comprehensive Plan was done. He asked if the actual density should be referenced, but Ms. Breinich did not think it was needed, and the whole statement will be removed.

ZORC work session meeting schedule:

Thursday, May 28, 2015, 9:00 am in Town Hall Conference Room 206

Mr. Frizzle adjourned the meeting.

Attest

Debra L. Blum
Recording Secretary