

Committee to Assess and Recommend Strategies for Housing Creation Within the Town

Selectmen's Conference Room 2nd Floor Town Hall Building
367 Main Street Hyannis, MA 02601

Rick Presbrey: Chair
Councilor Paula Schnepf
Councilor Betty Ludtke
Councilor Charles Bloom
Councilor John Crow
Councilor Gordon Starr
Maryann Barboza
Hilda Haye
Laura Shufelt

October 07, 2024
3:00pm

MEETING MINUTES

Chair of Committee opened the meeting of the Committee to Assess and Recommend Strategies for Housing Creation Within the Town and made the following announcement:

This meeting is being recorded and will be rebroadcast on the Town of Barnstable's Government Access Channel. In accordance with Massachusetts General Laws Chapter 30A, Section 20, the Administrator must inquire whether anyone else is recording this meeting and, if so, please make their presence known. This meeting will be replayed via Xfinity Channel 8 or high-definition Channel 1072. It may also be accessed via the Government Access Channel live video on demand archives on the Town of Barnstable's website: <https://streaming85.townofbarnstable.us/CablecastPublicSite/?channel=1>

The administrator to the Town Council took Roll call, all members present in the Selectmen's Conference Room except for Maryann Barboza; Also in Attendance James Kupfer, Director, Planning and Development.

PURPOSE: Recommend strategies for the creation of housing to serve year-round residents and seasonal workers. The committee shall review the Cape Cod Commission's Regional Housing Strategy, <https://www.capecodcommission.org/our-work/regional-housing-strategy> and the proposed Massachusetts State Housing Bond Bill <https://www.mass.gov/lists/housing-bond-bill> and the Town's Housing Production Plan, <https://www.townofbarnstable.us/Departments/planninganddevelopment/Projects/Housing-Production-Plan-Update.asp> with a goal of recommending 2-4 strategies for the Town to adopt, along with recommendations for implementation and resources needed.

Chair of Committee asked for public comment: Jake Dewey sent in a comment in writing that was distributed to the committee members prior to the meeting.

DRAFT Inclusionary Housing Study
Town of Barnstable
12.24.22

DRAFT Inclusionary Housing Study



Table of Contents

To be added to final report.

1. Introduction

Access to affordable, stable, year-round housing is essential to maintaining a healthy community. Providing housing choices attracts a stable and diverse workforce, allows longtime residents to age in place, and welcomes new families to the community. The Town of Barnstable has long realized the need for active intervention to promote affordable housing. It adopted an affordable housing ordinance in 1999, which has remained largely unchanged in the intervening twenty-four years. The affordable housing ordinance is contained with Barnstable's Town Code as a general ordinance, not a zoning ordinance, which makes it unique among Massachusetts examples of what is commonly known as inclusionary zoning. While the Barnstable ordinance has resulted in the creation of dozens of units of affordable housing, the Town recognizes that the Cape Cod housing market has changed dramatically since 2000 and that newer approaches to creating affordable housing have been tested and adopted.

This report summarizes Barnstable's existing affordable housing regulations and the units they have produced. Then, to assess potential changes to those regulations, it examines similar ordinances and bylaws in other Massachusetts municipalities, most of which involve zoning requirements – and some additional non-zoning alternatives to encourage the creation of affordable housing. Finally, it presents an economic analysis that assesses the effects of potential regulatory changes on hypothetical housing development.

2. Description of Existing Regulations

The ordinances of the Town of Barnstable provide for the production of affordable housing through a general affordable housing requirement that applies to all residential development in Town, as well as several area-specific zoning regulations that require more affordable housing than the general inclusionary zoning ordinance.

Primary Affordable Housing Ordinance

Inclusionary zoning (IZ) requires that developers set aside a certain portion of newly constructed residential units as affordable housing. Chapter 9 of the General Ordinances of the Town of Barnstable, adopted in 1999, is an inclusionary housing ordinance that is designed to produce units that meet the definition of affordable housing under G.L. c. 40B, §§20-23 (Chapter 40B).³

For residential projects containing ten units or more, a minimum 10 percent of units (i.e., at least one unit) must have restrictive covenants limiting occupancy to households with incomes at or below 65 percent of area median income (AMI). Likewise, any residential subdivision consisting of 10 or more acres must set aside at least 10 percent of the lots as deed-restricted affordable housing, also for households at 65 percent AMI.⁴

Affordable units must be integrated with market-rate units in terms of location and design, and must be constructed at a pace proportional to that of the market-rate units. Chapter 9 also offers developers the option to pursue an individualized development agreement in lieu of following the inclusionary housing requirements if the Town Council finds that an agreement would be at least as beneficial to the Town as following the letter of the ordinance.

Developers must also pay a fee-in-lieu-for-units-function-of-a-lot-that-results-from-the-calculation-of-IZ-requirements, according to the following schedule:

³ Chapter 40B is the state's regional planning law that requires each municipality maintain 10 percent of their year-round housing stock as affordable housing, defined as long-term deed-restricted units affordable to households at or below 60 percent of area median income.

⁴ Naturally, the income threshold used to define "affordable housing" vary quite a bit, but the Section 8 income limits of 50 percent and 60 percent AMI tend to be the most common inclusionary zoning reference. Using 65 percent AMI as the income threshold for affordable housing is sometimes found in other affordable housing ordinances and bylaws, however. It may relate to the definition of "High HOME Rent" in the federal HOME Program. The Town of Barnstable adopted Chapter 9 within a few years of the establishment of Barnstable County as a HOME Consortium. More recently, some ordinances have redefined "affordable" to include incomes as high as 120 percent AMI.

3

- For all development of 5,000 square feet or less: \$0.10 per square foot.
- For all development of greater than 5,000 square feet: \$0.20 per square foot.

Notably, Chapter 9 still contains provisions that are not illegally enforceable. In 2000, a Superior Court decision (*Dacey v. Town of Barnstable*) that the fees required for subdivisions below 10 acres and developments of fewer than 10 units constituted an illegal tax.⁵ Therefore, these provisions are disregarded in this analysis.

Affordable Housing Regulations

Barnstable's Zoning Ordinance contains other provisions relating to affordable housing development. For example, the Town adopted Section 24B-7 to Private-initiated affordable housing development in 2004, which allows developers to seek a special permit to obtain a density bonus in exchange for providing affordable units. ~~It states that the units must be entirely in the Residence C-1 district on a site seven acres or larger and at least 20 percent of units must be restricted to households at or below 80 percent AMI. If the density bonus reduces minimum lot size, frontage, and setback requirements.~~

Article XI "Growth Management" of Barnstable's zoning ordinance caps the annual issuance of market rate residential permits at 96 and the annual issuance of affordable residential permits at 36. However, units required under the inclusionary housing ordinance (Chapter 9) do not count toward the total.

Affordable Housing Districts and Overlays

In addition to general inclusionary zoning requirements, there are several zoning districts and zoning overlays that require the inclusion of additional affordable units in certain areas.

ZONING DISTRICTS

The two underlying affordable housing zoning districts were each adopted to facilitate the development of specific properties, both of which are located near each other in Hyannis. The Residence AH (RAH) District was adopted in 1988 and the Multi-Family Affordable Housing (MAFH) District was adopted in 2008. The MAFH District allows single-family dwellings by right and multifamily affordable developments by special permit at a density of up to 16 units per acre of upland. Eighteen percent of units must be restricted to households at or below 80 percent AMI in perpetuity. The RAH District allows affordable single-family dwellings to be built at a higher density than allowed for market-rate development.

In the Marston's Mills Village Zoning District, one-quarter of the residential units in a mixed-use project must be set aside as affordable at 65 percent AMI.

⁵ http://www.planningcommunications.com/housing/nhc_maasachusetts_experience.pdf

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Additionally, the Town adopted Section 240-7.J, Private-initiated affordable housing development (PI-AHD), in 2004. It allows developers to seek a special permit to obtain a density bonus in exchange for providing affordable units. PI-AHDs must be entirely in the Residence C-1 district on a site seven acres or larger, and at least 20 percent of units must be restricted to households at or below 80 percent AMI. The density bonus reduces minimum lot size, frontage, and setback requirements.

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OVERLAY DISTRICTS

Barnstable's two overlay districts that require the creation of affordable housing are the Mixed-Use Subzone of Medical Services Overlay District and the Shopping Center Redevelopment Overlay District. Both are meant to facilitate mixed-use or residential redevelopment in commercial and industrial areas of Hyannis, and both have the same affordable housing requirements. For all multifamily development in the overlays, 10 percent of units must be set aside as affordable at 65 percent of AMI (the same requirement as Chapter 9) and an additional 3 percent of units must be affordable to households at or below 80 percent AMI.

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In anticipation of reexamining local inclusionary requirements, the Town requires applicants to follow the provisions of Chapter 9 if doing so would result in the creation of more affordable units. A similar amendment is proposed for the Shopping Center Redevelopment Overlay District.

In the Senior Continuing Care Retirement Community Overlay District, assisted living facilities must comply with the regular ~~inclusionary~~ requirements except that affordable units may be located off-site, in which case the number of required affordable units rises to 12 percent of the total. The Everleigh Cape Cod project was built in this district, producing 23 units of ~~on-site~~ affordable housing.

3. Local Unit Production

Barnstable's inclusionary zoning ordinance has successfully produced 90 affordable units over the last five years, about 11 percent of the total new units that went through the local permitting process in the same period. Table 1 shows these and an additional 481 proposed housing units, at least 39 of which would be affordable.

Category	Total Units	Market-Rate Units	Affordable Units	% Affordable
Completed Projects	356	320	36	10.1% ¹⁰
Under Construction	130	115	15	11.56%
Permitted	0	0	0	0
Total	486	435	51	10.49%
Proposed Projects	481	442	39 ^a	8.3%
Total Including Proposed	967	877	90	9.3%

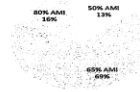
^aTwo large proposed projects that would trigger 12 requirements have not yet proposed a number of affordable units.

Out of the twenty-six projects constructed or permitted since 2017, just over approximately half had some affordable housing component. Of the eleven projects proposed or in the permitting stage as of the writing of this report, five were expected to have affordable units.

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Most of the affordable units created in Barnstable are restricted to households at or below 65 percent AMI, as required by Chapter 9 (see Figure 1). Fewer than 100 total units have been permitted at other income levels in the past five years.

Figure 1:
Affordability Levels for Permitted and Constructed Units
Source: Town of Barnstable
100% AMI



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4. Summary of Interviews

Between October 10th through 21st, 2022, the consulting team conducted seven individual and small-group interviews with local and regional developers and housing advocates. Participants were asked about their experience with Barnstable's current affordable housing regulations and the effect they can have on affordable housing development in general. The Cape Cod region's housing needs in general were also discussed. Town staff helped select interviewees from:

- Housing Assistance Corp
- Cape Cod Chamber of Commerce
- Cape & Islands Association of Realtors
- Cape Cod Commission
- Local developers
- Local board members

The most important takeaways from these interviews are as follows, categorized under three central themes.

EASE OF USE

"Any inclusionary zoning ordinance has to be easier to use than Chapter 40B": Because the Town is unlikely to exceed the required 10 percent affordable housing threshold in the near future, developers will be able to reliably utilize comprehensive permits to propose projects that would otherwise not be permitted under local zoning. Interviewees argued, therefore, that unless local zoning offered advantages over the comprehensive permit process, there would be little to no incentive to pursue the local process.

The administrative costs and required expertise are prohibitive. For several developers, the time and expense involved in establishing and administering restrictive covenants were the greatest deterrents to utilizing Barnstable's inclusionary provisions. Interviewees cited technical assistance and subsidies from the Town as potentially effective ways to mitigate this regulatory burden.

AFFORDABILITY REQUIREMENTS

65 percent AMI is not best suited to regional needs. While some developers stated that a low income threshold alone was not necessarily enough to render a project infeasible, most interviewees agreed that the current 65 percent AMI threshold did not address pressing needs at and above 100 percent of AMI. The needs of extremely low-income households (usually defined as 30 percent AMI or lower) are also not addressed.

10 percent threshold was not perceived as an issue. Interviewees did not cite the proportion of affordable units required as a significant problem.

GENERAL APPROACH

Inclusionary zoning should be more dynamic. Several interviewees thought that a "one size fits all" approach was not appropriate, and that Barnstable's villages and neighborhoods has unique affordable housing needs and opportunities that might be addressed differently. The need to set dynamic income limits based on the actual average incomes of target populations was also discussed.

The need to look beyond IZ to needs it can't address. Interviewees noted several pressing local housing needs that the Town's IZ does not (or legally cannot) address at all. For example, the need to ensure that new housing is occupied by year-round residents and the severe lack of even market-rate housing were common concerns.

5. Inclusionary Zoning Case Studies

This section includes descriptions of successful inclusionary zoning (IZ) ordinances adopted in five Massachusetts municipalities, and a sixth draft ordinance currently being considered for adoption. Each of these case studies offers potential examples and models for the Town of Barnstable to consider in amending its own affordable housing regulations.

COMMON PROVISIONS

There are several provisions that all or most of the case studies have in common:

- On-site affordable units must be mixed in with market rate units and visually indistinguishable from them.
- Developers cannot segment or phase a project for the purpose of staying under IZ thresholds.
- Many ordinances provide examples to help readers understand unit calculations.

Beverly

APPLICABILITY

- All new residential and mixed-use development including 6 or more units.
- Division of land into six or more lots.
- Redevelopment or change in use that results in an increase of 6 or more units.

AFFORDABILITY REQUIREMENTS

- At least 12 percent of units set aside at or below 80 percent AMI; *or*
- At least 8 percent of units set aside at or below 60 percent AMI; *or*
- At least 10 percent of units set aside where at least half of affordable units are at or below 60 percent AMI, and the remaining affordable units are at or below 80 percent AMI.

Beverly offers developers three different affordability scenarios to choose from with different levels of affordability. Fractional lots are rounded up to the nearest whole number, except that project containing six to nine units will only be required to provide one affordable unit at 80 percent AMI.

The Planning Board may grant a special permit to approve three alternative methods of satisfying IZ requirements: providing off-site units, payment of a fee in lieu to the City's Affordable Housing Trust Fund, or donating developable land to a local

affordable housing entity. Fees in lieu are equal to 35 percent of the median home sales price over the past three years in the neighborhood in which the project is located, per unit. This fee amount is recalculated every year. The City incentivizes on-site units by providing density bonuses per on-site unit.

In certain zoning districts, if a developer provides more affordable units than required, they may obtain a special permit from the Planning Board to reduce the affordable unit requirement of a future project by the number of extra units provided. These transferrable credits expire after ten years.

Brookline

APPLICABILITY

- Any project that results in 4 or more dwelling units, where at least one new unit is created.
- Any subdivision of land for the development of 4 or more units.
- Any development with 4 or more assisted living units.

AFFORDABILITY REQUIREMENTS

- 15 percent of units set aside at or below 50 percent AMI for rental units.
- 15 percent of units set aside at or below 80 percent AMI for homeownership units.

Any project that falls under Brookline's IZ bylaw requires a special permit from the Board of Appeals. In addition to 15 percent of units being set aside as affordable, 15 percent of all bedrooms in the project must be located in affordable units. Fractional units are rounded up to the nearest whole number.

The Board of Appeals may allow a developer to pursue the following alternate requirements: off-site affordable units, the conveyance of land or buildings to the Town, or a cash payment to Brookline's Housing Trust. Projects of four to nineteen units may opt to make a cash payment in lieu of building units without a finding of the Board of Appeals. Cash payments are set equal to the difference between the value of the required affordable units and the fair market value of the same number of market rate units.

Cambridge

APPLICABILITY

- Any residential or mixed-use development that creates at least 10 dwelling units
- Any residential or mixed-use development that creates at least 10,000 square feet of gross residential floor area.

AFFORDABILITY REQUIREMENTS

- At least 15 percent of units set aside at between 50 percent and 80 percent AMI for rental units.

- At least 15 percent of units set aside at no more than 100 percent AMI for ownership units.

Under Cambridge's IZ ordinance, 20 percent of the net floor area of a project's total number of dwelling units must be devoted to affordable units. If applying all other standards for IZ units results in units comprising less than 20 percent of net floor area, the developer must contribute a fee to the Affordable Housing Trust. The fee will be equal to the amount of subsidy needed to create the remaining floor area in affordable units. Any Inclusionary Housing Project may take advantage of a by-right density bonus of 30 percent more floor area and 30 percent more dwelling units than would otherwise be allowed.

The ordinance requires a certain number of "family-sized" affordable units (3 or more bedrooms and at least 1,000 square feet of net floor area), which must be equal to or greater than the proportion of family-sized market rate units. Affordable and market rate units must also have the same proportion of renter and homeowner units. All affordable housing units must be located on-site. Finally, the City must reevaluate its IZ requirements every 5 years.

Newton

APPLICABILITY

- Any residential or mixed-use development, including conventional subdivisions, involving the construction or "substantial reconstruction" of 7 or more units.
- The conversion of 7 or more rental units into ownership units.

AFFORDABILITY REQUIREMENTS

Table 1
Rental Projects: Number of Inclusionary Units Required
EFFECTIVE January 1, 2021

Tier Level	7-20 UNITS	21-99 UNITS	100+ UNITS
Tier 1: 50%-80% AMI	15%	15%	15%
Tier 2: 110% AMI	0%	2.5%	5%
Total	15%	17.5%	20%

TABLE 2

Ownership Projects: Number of Inclusionary Units Required EFFECTIVE January 1, 2021				
Tier Level	7-16 UNITS	17-20 UNITS	21-99 UNITS	100+ UNITS
Tier 1 (80% AMI)	15%	10%	10%	10%
Tier 2 (110% AMI)	0%	5%	7.5%	10%
Total	15%	15%	17.5%	20%

Excerpts from City of Newton Zoning Ordinance, Ch. 30A, 5.11 "Inclusionary Zoning"

For projects of 10 or more units, the average income served by Tier 1 affordable units must be 65 percent AMI or less. Fractional units of 0.5 and above are rounded up to the nearest whole. Fractions less than 0.5 may either be rounded up or contribute a proportional cash payment for the fraction. Developers may earn a density bonus for including affordable units beyond those required by the LZ ordinance. For every additional Tier 1 affordable unit (see tables above), two additional market rate units may be added. If additional affordable units are family-sized,⁴ they are worth three additional market units each.

Developers may make a cash payment in lieu of creating affordable units if the project includes only 7 to 9 dwelling units or by special permit from the City Council if it finds there is a unique benefit to providing that option. The amount is calculated using the average costs of new affordable housing developments in Newton over the previous three years.

Somerville

APPLICABILITY

- Three-family residential development; and
- Apartments of four units or more.

AFFORDABILITY REQUIREMENTS

- For three-family projects, one unit set aside as per tiered price formulas (see below).
- For apartments of four or more units, at least 20 percent of units set aside as per tiered price formulas (see below).

⁴ Newton uses the same definition of "family-sized" as the City of Cambridge - see above.

TABLE 4. AFFORDABLE HOUSING UNIT (AHU) PRICE TIERS - SOMERVILLE
Table 12.1.5 (a) AHU Price Tiers

1st ADU	Tier 1
2nd ADU	Tier 2
3rd ADU	Tier 1
4th ADU	Tier 2
5th ADU	Tier 3
6th ADU	Tier 1
7th ADU	Tier 2
8th ADU	Tier 1
9th ADU	Tier 3
10th ADU	Tier 2
11th ADU	Tier 1
12th ADU	Tier 2
13th ADU	Tier 3

The affordability levels for the tiers listed in Table 3 vary depending on the type of unit, according to the formulas in Table 4 below.

TABLE 4. AFFORDABLE UNIT INCOME LEVELS - SOMERVILLE

Table 12.1.5 (b) Rental ADU Price Multiplier

Tier 1 - Affordable Housing	7.20%	8.40%	9.60%	10.80%	12.00%	13.20%	14.40%	15.60%	16.80%
Tier 2 - Affordable Housing	12.60%	14.70%	16.80%	18.90%	21.00%	23.10%	25.20%	27.30%	29.40%
Tier 3 - Affordable Housing	18.00%	21.00%	24.00%	27.00%	30.00%	33.00%	36.00%	39.00%	42.00%

Table 12.1.5 (c) Ownership ADU Price Multiplier

Tier 1 - Affordable Housing	11.20%	13.22%	15.24%	17.26%	19.28%	21.30%	23.32%	25.34%	27.36%
Tier 2 - Affordable Housing	14.80%	19.60%	24.40%	29.20%	34.00%	38.80%	43.60%	48.40%	53.20%
Tier 3 - Affordable Housing	21.84%	29.48%	37.12%	44.76%	52.40%	60.04%	67.68%	75.32%	82.96%

Excerpts from City of Somerville Zoning Ordinance, Section 12 "Development Benefits"

Commercial buildings must provide affordable housing linkage fees per square foot of commercial gross floor area above a certain threshold. For example, in the Commercial Core District, the development of a commercial block building with 30,000 square feet or more of gross floor area must pay \$10 per square foot.

Affordable Dwelling Unit (ADU) is the Somerville ordinance's general term for required inclusionary units.

A cash payment in lieu option is available by special permit based on the difference between the average sales price of comparable market-rate units and the sales price of an affordable unit of the type that would have otherwise been required.

Worcester (Proposed Ordinance)

In September ~~April 2022~~2023, the Worcester's Acting City Manager recommended that the City Council adopted a new inclusionary zoning ordinance. While the proposed ordinance has not been adopted at time of writing, it represents a thoughtful and well-researched approach to IZ worthy of consideration. The ordinance was drafted by Peter Dunn, Chief Development Officer for the City of Worcester.

APPLICABILITY

- All multi-family development that results in the net production of 12 or more units.

AFFORDABILITY REQUIREMENTS

- At least 15 percent of units set aside at or below 80 percent AMI; *or*
- At least 10 percent of units set aside at or below 60 percent AMI.

Developers may choose to pay a fee in lieu of affordable units equal to 3 percent of the total construction value of all building permits for the development, including trade permits.

The proposed ordinance would offer two incentives to developers of affordable housing. First, the ability to increase the maximum number of allowable units by a percentage equal to the percentage of affordable units in the project, plus an extra 5 percent. The maximum possible density bonus is capped at 25 percent. Developers may also take advantage of a 25 percent reduction in minimum parking requirements.

6. Non-Zoning Alternatives

Inclusionary zoning is an important affordable housing production tool, but development regulations alone cannot adequately address any community's housing problems. To try and bridge the large gap in its local housing supply, the Town of Barnstable could consider the following programs and strategies already used by other Massachusetts communities.

SHORT-TERM TAX RELIEF OR ABATEMENTS

Affordable housing production is so difficult to because there is always a funding gap that makes income-restricted units financially infeasible for the developer. While a multitude of market factors contribute to making housing expensive, some of the development costs are in the Town's control and reducing or waiving these can help make affordable projects feasible and desirable.

Tax relief can be a powerful incentive to encourage desirable behaviors in property owners, including providing affordable housing. A strong, nearby example is Provincetown, where voters enacted a property tax exemption for year-round affordable housing in 2003 that is still going strong nearly 20 years later. Provincetown's exemption is granted on a year-by-year basis and verified by tax returns each time. This eliminates the need for deed restrictions and allows property owners to easily opt in or out.

PROPERTY TAX INCENTIVES FOR DEVELOPERS

Other municipalities take a long-term approach to tax incentives. The Town of Amherst used a home rule petition to allow its Select Board to grant special incentives and tax increment financing agreements (TIFs) to projects of 10 or more units with at least 10 percent affordable housing. The increase in property value associated with a qualifying development (and the subsequent increase in property taxes) can be spread out over ten years, incrementally increasing to the full assessed value by year ten.

REDUCED OR WAIVED PERMITTING AND UTILITY FEES FOR AFFORDABLE UNITS

Municipal fees are another cost to the developer that the Town has direct control over, and waiving upfront and ongoing fees can be an effective way to entice developers to create affordable units. Fee waivers are commonly granted across Massachusetts for Comprehensive Permit applications and other affordable projects. By codifying fee waivers for affordable housing, applicants and the public can be assured that waivers are not being granted in an arbitrary or unfair way.

CERTIFICATES FOR TRANSFERRABLE AFFORDABLE HOUSING

Transferrable certificates or credits are granted to developers that provide more than their required share of affordable housing and can be carried forward and applied to future projects. The City of Beverly uses a transferrable credit system as part of its inclusionary zoning ordinance (see Section 5 "Inclusionary Zoning Case Studies")

that allows developers to obtain a special permit to reduce the affordable unit requirement of a future project by the number of extra units provided. This approach provides flexibility without reducing the total number of affordable units created by inclusionary zoning and can help in funding projects.

ACQUISITION AND DISPOSITION OF AFFORDABLE UNITS

The Town can take an active and direct role in the preservation of existing housing by purchasing at-risk affordable or market rate year-round units. As an example, the Town of Tewksbury uses its Affordable Housing Trust Fund to purchase expiring income restrictions on affordable units and to purchase units outright to be managed by the local housing authority. Money for the trust fund comes primarily through Community Preservation Act funding and inclusionary zoning fees in lieu. While this approach cannot create significant numbers of affordable units, it can be used in conjunction with other strategies to maintain a stable supply of local housing options.

PARTNERSHIPS WITH COMMUNITY LAND TRUSTS

Community land trusts (CLTs) are nonprofit organizations that create and maintain affordable housing in perpetuity. CLTs acquire land and facilitate the creation of affordable units like any other nonprofit developer, but they retain ownership of the land. Homebuyers purchase their homes but lease the underlying land from the CLT, removing the cost of land from the sale price of the unit and allowing the CLT to maintain affordability in perpetuity.

The Island Housing Trust of Martha's Vineyard is a highly successful Massachusetts example of a CLT that has created dozens of units of permanently affordable housing in a high-pressure seasonal market. Towns frequently partner with the Island Housing Trust, providing funds from sources like

SHORT TERM RENTAL REGISTRATION AND TAX

Vacation homes have historically been part of Barnstable's housing stock, but the rise of apps like Airbnb and Vrbo have led to a nationwide explosion in short-term rentals (STRs) that shows no sign of slowing. Many communities are grappling with how to protect year-round housing stock from being converted to STRs given the economic incentives pushing homeowners and investors in that direction. At a minimum, the Town should have a formal process for registering and documenting STRs to better understand the issue and to assess taxes and fees. There is a desire to restrict or even ban STRs among some residents of communities where they have become common, but regulations should be crafted based on careful market analysis and community input.

7. Economic Analysis

Background

There are two distinct delivery methods for producing affordable housing units in Massachusetts, and more broadly, within the context of regulatory and incentive structures in the United States. The first is a dedicated affordable housing model where the primary objective is to maximize affordable housing delivery through higher proportions of restricted units at each project and a deeper level of affordability. The second is an inclusionary model that seeks to include additional affordable units within more traditional market-rate properties.

The dedicated affordable housing model is primarily deployed to provide low- and moderate-income residents with safe, high-quality housing that is affordable at a variety of income levels. These projects typically consist of mostly or entirely deeply subsidized units, and utilize capital and operating subsidies to residents earning less than 80 percent and oftentimes less than 60 percent of Area Median Income (AMI). The largest and most robust funding source for these properties is the federal Low Income Housing Tax Credit Program (LIHTC). These projects are undertaken by housing developers with specialized expertise in delivering affordable housing and working within the LIHTC allocation, syndication, and compliance frameworks.

The second delivery method involves the inclusion of a small portion affordable units within an otherwise unrestricted market-rate housing development. These units are typically developed under local inclusionary zoning measures, Chapter 40B developments, or other similar regulatory structures to encourage additional affordable housing within market rate developments. Income restrictions for these properties are typically set at 80 percent of AMI but can be set lower or higher as local and state regulators permit. Capital funding sources and operating subsidies to support these projects are less abundant and robust, and are typically undertaken by traditional market-rate housing developers without specialized expertise in affordable housing regulations, compliance, and management.

The inherent difficulty in inclusionary zoning is that it asks developers to produce a specialized type of project that they do not necessarily have the experience and skill to complete successfully. Dedicated affordable housing projects with deep affordability and high percentages of affordable units will always provide more restricted housing than the zoning requires and developers are generally accustomed to the regulatory burden and complex nature of the funding, compliance, and management challenges involved in such projects. Conversations with Barnstable developers indicated that IZ can impose a significant administrative, regulatory, and cost burden for smaller developers proposing small and mid-size projects. Often, the resources and subsidies available to these developers and for these projects go unused because of the associated administrative and technical requirements.

Economic Analysis

This section discusses the findings of an economic model designed to assess the feasibility of different inclusionary zoning requirements. The model uses simplified operating and development pro-formas for a variety of housing types in order to estimate the financial impacts of different IZ requirements on hypothetical housing projects. Single-family, condominium, and multifamily residential housing typologies were included based on real-life construction costs, current yields, capital inputs, and local rent and sales prices. Most of the focus is on multifamily residential products as the most common method of affordable housing delivery that has access to the most funding to build and operate.

The model looks at the gap between what units cost to build and what units can generate in an implied value based on the restricted rent or sales price. Based on that gap analysis, this section describes a series of capital funding sources that are available to developers to close that gap and make projects feasible. These are voluntary programs that have regulatory and administrative burdens associated with them, which may dissuade smaller and less experienced developers from pursuing them.

FUNDING SOURCES

Housing Development Incentive Program (HDIP)

HDIP is designed to increase residential growth, expand the diversity of housing stock, support economic development, and promote neighborhood stabilization in designated Housing Development Zones in "Gateway Cities" by providing two tax incentives to developers to support market-rate housing for sale or lease. Gateway Cities as defined under Chapter 23A Section 3A are municipalities with a population greater than 35,000 and less than 250,000, median household income below the state average, and a rate of educational attainment of bachelor's degree or above that is below the state average. Barnstable meets all of these criteria and is therefore eligible to take advantage of HDIP.

There are two available tax incentives: a local option property tax exemption and a state tax credit for qualified rehabilitation expenses. Up to \$5-10 million is available each year for the Housing Development Tax Credit that can be used for multi-unit residential development for sale or lease as market-rate housing, substantial rehabilitation of an existing property, and mixed-use projects. There is a significant backlog of tax credit projects and efforts to expand HDIP stalled during the state's Fiscal Year 2021 budget process.

Workforce Housing Initiative

MassHousing administers the Workforce Housing Initiative primarily to support the creation of rental housing that is affordable for households whose incomes are too high for subsidized housing but are priced out by market rents. The program is targeted at households with incomes between 60 and 120 percent of AMI and provides up to \$100,000 of subsidy per workforce housing unit up to a maximum project limit of \$3,000,000. The workforce housing units must be deed restricted as affordable. The program prefers new units and 20 percent of units must be affordable for households

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earning at or below 80 percent AMI. The Workforce Housing Initiative is meant to complement but not replace traditional MassHousing development financing.

Per MassHousing financing requirements, borrowers must be single-asset, sole-purpose entities. Both for-profit and not-for-profit borrowers are eligible and will be subject to limited dividend requirements. MassHousing expects to lend the workforce housing funds at an interest rate of 0 to 3 percent. Repayment of principal (and interest if applicable) will be based on an established amortization schedule or through a cash flow sharing mechanism of 15 to 40 years. In certain circumstances, MassHousing may consider alternatives to full repayment at sale or refinancing and the first mortgage loan for the development will be financed directly by MassHousing or through an approved lending platform.

FINDINGS

Minimum size of developments for inclusionary zoning to work. Larger projects are typically able to offset funding gaps more effectively and efficiently than small projects, but market rents need to be high enough to pay their own development costs and offset the lower rents of affordable units, and developers need to be able to show demand for these units to their construction and permanent lenders. To evaluate the potential for market-rate cross-subsidy Figure X shows the level of market rents required to support the cost of a new construction building with no affordable component. For this analysis, a project that costs \$372,500 per unit to build, on average, needs to generate at least an average monthly rent of \$2,707 in order to justify the cost to develop the unit.

Market rents are a function of a combination of costs: the cost to operate the project, the cost to construct the project, and the cost of land. The market will increase or decrease rents in line with the price of land to the very point at which the market is supported. If there is additional rent capacity in a community, typically the price of land will increase to reflect that additional value. Because land prices rise so quickly in response to increasing rents, it is often hard to capture additional rent capacity as a cross-subsidy.

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Table 5: Market Breakeven Rent		
Development Proforma	Per Unit	
Cost to Develop		
Land		\$35,000
Construction Cost		\$250,000
Profit and Incentive		\$87,500
Total Development Cost (Value)		\$372,500
Capitalization Rate		6.00%
Required NOI to Support Value		\$22,350
Operating Proforma		
	\$/Unit/Year	\$/Unit/Month
Income		
Rental Income	\$32,481	\$2,707
Vacancy Allowance	5.00%	(\$1,624)
Expenses		
Operating Expenses	(\$8,507)	
Net Operating Income (NOI)	\$22,350	

On average, monthly market rents of around \$2,700 are high enough to support themselves without contributing any additional value to a cross-subsidy. The rents would need to be around \$3,000 a month to provide cross-subsidy to support affordable units, even at 80 percent AMI. A household would need to make \$120,000 a year for \$3,000 rents to not cost burden them.

Funding gap is generally the same, what changes the economics considerably is the offsetting capital subsidy that is available at various income levels. Currently, if Affordable units are 10 percent of total project units at 65 percent of AMI, capital sources for subsidy are fewer than less abundantly available than more deeply Affordable projects with larger set asides. The typical threshold for a variety of state sponsored capital sources, such as the MassHousing Workforce Housing Program is a minimum of 20 percent Affordable units in order to qualify for subsidy.

At 10 percent affordable a funding gap emerges, but additional resources are available through capital subsidy programs such as local affordable housing trust dollars for affordable units and potentially HDIP dollars for market rate units. However, these sources are often utilized less than would be expected in an efficient market.

Residential Rental Income						
	One-Bed	Two-Bed	AVG Rent	Annual	Per Unit/Y	
5	65% AMI - Affordable Units	\$1,325	\$1,631	\$1,478	\$88,680	\$17,736
0	80% AMI - Affordable Units	\$1,631	\$1,958	\$1,795	\$0	\$0
0	100% AMI - Affordable Units	\$2,038	\$2,447	\$2,243	\$0	\$0
0	120% AMI - Affordable Units	\$2,446	\$2,937	\$2,692	\$0	\$0
Market Rate Units						
49	Unrestricted	\$2,500	\$3,000	\$2,750	\$1,617,000	\$33,000
54				\$2,632	\$1,705,680	\$31,587
Gross Potential Rental Income					\$1,705,680	\$31,587
					5.00%	(\$85,284) (\$1,579)
					\$1,583,973	\$29,333
Operating Expenses						
Management Fee				4.00%	\$61,916	\$1,147
Operating Expenses					\$378,000	\$7,000
Total Operating Expenses					\$439,916	\$8,146
Replacement Reserves					\$350	\$18,900 \$350
Net Operating Income (NOI)					\$1,089,076	\$20,168

	Per Unit	Total
Total Redevelopment Costs	\$372,500	\$20,115,000
Total Implied Value	\$320,320	\$17,300,000
Funding Gap (Without Subsidy)	(\$52,180)	(\$2,815,000)
SUBSIDY		
Housing Development Incentive Program (HDIP)	\$37,037	\$2,000,000
MassHousing Workforce Housing Program	\$18,519	\$1,000,000
Affordable Housing Growth and Development Trust	\$13,889	\$750,000
Other		
Funding Gap (With Subsidy)	\$17,315	\$935,000

The above case study indicates that much of the funding gap can be closed with access to these additional subsidy funds. However, this model assumes a best-case scenario for funding with no additional cost or burden for compliance, monitoring, or naturally occurring affordable housing (NOAH), which is the preference for delivering unsubsidized housing units for some residents

When higher levels of inclusionary zoning are introduced to the case study model the funding gap without subsidy increases, but so does the viability of additional capital funding sources. For example, when the number of affordable units is increased to 20

percent of the total project MassHousing Workforce Housing funds become available. The same basic relationship exists in small projects of 10-15 units, but subsidy sources become more difficult to access, as discussed. If the required income restrictions are raised above 80 percent of AMI, revenue potential increases but there are fewer capital subsidy resources available to offset the funding gap (see below).

Income limits and affordable housing costs for renters and homebuyers.

Income limits and maximum rents have been calculated based on published FY2022 Department of Housing and Urban Development (HUD) calculations, which determine eligibility for assisted housing programs like the Section 8 Housing Choice Voucher, Section 202 housing for the elderly, and Section 811 housing for persons with disabilities programs. HUD develops income limits based on Median Family Income estimates and Fair Market Rent area definitions for each area. Table 7 shows Barnstable's income limits as of 2022-01-01.

For sale house and condominium pricing was calculated based on the current inclusionary zoning ordinance. Annual housing costs are not to exceed 30 percent of a resident's income, which for owners is calculated as the aggregate of annual charges for debt service on a purchase money mortgage, real estate taxes, and homeowner's insurance (see Table X).

Table 7: Income Limits for 2022				
	% of Area Median Income (AMI)			
	55.00%	60.00%	80.00%	120.00%
1 Person	\$49,366	\$50,886	\$76,100	\$91,320
1.5 Person (1-Bedroom)	\$59,038	\$60,248	\$87,950	\$97,860
2 Person	\$68,950	\$70,160	\$97,100	\$104,400
2 Person (2-Bedroom)	\$68,950	\$70,200	\$97,800	\$107,460
3 Person	\$70,655	\$86,966	\$108,700	\$130,440
3.5 Person (3-Bedroom)	\$73,383	\$90,446	\$119,050	\$135,660
4 Person	\$76,810	\$93,926	\$117,400	\$140,880
Rent Limits for 2022				
	% of Area Median Income (AMI)			
	55.00%	60.00%	80.00%	120.00%
1 Bedroom (1.5)	\$1,525	\$1,631	\$2,038	\$2,446
2 Bedrooms (3.0)	\$1,530	\$1,958	\$2,427	\$2,937
3 Bedrooms (4.5)	\$1,837	\$2,261	\$2,826	\$3,391
For Sale Pricing Limits for 2022				
1 Bedroom (1.5)	\$281,422	\$191,254	\$262,211	\$334,244
2 Bedrooms (3.0)	\$206,000	\$209,669	\$339,520	\$420,599
3 Bedrooms (4.5)	\$227,422	\$301,868	\$401,061	\$500,258

Source: Department of Housing and Urban Development

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There is a feasibility gap for almost all types of for-sale units at all income levels, except for the 120 percent AMI cohort (see Table 8). Additionally, there are few, if any, capital subsidy offsets for residential subdivision and condominium developers to address these costs except for internal project subsidy and low-cost financing for homeowners.

	COST	65.00%	80.00%	100.00%	120.00%
1 Bedroom Condo/Semi	\$320,438	(\$139,015)	(\$129,183)	(\$57,726)	\$13,907
2 Bedroom Condo/Semi	\$381,863	(\$175,860)	(\$133,197)	(\$47,343)	\$38,686
3 Bedroom SF Detached	\$511,875	(\$284,453)	(\$210,011)	(\$110,814)	(\$11,617)

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Impact on feasibility for allowing off-site affordable units or a combination of on- and off-site.

The feasibility of off-site is dependent on project structure. For example, if land for development of off-site units is less expensive than the subject property in question, there will be a positive influence on feasibility, however, if the provision requires a developer to acquire and improve new land or an existing building, the costs of operating two separate projects will likely be comparable if not higher than on-site. There may be opportunities for developers to partner with non-profits or other mission-based groups to co-locate affordable units, thereby reducing overall cost and improving feasibility on a case-by-case basis.

Fee in lieu

Fees in lieu of developing affordable housing are a tool that can be used to direct resources to where they are most useful. Fees should be codified as a percentage of total project cost or some other metric that can be escalated at a predictable rate into the future. Fixed dollar amounts or costs per square foot that aren't easily adjusted over time should not be used. Fees should be sufficient to support the creation of affordable housing by organizations that have the requisite skills and capacity to deliver affordable housing efficiently and effectively. The amount should be equivalent to the cost associated with providing the affordable units within the project, otherwise, developers are incentivized to pay the lesser fee and not develop the necessary units.

Incentives

Barnstable should consider ways to better align regulations with existing housing patterns and market trends. For example, 65 percent of AMI is an uncommon threshold that is not well aligned with available programs and incentives.

Zoning incentives such as density bonuses, parking reductions, or fee waivers allow developers to reduce cost or increase potential revenue on a project, which increase feasibility. For example, if a site is acquired with an assumed capacity of 10 units then a density bonus allows 20 units to be built, the cost of land on a per unit basis has been

halved, which can help subsidize the project. No one incentive will make an infeasible project work, however. A combination of different incentives and subsidies, and flexibility will help to reduce the cost and increase the available funding for affordable housing. Density bonuses can be a powerful tool for incentivizing small projects as part of a voluntary inclusionary program, which would help reduce overall project cost and create an incentive to build additional units. Flexible options like accessory dwelling units, local building regulation modifications, and expedited housing entitlement and construction can also reduce the time and financial burden on affordable housing developers.

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Mr. Dewey also sent in written comments with the presentation above:

3 Strategies

Inclusion:

Update the Inclusionary ordinance:

Intent: to create and capture a proportionate number of affordable units to the level of residential growth, construction and development. And to fund the affordable housing trust to be able to redirect funds to create and maintain affordability in Barnstable.

Ideas to consider:

-Increasing the percentage of affordability based on units developed (Example: 10-15 units 10%, 16-25 units 15%, 26-35 units 20%, 35+ units 25%)

-Consider a scoring system with a required score that creates a mix of level of affordability ranging from 50-100% AMI (more points for 50% AMI units, less points for 100% AMI units, but an overall required total points)

-Offering a cash in lieu option as a contribution to the affordable housing trust

Preservation:

Intent: to preserve existing housing stock currently used as year-round occupied homes, year-round rentals, and keep prices, both for sale and for rent at an attainable level for our year-round residents.

- Offer a residential exemption to year-round rentals of 1–4-unit buildings (copy the Provincetown model)

- Lite Deed Restriction (copy Vail in Deed program to purchase year-round deed restrictions), helping year-round home buyers, helping residents age in place and creating a housing stock that the market can determine the market value of a year round property.

- Encourage the trust to create a buy, deed restrict, lottery-sell program to convert more of our existing stock to affordable housing

Creation:

Intent: to promote and subsidize the creation of housing that the community wants in areas and parcels that lend themselves to such development (large lots that could comfortably hold more than one house, small lots that don't meet current zoning requirements but could comfortably fit a dwelling).

-Small scale housing regulatory agreement: A special permitting process where applicants could seek approval with conditions to build 1–8-unit buildings in all residential neighborhoods through a thorough review process. A process involving public input and feedback and options to condition the units to affordability, year-round use, local preference and monitoring.

Larry Nikulus mentioned the recent housing bill passed in the State, he is glad we have the ADU Ordinance in place, but its very costly to build one, and if this committee could look at that to make it more affordable. He believes that there are approximately 40 buildable lots that were combined back in the 90's in Hyannis to make 1 acre lots, but then the times changed and now you can build on ¼ acre lots, so he knows there is a way to make those lots ¼ acre or ½ acre for more housing, but that is only if the owners are willing to sell and subdivide the land. This is something that he would like the committee to look at. He mentioned young people are boxed out of owning a home, because of the cost and the market, but if there was a way to build starter homes under 1800 sq feet. It would give individuals the opportunity to buy, because the cost is low. The average price of a home on Cape Cod is \$700,000 and above, so we must think of ways to reduce these prices. In the area he lives in in Barnstable is zoned for 2 acres. He understands the 2-acre zoning in critical areas like the well protection zones, but there are other areas that the zoning could be changed for those lots that are not in the critical zone areas, this would free up those lots and if we limit the size of the homes to be built on those lots it would give us more housing.

Paul Phalan, Centerville would like to thank everyone for being on this committee and the hard work you are all doing. His concern is why it took 10 years to convert the school in Marstons Mills to housing. The town needs to do better than that, we need to look at all the town owned buildings and to look at the process to see if there is anything that can be done to speed that process up if the town decides it no longer wants a building, he was upset that the town gave the Cotuit School in Cotuit to the water company, that should have been housing. In his precinct he knows about 6 senior that are house poor, they just can't afford to live in their homes anymore, we need senior housing for folks like this, and then backfill their homes with families or workforce housing individuals. We need to do more with abandoned properties in town, he knows about three or 4 houses in his precinct that are abandoned, so maybe we could put extra taxes on those that own these homes that do nothing with them, other communities do this. He wanted to thank the leadership of the Council for coming up with these committees to address the issues that are facing the town. He mentioned that he has been trying to help with a problem for a very long time and that is that Airports are land hogs, and he would like to see the Airport moved, he calls it the ghost Airport because they only do 70% of the business they used to in his opinion. He would like to see housing and recreation on that property. This town needs to go to Joint Base Cape Cod and have the initial discussion about moving it, but this town will not even do that.

Eric Schwaab, Hyannis stated he had a conversation with committee member Maryann Barboza, and she expressed she wants things done now, she appreciates all the hard work going into this and has challenged him to come up with ideas that can be implemented now to fix the housing crisis, he challenges this committee to do the same. He attended the Affordable Housing Trust meeting the other day, and stated there is 2 million of unencumbered funds, deed restriction program, moving seniors out of their homes would put money in their pockets with a little more mobility in their lives, this deed restriction idea could be implemented quickly according to Mr. Schwaab by taking a vote today as a committee to recommend to the Town Council implementing a deed restriction program for the Town of

Barnstable. Planning and Development could do this quickly as they have everything needed to do this and the know-how. Mr. Schwaab also mentioned the older homes along Betty's Pond that are ½ acre zoning, and by changing the zoning in that area, you could potentially build homes on those parcels. He believes the challenge for builders here in Hyannis is that the lots are small and often must combine lots to build anything. ADU's are next to impossible to build on a ¼ acre lot, but if you have a ½ acre it can be done. There are things that can be done now, zoning changes, and to free up lots to build duplexes. He hopes this committee will come up with concrete ideas before the next year comes to submit to the full Council that are attainable.

Chair of Committee asked for comments from the committee members on the public comment given:

Councilor Schnepf thanked all those that came out to the meeting to speak, there are some suggestions that are very good and concrete, so she thanks the public for those comments, and are worthy of us looking at them. She encourages those that spoke today to be present when this committee starts to have those hard conversations, when the discussions involve the town schools, sometimes there is a reason they can't become housing or used for housing, so she encourages everyone to come and participate in those conversations as we have them.

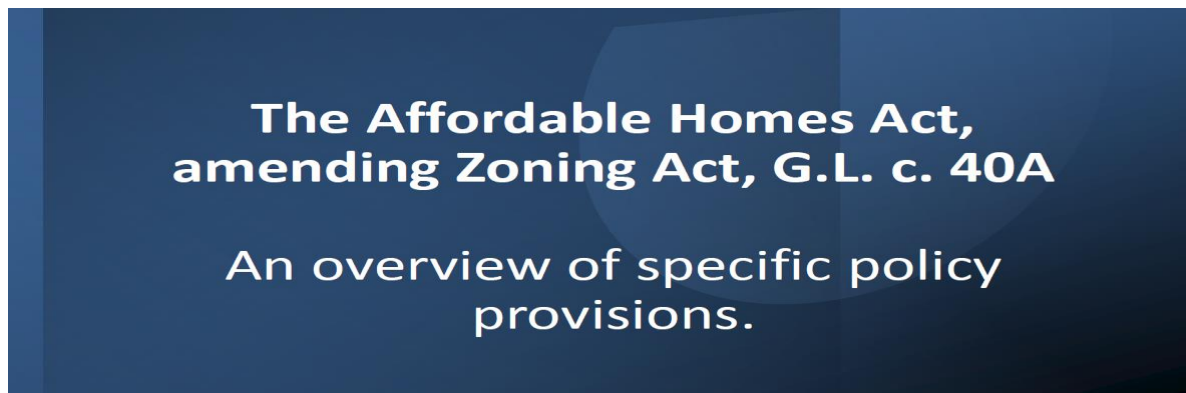
Councilor Ludtke liked all the comments made tonight, they are very detailed, and she appreciates them, she would like to see the town work on a smaller level rather than these grand projects that are being built here. Councilor Ludtke liked the presentation of the Wing School in Sandwich in revamping their school. She encourages everyone to look at the model they followed, because it worked. She believes the deed restriction program should have been done years ago, but it is something to look at going forward. She would like this committee to come out with some attainable ideas.

Hilda Haye thanked the public for all the comments, they mean a lot to us. She asked if the deed restrictions could be done for just Barnstable residents, say that have lived in worked in Barnstable for at least a year would be given priority over someone from another town.

Councilor Bloom asked again for the committee to discuss the target of individuals were considering a priority for housing. This would be helpful for us to understand and know.

Chair of Committee is going to leave the public comment open for the meeting because there are very few individuals in the room, and if they would like to comment further on our discussions, he will allow that.

Chair of Committee asked James Kupfer, Director, Planning and Development presented the following.



Amending Zoning Act. G.L. c.40A



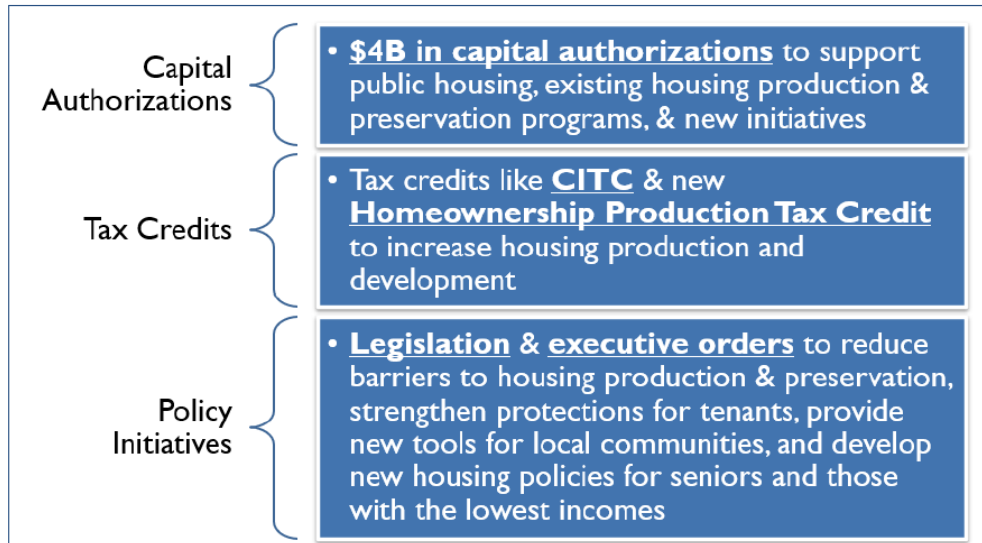
Policy Initiatives In This Presentation

Accessory Dwelling Units
Seasonal Communities Designation
Merger of Lots Under Common Ownership
Zoning Appeals
Veteran Preference for Affordable Housing

Timeline

The changes featured in this presentation are now law, except for the new ADU requirements, which will take effect on February 2, 2025, 180 days following the date on which the Act was enacted.

Affordable Homes Act



Accessory Dwelling Units



ADUs by-right. The Act allow ADUs by right in single-family zoning districts subject only to reasonable regulations including, but not limited to, site plan review, Title 5, dimensional setbacks, restrictions on the bulk and height of structures.

- Supersede any inconsistent local ADU bylaws
- Removes the ability of cities and towns to impose owner occupancy requirements on ADUs or their principal dwellings
- Affirms the ability of municipalities to regulate, or prohibit the short-term rental of ADUs
- Municipalities cannot require a special permit or other discretionary zoning approval for the use or rental of an ADU that meets the maximum size or number defined by the AHA.
- Clarifies that the square footage reference in the definition applies to **GROSS floor area**. Not larger in gross floor area than half (1/2) the gross floor area of the principal dwelling or **900 square feet**, whichever is smaller.
- Municipalities cannot impose parking requirements in excess of **ONE parking space** per ADU. No parking spaces may be required when an ADU is located not more than **0.5 mile** from a commuter rail station, subway station, ferry terminal or bus station



Use and Dimensional Requirements	Barnstable ADU Requirements	State ADU Requirements
Number of ADUs allowed per lot	1 ADU per lot. Septic/sewer capacity and number of bedrooms will determine feasibility.	1 ADU per lot. Special Permit required for more than one ADU per lot. Septic/sewer capacity and number of bedrooms will determine feasibility.
Primary residence and ADU entrance requirement	If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.	Maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress
Number of bedrooms and occupants	2 bedrooms/2 occupant; Special Permit needed for more bedrooms or occupants. People under 18 not applicable.	Not stated in Act.
ADU size requirement	Maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet , whichever is smaller. Special Permit for greater than 900 sf.	ADU not larger in gross floor area than 1/2 the gross floor area of the principal dwelling or 900 square feet , whichever is smaller.

Use and Dimensional Requirements	Barnstable	State ADU Requirements
Zoning Requirements	New construction must comply with setback and height requirements for the zoning district in which the property is located.	The use of land or structures for such accessory may be subject to reasonable regulations concerning dimensional setbacks and the bulk and height of structures
Parking Requirement	All parking for the ADU shall be on site.	Prohibits imposing parking requirements in excess of one parking space per ADU, except that, when an ADU is located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, no parking spaces may be required.
Rental Requirements	Cannot be rented for shorter than 12 months. Prohibits vacation/short term rentals. Either the principal dwelling or the ADU, but not both, may be rented at any given time.	May be subject to restrictions and prohibitions on short-term rental.
Ownership/Owner Occupied	ADU must be kept in common ownership with principle dwelling and lot. Owner must occupy either the principle or the accessory dwelling.	The use of land or structures for an accessory dwelling shall not require owner occupancy of either the accessory dwelling unit or the principal dwelling

Seasonal Communities Designation

- A city or town characterized by significant seasonal fluctuation in population and employment related to seasonally based tourism; criteria to be established by the SCCC
- The Act establishes a Seasonal Communities Coordinating Council comprising of at least seven members, including a representative from each regional planning agency which serves at least one seasonal community. Cape Cod and the Islands/Berkshires.
- Applies to towns with at least 35% of seasonal local housing. Barnstable at 28% of seasonal local housing.
- Gives towns access to \$50 million bond bill for affordable housing, funds for public employee housing and allows towns to increase residential property exemption to up to 50% for primary homes.
- Seasonal communities can acquire year-round housing occupancy restrictions (preventing lots from being used as seasonal homes or for short-term rentals) and can acquire and develop housing for essential public employees.
- Also allows for smaller housing units (400 square feet) to be built on undersized lots if the units are year-round.
- Communities designated may accept or reject the designation



Merger of Lots in Common Ownership



THE ACT PRESERVES THE BUILDABLE STATUS OF CERTAIN LOTS OWNED IN COMMON BY EXEMPTING THEM FROM THE DOCTRINE OF MERGER. DOCTRINE PROVIDES THAT TWO LOTS WILL "MERGE" TO ELIMINATE OR REDUCE ZONING NONCONFORMITIES



THE ACT PROHIBITS THE MERGER OF ADJACENT LOTS UNDER COMMON OWNERSHIP IF, AT THE TIME OF RECORDING OR ENDORSEMENT, THE LOTS CONFORMED TO THEN EXISTING ZONING REQUIREMENTS OF AREA, FRONTAGE, WIDTH, YARD, DEPTH. THE LOT MUST BE 10,000 S.F. AND HAVE 75 FEET OF FRONTAGE AND LOCATED IN A SINGLE FAMILY DISTRICT.



AS A CONDITION OF RECEIVING PROTECTION FROM "MERGING", AND IN TURN, THE INCREASE IN VALUE AFFORDED TO BUILDABLE LOTS. THE OWNER CAN BUILD A SINGLE-FAMILY RESIDENCE NOT TO EXCEED 1,850 S.F. AND SHALL NOT BE USED AS A SEASONAL HOME OR SHORT-TERM RENTAL.

Zoning Appeals



Particularized Injury for Standing. The Act revised G.L. c. 40A, § 17 limiting the types of appellants who will be eligible to establish standing to challenge local zoning determinations. Requires that a complainant who is not an original applicant, appellant or petitioner in a zoning matter at the local level must “sufficiently allege and must plausibly demonstrate that measurable injury, which is special and different to such plaintiff, to a private legal interest that will likely flow from the decision through credible evidence.” The requirement that appellants demonstrate a particularized injury establishes a higher standard for persons seeking to file lawsuits challenging zoning decisions.

Higher Bonds Authorized for Appeals. The Act further revised G.L. c. 40A, § 17 by empowering judges to require plaintiffs to post sureties or cash bonds of not more than \$250,000, rather than \$50,000 when appealing a decision approving a special permit, variance or site plan. The bond, intended to secure the payment of, and to indemnify and reimburse, damages, costs and expenses incurred in such an action, can be imposed if the court finds that the harm to the defendant or to the public interest resulting from delays caused by the appeal outweighs the financial burden of the surety or cash bond on the plaintiffs.



Veteran Preference



The Act inserts a new G.L. c. 40A, § 18, which allows a municipality, in specific circumstances, to negotiate with a housing developer or residential development owner to include a preference for affordable housing for low- or moderate-income veterans.

This option is available only to municipalities that permit or adopt:

- inclusionary zoning; or
- incentive zoning; or
- a density bonus ordinance or bylaw; or
- a housing production plan submitted to EOHL.

Veteran preference can include up to 10 percent of the affordable units in a particular development. Importantly, the preference will not affect a municipality's ability to receive credit for affordable housing purposes, such as inclusion on the Subsidized Housing Inventory ("SHI").



Questions

Reference/Links

<https://www.mass.gov/info-details/the-affordable-homes-act-smart-housing-livable-communities>

<https://www.mass.gov/info-details/accessory-dwelling-units>

<https://malegislature.gov/Laws/SessionLaws/Acts/2024/Chapter150>

<https://k-plaw.com/resources/eupdates/>

Committee members would like to explore tiny homes ideas, either on wheels or stationery. Barnstable needs to look at this further.

Committee member Laura Shufelt presented the following



Successful Affordable Housing Projects Initiated by Municipal Purchase of the Land

For Barnstable Ad Hoc Committee on October 7, 2024

Melpet Farm Dennis

- Dennis purchased the land with General Funds for \$800,000
- Half of the 12+ acres was preserved as conservation/agriculture
- The other half was given to the Housing Authority to develop as affordable housing. After the LHA stumbled, the town took the land back and issued a Request for Proposals for a developer
- POAH and HAC were awarded the project.
- The result: 27 units of near net zero affordable rental housing for families.
- CPA funds contributed **\$470,000**

Little Pond Place Falmouth

- Falmouth bought the 21.3 acres of land using Open Space and Community Housing funds of CPA
- 9.59 acres was preserved as open space
- The remaining 11.54 acres was designated for community housing
- The project was delayed while the site was sewered
- Falmouth Housing Corp and Affirmative Investments were awarded the project
- The result: 39 affordable family rental apartments and 1 manager's apartment
- CPA funds contributed **\$750,000**





Millstone Rd. Housing Brewster

- Brewster bought a parcel of land in 2018 with CPA funds that opened up the adjacent town-owned 16 acres of land for affordable housing development
- BOS gave control of the land to the Trust to issue an RFP for a developer. Max. 90 bedrooms (Title 5)
- The Trust, working with MHP, did site due diligence and engaged a consultant for community engagement
- The project was awarded to POAH and HAC in March 2022 for 45 community rental housing
- The project is under construction.



West Barnstable Communities: Lombard Farm Apts & Kimber Woods

- The town of Barnstable in conjunction with Lombard Trust issued an RFP for 2 parcels of land:
 - A portion of Lombard Farm in West Barnstable and,
 - A parcel of town-owned land behind the YMCA
- Lombard Farm Apts. Have 12 1-bedroom affordable, rental apartments for seniors.
- Kimber Woods has 28 affordable, rental family homes in quad buildings
- CPA contributed \$350,000



Stage Coach Rd Apartments Centerville

- Barnstable Housing Authority was gifted land in Centerville by the Town in the late 1980's
- The BHA investigated developing the site and purchased a vacant lot that connected 2 BHA sites, totaling 6.86 acres.
- The resulting parcel was have enough land to develop 12 apartments and sufficient conservation land to preserve for critical habitats.
- Stage Coach Apartments has 12 affordable, rental family homes in quad buildings
- CPA contributed **\$350,000**



LeClair Village Mashpee

- The Town of Mashpee made approximately 13 acres of land available for development of affordable housing.
- Due to environmental and Critical Habitat required preservation, the resulting developable area was 3.65 acres.
- The project, 39 family, affordable apartments recently held an open house.



Councilor Ludtke asked about the most recent project in Barnstable, and where that was. Ms. Shufelt answered Stagecoach in Centerville and that was completed in 2012. These are all rentals that have been built, mentioned Councilor Schnepf, so when we look at these projects, we must decide if they are all rentals or half rental and half ownership etc., and they get a little more complicated as you add more to the type of build.

The Committee members had a question at the last meeting regarding renting rooms. The Chair of the Committee asked the building commissioner about this, and he discovered that if you own a home and you have empty bedrooms, you can rent those bedrooms if you choose.

Committee Chair discussed the identifying those that need housing that fall into certain categories. The Chair was asking that if this is a priority of this committee to identify those, then we need to discuss it, if it is not a priority, then we need to move on. Councilor Schnepf mentioned that when she first mentioned creating this committee it was or the intent of discussing the affordability of housing, for those that are challenged in that area. She would like to look at the AMI percentage for some of the programs that are offered. Councilor Schnepf pointed out Barnstable's Housing Production Plan because it identifies this. Laura Shufelt agrees with Councilor Schnepf and focus on the AMI at 100 percent and below for some of these programs. Councilor Ludtke would like to see some ownership available to individuals that want to gain equity, and rentals if there aren't individuals that don't want to own, so a mix is what we should look at. The Chair of the committee would like to be able to provide the Council with three solid ideas that are attainable and affordable.

Hilda Haye said owning a home is very important for people's future generations, and the idea of adding a restriction to it that in 10 years after the initial renting that that individual owns it with equity by maintaining it with repairs, and landscaping. Councilor Ludtke agreed with the time factor and if you're in this home for 10 years or more then it is yours, that is why she likes the tiny homes idea for individuals, they are affordable, and if other communities are doing this then we should be able to as well.

Councilor Bloom would like to see both options, renting and home ownership if possible.

Committee members decided on October 28, 2024, as the next meeting from 3p-5p.

A motion was made by Councilor Paula Schnepf, this was seconded by Councilor Bloom, all members voted in favor of adjournment at 6:00pm

ADJOURNMENT 5:00pm