

MEMORANDUM

TO: Matt Sturgis, Town Manager
FROM: Maureen O'Meara
DATE: February 14, 2023
SUBJECT: Town Attorney Transition

In anticipation that the town would be designating a new town attorney, I have held a few items in reserve. Now that Bernstein Shur has been retained, I would like to request legal services as follows:

1. Attorney contact. Who is the attorney I should be directing inquiries to regarding Planning Board items and ordinance changes? Ben has the same question related to Zoning Board items and Code Enforcement questions.
2. Carr Woods. The Carr Woods project is currently drafting deeds, easements, etc as part of their final subdivision submission to the Planning Board. In the past, I have directed applicants at this point to have their attorney work directly with our attorney to review documents and get them in the best shape as part of the submission. Once I get an answer to #1 above, Gordon Smith at Verrill Dana may be reaching out on behalf of Carr Woods.
3. LD 2003. The town is working on draft amendments and fielding lots of public questions. At this point, I would like to complete another round of amendments, and then seek a legal review of the draft (estimate April/May). Until then, legal guidance on the following questions would be appreciated:
 - a. The Zoning Ordinance uses the term “multifamily” in the business districts and “multiplex” in the residential districts. Based on the definitions for each term and the provisions in LD 2003, is the town required to comply with LD 2003 provisions in the residential districts?

Yes, the Town is required to comply with the LD 2003 provisions in the residential districts. Although the term used is “multiplex” it is still multifamily housing.

- b. Members of the public would like to blunt the impact of the Affordable Housing Density Bonus provisions by decreasing the allowed density in the Town Center before adopting the LD 2003 amendments. What advice can you provide on this approach?

There is no legal prohibition on amending the allowed density. However, any reduction in density would apply to all housing, not just affordable housing.

Any amendments will need to be consistent with the comprehensive plan and the stated purpose of the Town Center District.

- b. What setbacks apply to the Affordable Housing Density bonus provisions? My interpretation is that the existing setback and height limits apply. A member of the Housing Diversity Study Committee questioned that interpretation, and then reached out a legislator and has agreed that the current setbacks still hold.

I agree that existing setback and height requirements still apply.

- c. In the RA District, a minimum lot size of 10 acres is required for a multiplex development. My recommendation is that we can no longer require more land for multiplex than for a single family subdivision (in the ordinance, it falls under “all other uses”), which is the minimum lot area of 80,000 sq. ft. Is this interpretation correct?

That is correct. However, you could have a land area per dwelling requirement of 80,000 sf per dwelling. See the attached illustration from the State guidance document.

The Ordinance Committee will hold its next review of LD 2003 on **March 9th**, so I am hoping to get the LD 2003 answers prior to that date.

- 4. Stormwater amendments. The Town is finalizing stormwater amendments needed for compliance with our MS4 permit. I hope to send them to you shortly. Before then, as we discussed, there is no requirement that a defined term in an ordinance be capitalized.