

**Town of Cape Elizabeth
Ordinance Committee Minutes**

September 14, 2022

7:00 p.m.

Town Hall

Members Present: Penny Jordan, Chair
Caitlin Jordan
Gretchen Noonan

Staff: Maureen O’Meara, Town Planner

Councilor Penny Jordan called the meeting to order at 7:00 p.m.

The minutes of the August 10, 2022 meeting were approved 3-0.

Public comment

No members of the public were in attendance.

LD 2003 Amendments

The committee began review of the LD 2003 amendments. The staff introduction noted that the amendments are limited to what is *required* by LD 2003, although other changes to the Zoning Ordinance may make sense. [Notes] in the draft are not proposed amendments but additional information that may be useful. It may help the committee to use the guideline that multifamily development requirements should be the same as single family requirements.

Staff noted the ADU definition needs to be updated due to LD 2003 changes and this definition is very basic.

The committee continued to agree that merging the “Multiplex Housing” and “Multifamily” definitions into one use makes sense, but discussed replacing “development” with “housing.” The committee decided to stay with “Multifamily development” as the new term.

The committee reviewed replacing the term “multiplex housing” with “multifamily development” in the zoning district permitted uses lists, as well as moving “accessory dwelling unit” from an accessory conditional use to an accessory permitted use. In the RA District, the minimum lot area for multifamily development was reduced from 10 acres to 80,000 sq. ft., which is the same requirement that applies to single family housing. This is an example of a significant barrier. Site Plan review of 5 or more multifamily development units still applies. There is no change to the per unit land area needed.

Cape Elizabeth already requires a bit less land area for multi-family units compared to single family lots, which is supported by sound land use planning. Multiple research analyses

conclude, however, that requiring 5,000 sq. ft. or more is a barrier to creating affordable housing. In the town's densest residential district (RC), the minimum land area is 15,000 sq. ft. per multifamily unit. The committee agreed that this falls within the work of the Housing Diversity Study Committee.

The committee agreed with the notation in Sec. 19-7-2 that all references to "multiplex housing" be replaced with "multifamily development."

The committee reviewed the Sec. 19-7-5 overhaul of the Accessory Dwelling unit (ADU) provisions.

Most of the purpose statement has been deleted because it is inconsistent with the ADU provisions in LD 2003. Staff noted that the proposed addition to the purpose statement is not explicitly required by LD 2003, but ordinance requirements are more user friendly when the purpose statement describes the general intent of the regulations that follow. Chair Penny Jordan wants the new second sentence to reference that the amendments expand opportunities for property owners. The committee agreed to keep the purpose statement amendment as revised.

Under B. Requirements, the provisions are essentially word for word from LD 2003. Staff recommended that a heading be added for each item to make it more user friendly and the committee agreed.

The committee discussed #3 and existing lot coverage requirements. Staff explained that nonconforming lots can be developed but are subject to a maximum lot coverage requirement. This requirement could be an impediment to adding an ADU. The committee would like this noted for possible action by the Town Council or Housing Diversity Study Committee. Under #6, LD 2003 allows a municipality to establish a maximum ADU size. The town currently has a maximum size of 25% of the single family home or 600 sq. ft., whichever is less. This restriction is proposed to be deleted as it is not explicitly required by LD 2003. This restriction is also problematic for property owners under the current requirements. The committee decided not to create a maximum size, but will note it for the Town Council and Housing Diversity Study Committee.

The committee reviewed Sec. 19-7-8 Off-Street Parking. The committee observed that the Affordable Housing development needs to refer to Sec. 19-7-17 and not the more generic definition that may become effective after the November vote. This change was added.

The committee reviewed a new section, Sec. 19-7-17, Affordable Multifamily Development, which is created to implement LD 2003. In the purpose statement, the second sentence is not required by LD 2003. The sentence correctly references the 2019 Comprehensive Plan, so the committee retained the sentence and directed that it be noted.

The proposed definitions only apply to Sec. 19-7-17. We try to avoid having different definitions for different sections, but in limited circumstances it can work better. This structure can be revisited after the Town Center Affordable Housing Amendments referendum vote in November.

This section establishes names for the types of multifamily housing specified in LD 2003. For multifamily housing of up to 4 units, a “Small multifamily development” provision is created. The text amendment language is from LD 2003 and allows up to 2 dwelling units where 1 is allowed, up to four in growth areas, designated as the RB, RC, TC and BA districts in the 2019 Comprehensive Plan, page 237. Councilor Noonan asked if the provision should instead refer to “growth areas” in case those areas change. Staff recommends that specific zoning district references be used in the Zoning Ordinance.

The second type of multifamily housing is the Growth Area Affordable multifamily development. This type of development is only required in growth areas and affordability requirements apply. Councilor Caitlin Jordan wants #2 updated to refer to “the town” rather than “a municipality.” Staff noted that these mandatory affordability requirements differ from the Town Center Affordable Housing amendments. Both provisions can co-exist and applicable sections should be revisited after the November vote.

The committee discussed next steps. The LD 2003 amendments do not appear to be a huge change from current zoning. The committee wants to send them back to the Town Council so that a workshop can be held. Staff noted that Zoning Ordinance amendments must be sent to the Planning Board before the Town Council can consider adoption. The committee agreed by consensus to send the LD 2003 amendments back to the Town Council. The committee recommends that the Town Council hold a workshop, then refer them to both the Planning Board and the Housing Diversity Study Committee. The committee recommendation will include specific items highlighted at this meeting.

Stormwater Amendments

Staff provided a brief introduction and noted that stormwater consultant Kristie Rabasca is leading the work and will attend the next meeting when the committee has more energy. The committee agreed that staff should prepare ordinance amendments for review at the next meeting.

Next meeting

The committee agreed to meet on Monday, October 17th. The meeting adjourned at 8:55 p.m.