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MEMORANDUM

TO: David Sharples, Town Planner, Town of Exeter, NH
FROM: Nathan Kelly, Principal, Horsley Witten Group
DATE: November 23, 2022
RE: Zoning Ordinance: Proposed Edits Readers Guide

Horsley Witten Group, Inc. (HW) is working with the Town of Exeter, NH on several strategic updates to its Zoning Ordinance. Below is a “Readers Guide” that summarizes the proposed changes and the reasoning behind them. Please refer to the full draft Zoning Ordinance for details.

OVERALL CONCEPT

Why is the Town pursuing these zoning changes? In brief, the Town is trying to address several overarching issues:

- **Land is finite.** A lot of Exeter has already been developed. The Town wants to be a good steward of the remaining open space, rural areas, and lightly populated areas of Exeter, which add to the community’s identity and quality of life and help provide habitat and maintain clean water.
- **Exeter and the region are facing a housing crisis.** Housing costs are out of reach for many people in Exeter, and affordability is a major concern. While the Town has done excellent work diversifying its housing options, it is still difficult for many people to find the types of housing they need, particularly young adults, seniors, and people with lower income.
- **Infrastructure is expensive to install and maintain.** Extending public roads, water and sewer pipes, and other infrastructure into areas of town that currently do not have them becomes a liability and a strain on the Town’s budget over time.

What do we do about this? Exeter’s land use policies, with the Zoning Ordinance in the lead, are among the primary tools the Town can use to address these issues. The proposed zoning changes summarized below are intended to:

- Reduce development potential in our more rural areas.
- Provide stability for existing residential subdivisions located between the more rural areas and the more populated areas of town.
- Allow for a greater variety of housing types and infill development for the residential areas closer to the center of town.
- Allow for vibrant, walkable centers, including downtown Exeter, with a mix of new and redeveloped commercial, residential, and community uses that respect Exeter’s historic heritage.

- Continue to allow spaces for neighborhood-serving retail and services as well as heavier commercial and light industrial/warehousing uses.

In summary, the goal is to “grow smart.” Exeter is a very desirable place to live, and development pressure is likely to continue for the foreseeable future. These proposed zoning amendments are designed to help Exeter absorb new development where infrastructure can best handle it and where residents will have access to more housing opportunities, shops, and services. This should also help Exeter be an even better place to live, making it safer and more convenient to walk and bike in town, maintaining nearby access to forested walking trails and other recreational open spaces, and preserving our natural resources for future generations.

Zoning cannot achieve all of this on its own, but it plays a large role.

FREQUENTLY ASKED QUESTIONS

What if I don't support one or more aspects of this proposal?

This is not an “all-or-nothing” proposal. If there are aspects of this proposal that the community does not support, those aspects can be amended or removed while the rest of the proposal advances.

If these proposals are adopted, does that mean the Town won't have to change the Zoning Ordinance again for a while?

Not necessarily. As you will see below, many sections of the current Zoning Ordinance are not being reviewed as part of this effort. Future efforts, for example, may choose to address issues related to such things as signage and parking. Further, whenever a community takes on a significant set of amendments, small adjustments to the new material can be expected shortly thereafter to calibrate results or correct unintended errors.

STRUCTURE OF THE ZONING ORDINANCE

The overall structure of the Zoning Ordinance is not proposed to change. While some of the terminology may be amended slightly, and while some of the subsections are proposed to change, the 14 Sections of the current Zoning Ordinance are proposed to remain largely unchanged and in the same order.

SECTIONS WITH MODEST OR NO SUBSTANTIVE CHANGE

The majority of the Zoning Ordinance is not proposed to change. Below is a review of the Sections that are proposed to stay the same or have non-substantive edits. Note that many of the Sections will require non-substantive housekeeping edits, most notably changing references to current zoning districts to the new proposed zoning districts.

Section 1 – Authority and Purpose

No proposed changes.

Section 5 – General Regulations

This Section covers many topics, some with lots of changes and some with none. Note that most subsections largely remain the same, perhaps with some renumbering as follows:

- 5.3.5 Demolition Review (now proposed 5.4)
- 5.4 Height Regulations (now proposed 5.5)
- 5.7 Sign Regulations (now proposed 5.8)
- 5.8 General Landscaping Regulations (now proposed 5.9)
- 5.9 Performance Standards (now proposed 5.10)

Modest changes within Section 5.0 also include the following:

5.3 Existing Lot Regulations

- The first subsection in Existing Lot Regulations in the current ordinance is removed in favor of the non-conformity language above in Sec. 5.1. Some of that language from the existing ordinance is absorbed into Sec. 5.1.
- The standards for Corner Lot Clearance are clarified. They apply to street intersections AND intersections between streets and driveways.

5.5 Yard Regulations

- The existing Transition Yard Requirements are removed from this section. These requirements were deemed to be antiquated and will continue to create unnecessary non-conformity in many areas of Exeter.
- The dimensional standards (setbacks) in Section 4.3 – Schedule II will govern.
- All other provisions are functionally the same.

5.6 Off-Street Parking

- Some housekeeping to ensure compatibility with new districts.
- All other provisions are functionally the same.

Section 6 – Supplementary Use Regulations

This Section includes more subsections than any other, providing additional conditions for specific land uses. The conditions are meant to ensure that these uses are compatible neighbors to other permitted uses. These subsections will largely remain the same. However, there will be housekeeping edits to some of them, most notably changing references to current zoning districts to the new proposed zoning districts.

New Subsections

Five subsections have been added. Three of these new subsections are discussed further below under Substantive Proposed Changes. Two are not new text but have been moved from other parts of the current Zoning Ordinance for clarity and consistency:

- Sec. 6.20 Accessory Dwelling Units has been created from the Notes section of Sec. 4.2 Schedule I: Permitted Uses

- Sec. 6.21 Retirement Planned Community has been created from the Notes section of Sec. 4.3 Schedule II: Density and Dimensional Regulations - Residential

Modest Changes

- 6.8 Epping Road Strip Management Ordinance, C-3 District – the intent of this section remains, but the text had been amended to account for the elimination of the C-3 district.
- 6.9 Manufactured Housing Parks is changed to Mobile Home Parks so as not to be confused with prefabricated manufactured housing. Many modern homes are “manufactured” with prefabricated materials before being assembled on a lot, which is fully permissible. “Mobile” homes more accurately describe this use, the definition of which has not changed (only the name).
- 6.16 Healthcare District is currently used to govern the hospital. Under this zoning proposal, the Healthcare District would be absorbed into the UC-2 and the hospital would be regulated as a “use” rather than a “district.” While this shift requires changing a lot of the language, it is meant to achieve the same goals and the standards and procedures are unchanged. The general approach is to enforce the dimensional standards for the district around the perimeter of the hospital while allowing flexibility for the interior of the complex. This ensures the hospital remains a good neighbor to abutting properties while having the flexibility to change and grow over time. Part of this effort includes clarifying limitations on the height of buildings adjacent to residential districts.
- 6.19 Mixed Use Neighborhood Development (MUND) is staying largely the same but is being split into two sections. The design standards have moved to a new Appendix B and will also serve as the design standards for standard multi-family homes in the UC districts. The rest of the existing text remains in Sec. 6.19.

Section 7 – Open Space Development

This Section remains largely the same. However, there are housekeeping edits, most notably changing references to current zoning districts to the new proposed zoning districts. Two subsections have been added. These are not new text but have been moved from other parts of the Section into their own subsections. This means that the numbering for subsequent subsections has been altered accordingly, but otherwise they are all in the same order.

- Sec. 7.5.5 External Boundaries has been moved to new Sec. 7.6
- Sec. 7.5.6 Internal Dimensional Requirements has been moved to new Sec. 7.7
- Sec. 7.6 Multi-Family Open Space Development is now Sec. 7.8
- Sec. 7.7 General Regulations Governing Open Space Development is now Sec. 7.9

Section 8 – Historic District

No substantive changes. References were updated to reflect renumbering of other sections of the ordinance.

Section 9 – Natural Resource Protection

No substantive changes. References were updated to reflect renumbering of other sections of the ordinance.

Section 10 – Growth Management Ordinance

No substantive changes. References were updated to reflect renumbering of other sections of the ordinance.

Section 11 – Public Capital Facilities Impact Fee

This Section remains largely the same. However, Sec. 11.7 Age Restricted Housing has been deleted. This means that the numbering for subsequent subsections has been altered accordingly, but otherwise they are all in the same order.

Section 12 – Board of Adjustment

No changes to standards, procedures, or powers are proposed for this Section. However, the title has been changed from Board of Adjustment to Zoning Board of Adjustment to match the official name of that body. A new subsection 2.3 Powers enumerates the powers granted to a Zoning Board of Adjustment per state law, and also incorporates former Sec. 12.4 Limits of Approval. The new text was adapted almost word-for-word from state law.

Section 13 – Administration and Enforcement

No substantive changes. References may have been updated to reflect renumbering of other sections of the ordinance.

Section 14 – Validity

No substantive changes.

SUBSTANTIVE PROPOSED CHANGES

The rest of this memorandum summarizes the more substantive proposed changes and the reasoning behind them.

Section 2 – Definitions

This draft maintains a brief Section 2 and moves most of the definitions themselves to a new Appendix A for easier reference and maintenance. This would not change the role or authority of the definitions. Most of the existing definitions will stay the same. However, several new definitions are proposed. These definitions are primarily for uses listed in Sec. 4.2 Schedule I: Permitted Uses that are currently not defined. While some of these have “common sense” definitions, several others would benefit from clear definitions. This will make it easier for applicants and town staff to determine what is a permitted use and what is not, reducing inefficient ambiguity and subjective decisions. They also help differentiate when a certain scale of use might be appropriate in a particular zoning district but not in another.

Examples of new definitions include . . .

- Differentiating between “light” and “heavy” auto repair
- Differentiating between “neighborhood” and “regional” grocery stores
- Differentiating between “light” and “artisanal” manufacturing
- Differentiating between “standard” and “small-scale” multi-family dwellings
- Farm related uses, meaning the additional uses on a farm other than direct agricultural production, such as tours, classes, petting zoos, or seasonal events like corn mazes.
- Artisanal food and beverage production, for small-batch, generally handmade (as opposed to mass produced) food and non-alcoholic beverages.

Section 3 – Establishment and Designation of Districts

The bulk of the proposed amendments to the Zoning Ordinance rest with the zoning districts themselves. Changes to the names, boundaries, and intent of the Town’s zoning districts serve as the base for all the other proposed changes.

Today, the Zoning Ordinance includes 18 different zoning districts.

- RU, RI, R2, R3, R4, R5, and R6: These residential districts allow a variety of housing types at a variety of densities, from rural residential on large lots (RU), single-family homes on a variety of lot sizes (R1, R2, R3), multifamily housing (R4, R5), and retirement communities (R6).
- M and MS: These residential districts allow manufactured (mobile) housing.
- C1, C2, C3, NP (Neighborhood Professional), and WC (Waterfront Commercial): These districts, while largely commercial, also allow for a range of housing types. They range from the mixed-use commercial areas of downtown, Lincoln Street, and Portsmouth Avenue, to the more auto-oriented commercial along Epping Road and Rte 27.
- CT, CT1, I: These districts allow for Corporate Technology Parks and light industrial uses, and are found at the rear of Continental Drive, along Industrial Drive and Holland Way, and in the Exeter side of the industrial park in Stratham adjacent to Rte 101.
- H (Healthcare): This district is limited to Exeter Hospital.

This is a somewhat overcomplicated set of zoning districts. Further, they largely describe things as they are today rather than laying out a vision for how Exeter would like to develop into the future. In order to make a simpler, more forward-looking Zoning Map, the Town is proposing the following nine (9) zoning districts with a brief description of each.

Neighborhood Preservation (NP)

The purpose of the NP District is to allow for modest development of low-density residential use and agriculture along with preservation of open space. It is the Town’s intention that the provision of new public sewer and water service will generally be unavailable in order to limit development potential and protect the natural systems in this district to the degree possible. The NP is also designed to stabilize many existing subdivisions, including those developed under Section 7 Open Space Development.

What area the NP Includes: The NP includes all the current RU zone, most of the R1, and a portion of the R2 and R3. It also includes many of the Town's conservation areas, including those currently in other zoning districts such as the C3.

Residential Transition (RT)

The purpose of the RT District is to provide for a range of housing opportunities through areas of the Town that generally lie between the more densely developed districts (e.g., Urban Core) and the Neighborhood Preservation District. Residents in the RT District will experience a diversity of housing on smaller lots and may also have access to supportive uses like schools, libraries, day care, recreational areas, and other similar uses.

What area the RT Includes: The RT is largely clustered around downtown and along the portion of Rte 27 between downtown and Rte 88. It includes much of the R2, some of the R3 and R5, most of the R4, and all of the R6. It also includes some parts of the R1 that have already experienced denser development or are planned to do so in the future, such as River Woods.

Mobile Home Park (MHP)

The purpose of the MHP District is to preserve the opportunity for manufactured mobile home housing in the Town of Exeter by providing the unique development and performance standards needed to have these neighborhoods thrive.

What area the MHP Includes: The MHP includes the existing mobile home parks in Exeter, which largely corresponds to the current M and MS zoning districts.

Neighborhood Commercial (NC)

The purpose of the NC District is to provide opportunities for a mix of uses, some of which require larger parcels for coordinated business or residential models. Professional and medical office complexes and outdoor/garden service operations are examples of commercial operations that are well-suited to this district. Resident care continuum operations or active assisted living facilities are examples of residential uses that are well-suited to this district.

What area the NC Includes: The NC includes most of the land currently zoned Neighborhood Professional (NP). It also includes properties along Rte 27 that are currently R2 but include a mix of commercial and residential uses. Note that some of the land currently zoned NP along Rt 111 and not currently used for commercial purposes is proposed to change to NP or RT.

Commercial (C)

The purpose of the C District is to promote the development of larger, more intensive commercial and industrial uses along the Epping Road Corridor and a small portion of the far southeast corner of town at Routes 111 and 101, as indicated on the Zoning Map. Uses in this district will generally be "auto-oriented," mostly providing developments that require an automobile to access comfortably. Commercial use allowances are broad, covering retail, hospitality, automobile sale and repair, veterinary hospitals and more. Industrial use

allowances are also broad, including, but not limited to, light manufacturing, distribution facilities, and medical research.

What area the C Includes: *The C includes almost all of the current Industrial (I) zoning district as well as much of the C3 and CT1, and the portion of the C2 district along Epping Road.*

Limited Commercial (LC)

The purpose of the LC District is to allow for coordinated development on larger lots along Holland Way. Development potentially suitable to this district would include plaza or park configurations for medical office, hotels, light industrial parks, or similar scale commercial/industrial use.

What area the LC Includes: *The LC includes most of the land currently zoned Corporate Technology Park (CT). Note that some of the CT zone to the south is proposed to change to NC and some of the northern parcels to UC2.*

Urban Core 1 (UC1)

The purpose of the Urban Core 1 District is to allow for a mix of commercial, institutional, and residential uses in a walkable town center context. While taller buildings and denser development are encouraged in this district, this is tempered by the standards of the Historic District.

What area the UC1 Includes: *The UC1 largely includes the portions of the current C1 district located downtown and along the Lincoln Street corridor as well as the current WC district. However, the exact boundaries have shifted a bit from the C1 to the UC1 to account for where mixed-use is desired vs. where a more predominantly residential area is desired.*

Urban Core 2 (UC2)

The purpose of the Urban Core 2 District is to allow for a mix of commercial, institutional, healthcare, and residential uses. While the Urban Core 2 District is likely to remain more auto-oriented than the Urban Core 1 District, allowing more auto-oriented uses, the goal is to make the area more pedestrian-friendly over time. This district is expected to accommodate taller and denser development than other districts in town.

What area the UC2 Includes: *The UC2 largely includes the current C2 district as well as the Portsmouth Avenue portion of the C1. It also includes most of the Healthcare district.*

Private Education (PE)

The purpose of the PE District is to acknowledge the important contribution made by private educational institutions to the community and to enable this activity to continue to thrive within the historical context of Exeter and consistent with the future economic, social, and environmental goals of the Town.

What area the PE Includes: *The PE largely encompasses the main campus of the Phillips Exeter Academy, which is currently zoned R2.*

Section 4 – District Regulations

Currently, this section includes a table of permitted uses, two tables for density and dimensional regulations (residential and non-residential), a series of notes/caveats for each table, and instructions on how to apply the regulations.

Uses

Sec. 4.2 Schedule I: Permitted Uses is a table that currently lists the 18 zoning districts and includes a column for each of the following: permitted principal uses, permitted accessory uses, and uses allowed by special exception. All the various uses allowed in a particular district are included in the same cell under one of those three columns. For the sake of clarity, the proposed Sec. 4.2 Schedule I: Use Table reorganizes this information. The nine (9) proposed zoning districts are at the head of each column. The rows are populated by the various uses, organized by the following categories: Agriculture, Residential, Group Residential, Office, Service, Health Care, Hospitality, Recreation/Entertainment, Retail, Community/Religious, and Industrial/Wholesale. Each use is marked under each zoning district with one of the following:

P – Permitted. May be subject to performance standards or Conditional Use Permit

S – Special Exception

X – Prohibited

AP – Permitted as Accessory Use

AS – Accessory Use as Special Exception

These notations and this formatting make it easier to see which uses are allowed in a given district as well as which districts a certain use is permitted in.

In determining which uses are appropriate within the proposed new zoning district, HW looked at which current zoning district was most predominant within the proposed district, and what uses are currently allowed there.

Dimensions

Density and dimensional regulations are currently managed by two tables: Sec. 4.3 Schedule II: Density and Dimensional Regulations – Residential and Sec. 4.4 Schedule III: Density and Dimensional Regulations – Non-Residential. Both tables are complex and set standards for:

- Minimum Lot Area (with and without municipal water and sewer)
- Minimum Lot Area per Dwelling Unit (i.e. residential density)
- Minimum Lot Width, Depth, and Frontage
- Maximum Building Height (in feet and stories)
- Minimum Yard Setbacks (front, side, and rear)
- Maximum Building Coverage
- Minimum Open Space

Schedule II is followed by 21 notes providing additional details or caveats for the standards in the table. Schedule III is followed by 20 such notes.

Structural Changes

- The two existing tables have been combined into one, with all zoning districts listed together.
- There is a single column for **Minimum Lot Area**, with any differentiation between lots with or without public utilities noted in the Notes section.
- The **Minimum Lot Area per Dwelling Unit** column has been eliminated. These regulations currently serve as an artificial cap on development and can be a hindrance to the “smart growth” infill development envisioned by the Town. There are many other standards that combine to control residential density, including the uses allowed in the Use Table, building coverage and height, parking requirements, and environmental standards. If these other standards can be met, there is no reason to further limit the residential density. For example, a 2,400 SF building could be a single-family home or three 800 SF apartments. As long as the required parking can be accommodated on site, and the underlying zoning district permits 3-family dwellings this density should be allowed.
- On a related note, the current residential dimensional table lists greater **Minimum Lot Areas** for parcels with more than one residential unit. For all the reasons described above, these distinctions have also been deleted.
- There is a single column for **Minimum Lot Width/Frontage**. These two columns in the current tables are redundant, as they have identical standards and as the Town’s definitions of Frontage and Lot Width do not require differentiation in dimensional regulations.
- The current **Minimum Side Yard** regulations are split into two columns – for one side or for both. This is redundant as “both” is always twice as much as “one.” HW proposes having a single column for the minimum setback for each side yard.
- HW has added the concept of “**half-stories**” to the table. A half-story, in brief, has a smaller massing than the floor beneath it, primarily due to the shape of its roof. For example, the RT has a building height maximum of 35 feet or 2.5 stories. While a full 3-story building could be 35 feet high, a 2.5 story building of the same height will feel smaller and more connected with its neighbors. Similarly, a 50 foot or 4.5 story maximum height in the UC2 means you can get the height and density the Town is looking for without the more urban feel of a full 5-story building.

Specific Changes per Zone – since the boundaries of the proposed new zoning districts do not necessarily align with those of the current zoning districts, it is not possible to show how dimensional regulations are proposed to change from one to the other. Anyone interested in the exact changes for a particular lot are encouraged to compare the current and proposed zoning map and reference the current and proposed dimensional tables. As with the Use Table, HW looked at which current zoning district was most predominant within the proposed district, and what dimensional regulations are currently allowed there.

Section 5 – General Regulations

5.1 Non-Conforming Uses

This Section was revised to incorporate an appropriate level of flexibility for non-conformities (use and dimension).

- As an historic community, Exeter has many non-conforming situations and proposals for modest improvements can create arduous permitting reviews.
- Another important principle for this section was to significantly reduce the number of variances required to perform reasonable work on one’s property so applicants would not need to face the stricter criteria for approval.
- Additional blanket protections were provided for improvements to property to accommodate people with disabilities.
- For pre-existing lots that do not meet the minimum lot size (common in Exeter), the Town would be allowed to shrink the minimum setbacks proportionately.
- In the current ordinance, there can be non-conformity with many standards that have no clear path to approval. These include minimum parking requirements, lot width, frontage, landscaping, and others. This proposal provides a clearer path for dealing with these situations.

Section 6 – Supplementary Use Regulations

6.23 Multi-Family Dwellings and Townhouses

This Section is brand new material providing standards for ensuring that Multi-Family Dwellings are designed to be good neighbors. In particular, the most important aspects of these standards are those for Small-Scale Multi-Family dwellings and Townhouses, both of which are newly defined uses in the zoning ordinance. The intent is to regulate the form and scale of these uses so that they do not overwhelm existing residential uses. This is particularly important in the RT district but is also a good standard for Small-Scale Multi-Family dwellings and Townhouses wherever they are built. For example, caps on Small-Scale Multi-Family dwelling size and dimensions are intended to make these buildings read as large houses from the outside, even if they include multiple apartments on the inside. In addition, these dimensional standards help draw the line between Small-Scale and Standard Multi-Family dwellings.

6.24 Solar Energy Systems (SES), Ground Mounted

This Section is brand new material providing applicable permits, performance standards, and decision criteria related to ground mounted solar systems.

- Rooftop solar is not regulated here and remains under the control of the Building Code.
- The section covers everything from small accessory solar facilities generally for residential or agriculture to large-scale arrays that serve as the primary use of a lot.