**MEMORANDUM**

TO: Cape Elizabeth Planning Board

FROM: Maureen O'Meara, Town Planner

DATE: February 10, 2021

SUBJECT: Town Center Affordable Housing Amendment

Introduction

At the February 8, 2021 meeting, the Town Council voted 7-0 to refer to the Planning Board the following motion:

ORDERED, the Cape Elizabeth Town Council refers to the planning board development of Town Center Affordable Housing Amendments. The amendments should preserve Town Center requirements to the extent feasible while also permitting an affordable housing project that provides a substantial public benefit. Recommended amendments should be returned to the town council by April 30, 2021. In addition, staff is directed to develop TIF District and Shared Parking proposals to be completed by May 1, 2021 for town council consideration.

Process

Under Sec. 19-10-3, Amendments, of the Zoning Ordinance, the Planning Board must hold a public hearing and provide advice to the Town Council on amendments to the Zoning Ordinance.

Attached is draft text to facilitate Planning Board policy discussion. As the board develops consensus on policy, staff will redraft/refine the amendment. Once the draft amendment is fully developed, the Planning Board will place it on a regular Planning Board meeting agenda and schedule a public hearing. Following the public hearing, the Planning Board may table the item back to a workshop or revise it at the regular meeting. The Board will then vote on a recommendation to the Town Council. The referral establishes a deadline of **April 30, 2021** for the Planning Board to return a recommendation to the Town Council.

Land Use Policy Documents

Zoning and other land use regulations should be consistent with the [town's comprehensive plan](https://www.capeelizabeth.com/ComprehensivePlan), most recently adopted by the Town Council in 2019.

The following are sections from the Economy and Housing Chapters of the comprehensive plan that are most applicable to consideration of a Town Center Affordable Housing Amendment. The Population and Demographics chapter and the Public opinion survey (p. 271, pps 10-11) are also germane.

***Comprehensive Plan, Economy Chapter***

The Economy Chapter includes a discussion of the Town Center District (p. 38) and also incorporates by reference the 2014 Town Center Plan. The Town Center description notes restricting residential uses to upper floors to preserve commercial capacity. If some variation to first floor commercial use is allowed in the amendments, it should be narrowly crafted and supported by related recommendations in the comprehensive plan. Goal 2 (p. 44) and recommendations #4 - #7 in the comprehensive plan specifically reference the Town Center:

**Goal 2: The Town Center shall be promoted as the primary commercial area of Cape Elizabeth and shall be developed consistent with the Town Center Master Plan to meet the needs of residents and visitors.**

Recommendations:

4. Continue to implement the Town Center Master Plan (2014) and updates.

5. Create a village green.

6. Implement the Town Center Stormwater Plan.

7. Develop strategies to start and promote small businesses in the Town Center District that serve residents.

***Comprehensive Plan, Housing Chapter***

The Housing Chapter includes substantial data on the town's housing stock, housing costs and housing affordability. To summarize, single family housing makes up 88% of the housing stock, with condominiums another 10%. The remaining 2% is generally multi-family housing. From the comprehensive plan, Housing Chapter Key Findings (p 62),

•In 2010, about 21% of seniors lived alone. From 2000 to 2010 this number increased by 11%, from 347 to 385. In the future, the growing number of seniors living alone may demand more housing that is smaller and more accessible.

Like all communities in the greater Portland area, housing costs are increasing the number of households that are "cost-burdened." (Cost-burdened is the financial assessment when a household must spend more than 30% of household income on housing costs. Housing costs for renters include rent plus basic utility and energy costs. Housing costs for home owners include mortgage principal and interest payments, mortgage insurance costs, homeowner's insurance costs, real estate taxes, and basic utility and energy costs.) Housing costs to purchase or rent a home in Cape Elizabeth are less affordable than surrounding communities and Cumberland County.

The chart below, from page 70 of the comprehensive plan, shows the trend of median home prices in Cape Elizabeth and surrounding communities.

From page 72 of the comprehensive plan, rental affordability in Cape Elizabeth:



Housing Goals 1 and 2 (p. 81), recommendations #22 -#30, in the Comprehensive Plan, address housing affordability and the relationship with the business districts.

**Goal 1: The town should promote a diversity of housing types to accommodate residents of all age groups and household sizes.**

Recommendations:

22. Continue to allow the development of multi-family housing units in mixed use buildings located in the town business districts.

23. Retain the current regulations providing for the construction of mobile homes and mobile home parks in accordance with state law.

24. Retain the accessory dwelling unit regulations that provide for small apartments to be integrated into single family homes.

25. Retain the current multiplex housing regulations in the residential districts.

26. Preserve the predominant single family nature of the town's residential areas.

27. Evaluate options to increase density and related provisions to potentially allow conversion of a large single family home into multiplex units and to allow Cottage Housing development.

**Goal 2: The town should increase the amount of affordable housing through methods that minimize administrative burdens on town administration.**

Recommendations:

28. Retain the Mandatory Affordable Housing Regulations.

29. Waive or reduce fees for low-income, affordable housing units.

30. Evaluate reducing the minimum lot size for existing, vacant, nonconforming lots to allow construction on infill lots between 5,000 and 10,000 sq. ft. in size that will be served by public sewer and water and will comply with the Mandatory Affordable Housing provisions for low-income housing.

***Town Center Plan 2014***

The comprehensive plan (p. 37) incorporates by reference the [Town Center Plan](https://www.capeelizabeth.com/media/MasterPlans/2014%20TC%20Plan%20approved%2010-6-2014.pdf) adopted in 2014.

The 2014 plan replaces the original Town Center Plan, adopted in 1993. The 1993 plan recommended the creation of a Town Center District with design standards that promote development of a "village style" commercial area in contrast to a "strip development" style of development (i.e. U. S. Route 1). Both plans promote the inclusion of multi-family units in the commercial district as a way to promote vitality and support local businesses.

The 2014 Town Center has 7 goals/recommendations. The committee reviewed the design standards and made the following recommendation (p.8).

**Goal: Visual Appeal**

**5.** Maintain the current design standards that promote a pedestrian-friendly town center and quality design that contributes to a sense of place.

The Goal 5 recommendation concludes on page 9, "The committee is recommending that the intent and scope of the current standards be retained, which does not mean that adjustments might not be considered as appropriate."

***Town Center Zoning District, Sec. 19-6-4***

The Town Center zone was adopted in 1995, and amended in 2000 (telecommunications), 2008 (wind energy), 2010 (multifamily definition), 2012 (short term rental), 2013 (day camps), and 2016 (village green). The Town Center District purpose statement:

**A. Purpose**

The purpose of this district is to encourage an identifiable Town Center that includes a village feeling, mixed retail and residential uses to serve residents, an environment inviting to pedestrians, a common meeting place, visual cohesiveness and enrichment and linkages to the Town’s open space and nearby school campus. The Town Center district boundaries reflect the prevalence of public buildings and commercial uses and the historic compactness of development. The Town Center District requirements are tailored to the unique characteristics of the Cape Elizabeth Town Center.

In the center of the Town Center District, there exists a unique compactness of development exemplified by smaller lot sizes and existing structures with compatible space and bulk massing and requirements of the Town Center District shall apply in the core subdistrict, except where standards specific to the Town Center Core Subdistrict are established.

Section D, Standards, the Space and Bulk standards, and Subsection 3. Design Requirements, all include significant requirements to make new development fit the "village style" goals.

The maximum building footprint requirement was adopted as one of several standards to control the scale of new construction. Both Town Center Plans include an Existing conditions spreadsheet which shows that existing building footprints range in size from 375 sq. ft. to 32,886 sq. ft. A maximum building footprint of 5,000 sq. ft. was adopted to control overall building scale with the option to construct multiple buildings on a lot and connect them. (Big house, little house, back house, barn is a classic New England building form.)

Amendment to facilitate discussion

There are multiple approaches to changing zoning requirements to promote affordable housing. Board members should feel free to discuss the broad policies of the amendment, and may also want to discuss specific approaches noted below. The draft amendment is broken into a paragraph that defines applicability and a paragraph that allows for zoning adjustments, as further described below.

**•Minimalist or Wide applicability.** The attached draft amendment takes a minimalist approach of adding a limited provision to the Town Center District. This is the same method used for the Town Center Village Green amendment (2016). The Board may want to start with discussing whether the amendment should be crafted narrowly, in which case a few properties in the town center might use the provision, or broadly, where more properties in the Town Center would be eligible to use the provisions.

**•Dimensional requirements.** The provisions are drafted with numerical standards that should accommodate the affordable housing project, but provide a little "wiggle room" for the project design as it proceeds through the development review process. The Board may want to discuss if the numerical standards should include a bit of contingency room for the project. Please note that once dimensional standards are adopted, the project must be designed to comply with standards, or additional amendments will need to be requested.

•**Density.**  All of the ordinance changes requested by the developer are driven by the need to increase density in order to make the proposed apartments affordable. The question for the Planning Board is: Do these changes align with the "intent and scope" of the Town Center Zoning? Also, will the changes facilitate something with substantial public benefit?

The Town Center currently allows the highest density of all town zoning districts, with 3,000 sq. ft. of land area required per unit. Nevertheless, this density is not sufficient to create affordable housing. A density of 1,500 sq. ft. of land area per dwelling is proposed, which supports the project with a bit of wiggle room.

•**Height.** The maximum building height in all zoning districts is 35', measured from average original grade. An increase to 45' is proposed, which allows the project a fourth story and room for 13 apartments.

**•Footprint.** Maximum building footprint limits are only in the Town Center and Business A Districts. The current maximum in the Town Center is 5,000 sq. ft. The proposed development is basically laid out as two 4,500 sq. ft building footprints with a 1,300 sq. ft. connector. Because the "connector" also includes 3 apartments, laundry and community rooms, it must be considered part of the building footprint. For this reason, the amendment includes a maximum building footprint of 12,000 sq. ft.

•**First floor commercial.** Again, in order to achieve 49 dwelling units within the "three dimensional" building envelope, the developer would like to replace first floor commercial space with apartments. The proposed amendment allows this for an affordable housing development that is located at least 200' from the public road. The distance from a public road is not intended to "hide" affordable housing. Instead, distance from the public road reduces the visibility of potential commercial establishments that may be operating on the first floor, and reduced visibility may be a factor in allowing noncommercial uses.

Next Steps

The Planning Board may want to table the consideration of the Town Center Affordable Housing Amendments to the March 2nd workshop, when a revised amendment can be reviewed and discussed.