

## MEMORANDUM

TO: Cape Elizabeth Town Council  
FROM: Maureen O'Meara, Town Planner  
DATE: July 23, 2021  
SUBJECT: Town Center Affordable Housing Amendments  
Supplemental information

### Introduction

Additional information has been requested about the proposed amendments to the Town Center District to facilitate affordable housing. This memo has been structured to facilitate an individual review of the four amendments requested.

### **Density**

Town Center Residential unit density	
Existing	Proposed
3,000 sq. ft./unit	1,500 sq. ft./unit

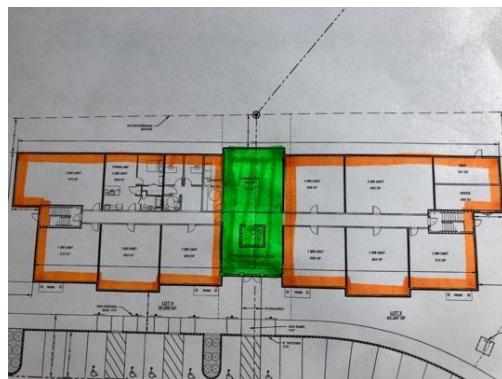
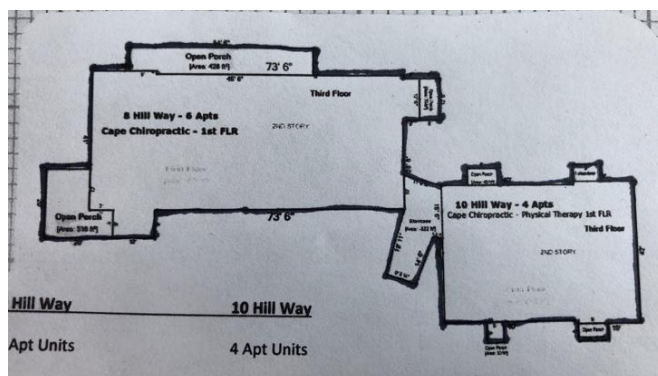
The amendment would increase density from 3,000 sq. ft. of land per unit to 1,500 sq. ft. of land per unit. The proposed density increase would only be available for low-income affordable housing projects with at least 36 units.

- The developer has stated that 49 units are needed in order to build the affordable housing project with the funding subsidies and financing plan.
- Maine State Housing Authority Government Relations Director Eric Jorgensen stated at the June 22, 2021 Town Council workshop that Dunham Court is typical of recent affordable housing projects built in southern main with 40-50 units in one building.
- Increased density can have a positive impact on municipal costs by reducing the per unit cost of municipal infrastructure maintenance of roads, utilities and service delivery. [Higher Density Myth and Fact](#)

### **Building Footprint**

Town Center Maximum Building Footprint	
Existing	Proposed
5,000 sq. ft. (not including connector)	12,000 sq. ft (includes "connector plus")

The maximum building footprint requirement was one of several standards to promote a “village” scale to new development. Multiple buildings may be constructed on a lot and a “connector” may be constructed to link multiple buildings. A connector can be multiple stories and include lobby, stairs and elevator, but must respect the intent as a connector. The 10 Hill Way property (below left) is an example of how the total mass of building on the site has been divided into two buildings linked by a connector.



10 Hill Way - 2 buildings with connector

Dunham Court

The Dunham Court project (image above right) consists of two 4,800 sq. ft. building rectangles (outlined in orange) and a connector (shown in green). While the orange areas meet the maximum building footprint requirement, the connector portion also includes apartments, a community room and gym overlooking the village green. The architectural design, which steps back the connector from the building face and uses a lighter exterior finish, tries to respect the concept of the building/connector relationship, but the connector portion of the building must be considered part of the building footprint under the ordinance.

There have been questions about how the Dunham Court building footprint compares to existing buildings. The Building Footprint comparison chart (below) provides a comparison with selected buildings, including a selection of Town Center buildings, the Inn by the Sea, Woodland Condominium and three of the largest single family homes located in the RA and RC Districts.



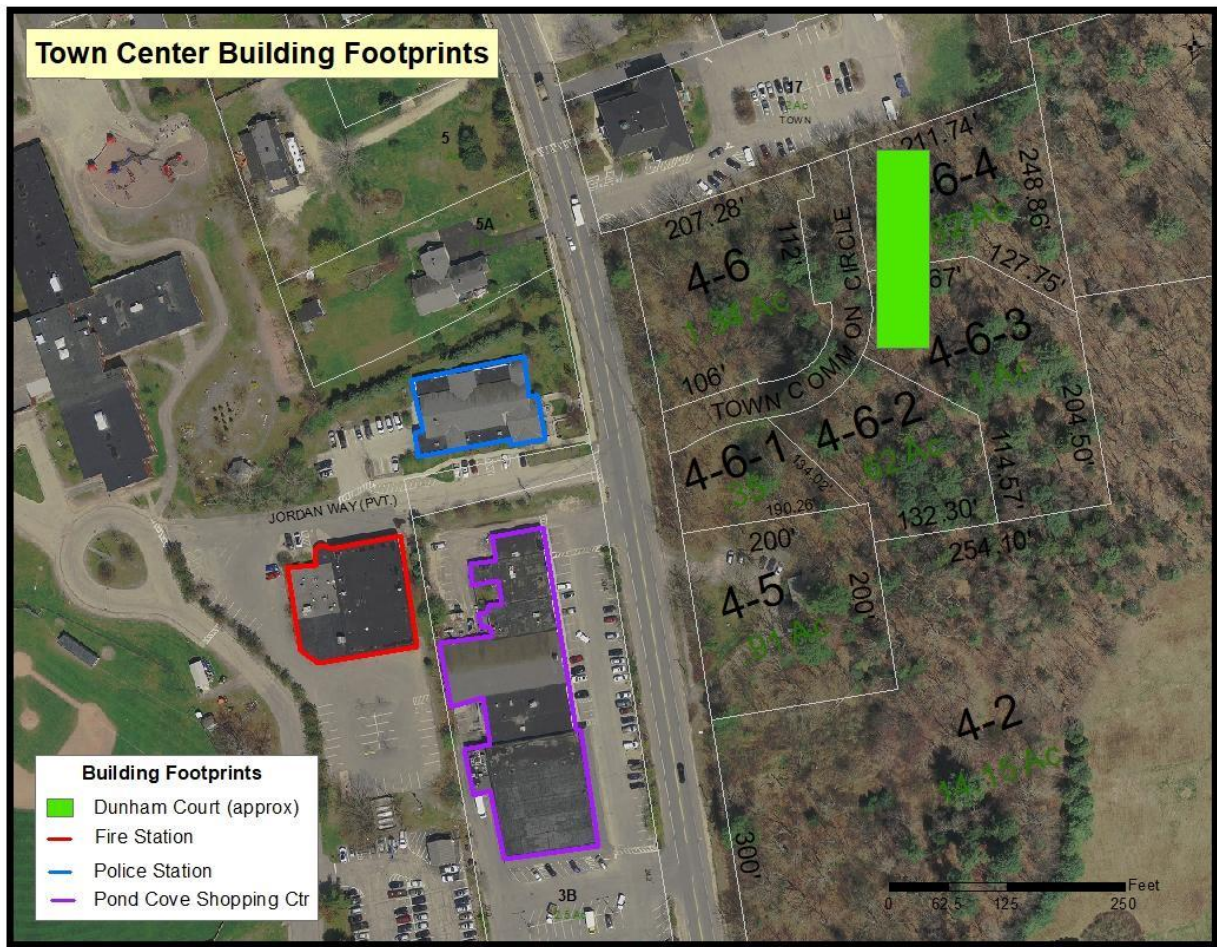
Building Footprint comparison		
Property	Footprint sq ft.	Lot size square feet/acres
Inn by the Sea. 80 guest rooms (includes 1-bed and 2-bed suites)	Main bldg - 18,070 500 bldg - 5,178. 600 bldg - 10,000. <b>All buildings - 33,248</b>	198,210. (4.6 acres)
Pond Cove Shopping Center	25,000	108,900. (2.5 acres)
Police Station	9,000	N/A
Fire Station	14,514	N/A
10 Hill Way	6,275	92,348. (2.12 acres)
Woodland Condos	4,804	74,052. (1.7 acres)
Residential SFH Ex 1	8,143	78,408. (1.8 acres)
Residential SFH Ex 2	6,323	78,408 (1.8 acres)
Residential SFH Ex 3	5,588	217,800. (5 acres)
Dunham Court	12,000	79,279. (1.82 acres)

Residential SFH Ex 1

Residential SFH Ex 3

Residential SFH Ex 2





## Building Height

Maximum Building Height	
Existing	Proposed
35'	45' (limited to TC buildings more than 200' from road right-of-way and including at least 36 affordable units)

The building height limit for all districts is 35'. The Town Center Zone height limit was established in 1995. With the exception of the Shoreland Zone and the BA District, all other district height limits were added to the Zoning Ordinance in 1997. Prior to that date, height was constrained by the building code. Structures taller than 35' are subject to more restrictive requirements.

The Dunham Court project is proposed to be 44' 3 ½" to accommodate a fourth floor that increases the total units in the building to 49. The Town Hall height is estimated at 37', and at a ground elevation 6' higher than Dunham Court.



The proposed Dunham Court is in the middle of this image. At left is Town Hall. At right is proposed dental office and apartments.

## Non-residential uses

First Floor Non-Residential Use requirement	
Existing	Proposed
For multi-story buildings, more than fifty percent (50%) of the structure may be allocated for multifamily dwelling units as long as the first floor is nonresidential.	When the building is located a minimum of two hundred feet (200') from a public road right-of-way, the following additional provisions may be substituted: Affordable Housing and related support services may be located on the first floor

The amendment would remove the first floor, non-residential use requirement for approximately 5-6 lots in the Town Center District.

- Preserve commercial capacity. The first floor, non-residential use requirement was part of the creation of the Town Center Zoning District. Prior to adoption of the Town Center Zoning in 1995, this area was known to locals as “the strip.” The zoning reflected classic, strip commercial

development where residential uses were not allowed. The 1993 Town Center Plan, and subsequent adoption of the 1995 Town Center Zone, represented a reimagining of this area into a village functioning as the prime commercial area, but also encouraging a mixing with residential uses. Multifamily housing was made a permitted use in the Town Center, but limited to mixed use buildings to preserve commercial capacity. From the 2019 Comprehensive Plan, “The current TC zoning limits residential uses in mixed use buildings to upper floors in order to *preserve capacity for business uses in the town center.*” (*emphasis added*)

- Commercial viability. When evaluating commercial uses in the Town Center, the 1993 Town Plan noted “The question remains whether a suburban town of less than 9,000 people can support a small-scale commercial center.” The 2014 Town Center Plan committee considered, but ultimately did not choose to do a market feasibility analysis for the Town Center. Commercial space construction in the town center is often subsidized by the residential units included on upper floors. In the case of affordable housing, this subsidy is not available because residential units are not generating revenue at market value.

- Vacancies. It has been noted that commercial space in the town center is prone to chronic vacancies. The Boulos Company annually collects real estate data and provides a market forecast. Because the data is not collected in relation to a specific project, it is a relatively objective assessment of market conditions. The information below is from the [2021 Greater Portland Market Outlook](#) prepared by the Boulos Company.

The Cape Elizabeth Town Center is too small to be included in the report as a suburban submarket. The chart does include a category for "all suburban markets" which might provide some insight into how commercial space in the Town Center will compete.

The report notes that existing leased space may be offered to sublease (gray space) in the short term, so actual vacancy rates may be higher. As a reference, The Portland downtown market typically absorbs 40,000± sq. ft. of space annually and there is 270,000± sq. ft. available now, plus gray space.

LOCATION	CLASSIFICATION	TOTAL RENTABLE 2020	AVAILABLE SF 2019	VACANCY RATE 2019	AVAILABLE SF 2020	VACANCY RATE 2020	SUBLEASE 2020
DOWNTOWN PORTLAND	Class A	2,195,126	8,500	0.40%	144,893	6.60%	60,911
	Class B	2,138,604	169,976	7.72%	284,900	13.32%	19,323
	Subtotal	4,333,730	178,476	4.14%	429,793	9.92%	80,234
SUBURBAN PORTLAND	Class A	993,164	172,180	17.31%	97,421	9.81%	-
	Class B	932,314	71,790	7.70%	69,639	7.47%	3,620
	Subtotal	1,925,478	243,970	12.66%	167,060	8.68%	3,620
FALMOUTH, CUMBERLAND, YARMOUTH	Class A	799,074	61,626	7.09%	10,398	1.30%	-
	Class B	238,039	16,222	6.71%	15,602	6.55%	-
	Subtotal	1,037,113	77,848	7.01%	26,000	2.51%	-
WESTBROOK	Class A	521,923	-	0.00%	-	0.00%	-
	Class B	212,661	2,000	0.94%	11,000	5.17%	-
	Subtotal	734,584	2,000	0.34%	11,000	1.50%	-
MAINE MALL AREA	Class A	1,652,682	206,773	12.58%	179,637	10.87%	119,755
	Class B	385,290	15,251	3.96%	14,869	3.86%	-
	Subtotal	2,037,972	222,024	10.94%	194,506	9.54%	119,755
SCARBOROUGH, SOUTH PORTLAND	Class A	417,731	25,161	6.59%	21,299	5.10%	-
	Class B	526,264	4,000	0.76%	-	0.00%	-
	Subtotal	943,995	29,161	3.22%	21,299	2.26%	-
ALL SUBURBAN MARKETS	Class A Suburban Total	4,384,574	465,740	10.90%	308,755	7.04%	-
	Class B Suburban Total	2,294,568	109,263	4.76%	111,110	4.84%	-
	Subtotal	6,679,142	575,003	8.75%	419,865	6.29%	-
MEDICAL	Class A	992,925	15,857	1.60%	-	0.00%	8,667
	Class B	273,090	2,567	0.85%	6,572	2.41%	-
	Subtotal	1,266,015	18,424	1.42%	6,572	0.52%	8,667
Class A Downtown, Suburban & Medical		7,572,625	490,097	6.64%	453,648	5.99%	189,333
Class B Downtown, Suburban & Medical		4,706,262	281,806	5.87%	402,582	8.55%	22,943
Total Office Space and Vacancy - Direct Lease		12,278,887	771,903	6.34%	856,230	6.97%	-
SUBLEASE SPACE		-	39,489	0.32%	212,276	1.73%	-
TOTALS		12,278,887	811,392	6.66%	1,068,506	8.70%	-

The report provides the following trend assessment.



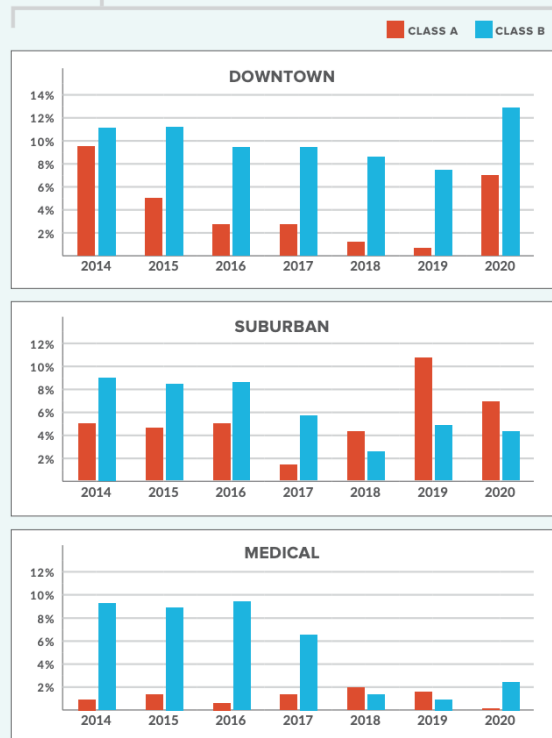
The full impact of COVID on Maine's commercial real estate market remains to be seen, and continued softening is expected over the next 12–18 months. On the plus side, we hadn't overbuilt in the previous upswing, so there isn't a large swath of new supply to be absorbed. Another potential upside, a significant number of working-age adults have moved to Maine since the start of the pandemic, and it will be exciting to see what they add to the business landscape in our state. While many are working from home for the time being, it's not unrealistic to think they may eventually join our local companies, adding to our workforce, or start their own ventures one day.

that has continued for the last 7 years as the Class A and Class B vacancy rate fell to 0.52% with just two small vacancies at the time of our survey. Maine Medical Center is undergoing two major expansion projects at the Portland and Scarborough campuses, otherwise larger medical office users did not make any major moves in 2020. Currently under construction is the 62,000± SF VA Maine outpatient clinic on West Commercial Street in Portland which will be added to the market in 2021. While demand for medical office space fell slightly with the overall office market, smaller private practices continue to struggle to find existing medical office space and are forced to convert standard office space or pursue new construction, both at a significant expense. Medical occupiers had to make quick, temporary changes to their facilities once the pandemic hit and it is yet to be seen how the pandemic will affect large-scale medical office space in the years to come. It is expected that the same medical office functions will require more space which may result in expansions and new construction supporting another strong year for this market in 2021.

Landlords and tenants alike in the office market want to know what the future of office space will look like and how that may affect occupancy rates in the future. It might be too early to tell and the big question is whether demand will return when office occupiers can plan better in their space programming. Almost half the lease transactions in 2020 were renewals indicating tenants preferred to stay put in 2020 which may lead to more movement within the market in 2021. It is unlikely physical offices will be affected like they will be in larger metropolitan cities and there will be a return of employees to the office in Greater Portland.

However, the downtown market can unlikely absorb the 270,000± SF of additional vacancy created last year when the market has only absorbed about 40,000± SF per year on average over the past three years. The downtown rates will go down but not back to 2017–2019 levels, at least within the next 12 months. In addition, there do not appear to be any major vacancies on the horizon in the suburban market and the large amount of sublease space doesn't hit the direct market in 2021 so, without any surprises, we can expect suburban rates to remain steady, perhaps improve slightly. In all, we can expect a little more stability in the office market in 2021 and hopefully, fewer surprises.

#### VACANCY RATES



TIF

Tax Increment Financing (TIF) has been requested for Dunham Court. This is not part of the zoning amendment request, and is subject to Town Council approval. Comments regarding the TIF have been made, so a summary follows.

A TIF sets a base year of value, in this case of the Town Center TIF 2014, and taxes generated from an increase in value over the base year are segregated into a separate fund. The value increase is also sheltered from inclusion in state formulas to calculate school funding, etc so the Town “keeps” more of the tax revenue increase. The Town Center Zoning District currently has a downtown TIF. The TC TIF is limited to funding sidewalk and stormwater improvements. The Town benefitted from excellent timing in establishing the TIF just as 4 major properties were offered for sale. (New owners typically make improvements that increase the value of property). Proceeds from the TC TIF are earmarked as the cash match for grant funds to construct sidewalk segments 7 and 8. (TIF funds are not used to pay for sidewalk and stormwater infrastructure that are required as part of development review.)

The Dunham Court TIF would be limited to lots 3 and 4. These lots are currently valued at \$382,400, and at a mill rate of \$19.92, generate **\$7,617** in property tax revenue this year. The proposed development is estimated to increase the property value to \$4 million. At the current mill rate, that will generate \$79,600 in property taxes. With a 50% TIF, the town will still retain **\$39,840**. After 30 years, 100% of tax revenue would be retained by the town.

## **Parking**

Dunham Court has also requested that the town enter into a shared parking agreement. The project would construct 34 new parking spaces at the rear of the town hall parking lot. The town would retain ownership of the land, and use the parking spaces. Like the TIF, the parking agreement needs Town Council approval and is not part of the zoning amendment request.