

Committee to Review and Assess Zoning and Review the Town's Use of Regulatory Agreements

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

Councilor Jeffrey Mendes
Councilor Matthew Levesque
Councilor John Crow
Councilor Kristen Terkelsen
Councilor Charles Bloom
Catherine Ledec
Bob Schulte Chair
Ken Alsman
Seth Etienne

February 11, 2025
5:00pm

MEETING MINUTES

Chair of the Committee, Bob Schulte, opened the meeting of the Committee to Review and Assess Zoning and Review the Town's Use of Regulatory Agreements and made the following announcement:

This meeting is being recorded and will be re-broadcast on the Town of Barnstable's Government Access Channel. In accordance with Massachusetts General Laws Chapter 30A, Section 20, the Chair must inquire whether anyone else is recording this meeting and, if so, to 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>

Chair of Committee read the purpose of this Committee:

PURPOSE: Work with the Town's Planning & Development staff to review and re-assess recently adopted zoning changes, review the Town's use of regulatory agreements, and make recommendations to the Council.

Chair of the Committee, Bob Schulte asked for Roll Call: Members present: Bob Schulte, Chair Councilor John Crow; Catherine Ledec; Ken Alsman; Councilor Kristen Terkelsen; Seth Etienne. Absent: Councilor Charles Bloom; Councilor Jeffrey Mendes; Councilor Matthew Levesque (prior commitment)

Also in Attendance: James Kupfer, Director, Planning and Development, Assistant Town Attorney Kate Connolly (joining remotely)

Chair of the Committee wanted to again thank the public for their interest in the committee and their participation both in person and via the zoom link provided for public comment. He encouraged the public to submit comments either in person or in writing as well, by sending the email to Cynthia.lovell@town.barnstable.ma.us and put in the subject line AD HOC Zoning Committee, and she will distribute to the members once she receives them.

Chair of Committee opened public comment and mentioned the zoom link will stay active so that Assistant Town Attorney Kate Connolly can participate.

Ella Sampou- Precinct 11- Ms. Sampou has a background in Housing and Community Engagement around affordable housing, and spends the majority of her time going from town to town and attending meetings such as this one, and regularly reading the zoning in each of the towns, and wanted to comment today as this committee considers making amendments to the form base code that was passed recently and recognize the incredible amount of work that was involved in creating that code in the first place. The Cape Cod Commission took that zoning reform on a tour across the Lower and Outer Cape

as a shining example of successful zoning, Ms. Sampou also wanted to comment about the item on the agenda having to do with parking minimums and a discussion on possibly moving that up to two spots per unit. Ms. Sampou would like to caution the committee against that decision primarily because parking spaces drive up the cost of housing. Ms. Sampou is unable to give specific numbers tonight on how that would look for Barnstable, but she is certain that those numbers would be easy to find working with some of the state housing groups. Designing for parking spaces encourages reliance on cars, there is already enough congestion in Hyannis without adding more cars to an already congested area. The town has a functioning bus line with different types of transportation available to whatever you need to get to. There are trains in the summer to take you to Boston and New York, there are ferries that take you to and from the Islands. This part of Hyannis was designed to be the transportation hub, there are certain corners of Hyannis that are walkable, and other parts are fairly walkable, so if we build to rely on cars there will be cars, if we build not to rely on them there will not be any, and people find other ways to get around, most individuals and families in and around Hyannis do not have more than 1 car and some have no cars at all because of the cost to buy one and maintain one. In May of 2024 the Cape Cod Commission advocated parking maximums, rather than minimums again because it drives down costs and provides for better or more creative land use. Ms. Sampou also wanted to mention Provincetown as a beautiful example of a dense, seaside historic area that does not have parking minimums, and when she travels there, there has never been an issue with finding parking, nor does she hear of any residents complaining they can't find parking. Ms. Sampou wanted to also comment on the height limitations and got the impression that it was lowering the building's height to three stories, but adding green space on the fourth story, she believes the town would be remiss to sacrifice a potential fourth floor of housing, given the severe need in our immediate community and across the Cape. Barnstable also has pre-existing non-conforming structures that are at least three and half stories tall, driving here this evening she did not notice these structures, they do not stand out, the height is not blocking a view, and does not believe the town sacrifices anything by going up one more floor, mentioning Provincetown again as an example, the library has at least three stories and the view to the water was beautiful, so if Hyannis went one more story with housing then maybe that view also is a possibility, where if you stay with three you may be overlooking a roof top of another building. Ms. Sampou also discussed the possibility of zoning only three stories and we lose that building; we can't rebuild it; it's better to have the flexibility in zoning than not to have the flexibility and the option of doing it that not doing it.

Satchel Douglas- Hyannis moved here about a year ago because Hyannis is an area that you do not have to be car dependent, and that was important to him. Mr. Douglas rides his bike everywhere, but caveats that by saying Hyannis is not totally there yet. Mr. Douglas is able to bike everywhere, however not everyone is able to, walking, we do not have the density to support that level of accessibility, so to speak about parking restrictions or parking minimums he believes reduce density and the reduction of density makes it that much harder to have a walkable community, he believes it is what people are looking for when they move to Hyannis. Mr. Douglas is an engineer, so he did some number crunching; 1 parking spot is approximately 9X18, which is 162 square feet with a median price of \$500 per square foot that is an additional \$81,000 for one spot to \$140, 000 for two spots additional cost per unit on new construction, so the more parking spaces that are added it drives up the rent of a unit by approximately \$700 per month, and also reduces the tax revenue by adding spaces and not units. Mr. Douglas also wanted to comment that those individuals complaining about parking in the area are not necessarily those that are affected; not everyone that has a comment can come here, or reach out to their Councilor, because they do not know how, so the handful of comments you received on the negative about parking does not really represent those affected.

Chair of Committee moved onto written correspondence from the public:

Good day,

I hope this finds you all well.

I'm wondering if the issue of short term rentals has been included and addressed in the permitting of the many hundreds of apartments, which have been and are pending. I believe once these complexes are actually constructed we will be seeing a very significant number of vacancies. Since each Landlord's financial strength is different, some more than others will be very challenged with their own financial needs and vacancies will be a very big problem for them. This will not only be a problem for those Landlords, but it will significantly impact the economy of the entire downtown area. Those Landlords will need to lower their rents in order to attract tenants and avoid vacancies. A consequence of that will be the quality of the tenants. Obviously that's not good for the Landlords, but it might be a windfall for the people looking to rent. Ironically and in theory, because the full and fair market rental units can be rented for any amount they could actually have lower rent than the designated "affordable housing units", who's rent are tied to and controlled by the tenants income. What a shame and conundrum that would be.

Another issue created by having vacancies, which in itself is the consequence of allowing such an overwhelming number of apartments, is that Landlords, and in particular those Landlords who are struggling financially, or just due to them seeing and taking advantage of an opportunity to rent the vacant apartments out as very short term rentals, like motel rooms and Air BNB's. The Landlord would have to furnish these apartments and that would then pretty much guarantee they would always be rented for the short term and not year round. The increase in rent of a few hundred dollars a night, would certainly be a very attractive option compared to having a vacancy or collecting monthly rent. Now all of the sudden a facility which was designed and permitted to be an affordable housing development, is nothing more than a motel with efficiency rentals, rented for a few hundred dollars per night. Other than money, another potential benefit for the Landlord, is the fact that tourists typically only travel in one car, so that one parking space per apartment is an acceptable arrangement and would actually help resolve the bigger parking issues in the area. There may be restrictions in the affordable housing regulations that might very well prohibit this kind of use, and the Town could possibly lose the ability to have the entire complex added to the Town's affordable housing stock, which would defeat it's purpose and add to our housing problem. That then raises the issue of Landlords actually complying with the regulations and how will that be policed. This would also be a very good reason for the Town to require Development Agreements for all multi family housing, with four or more apartments. That's just one more way for the Town to have better control over these developments. It would be a good idea to include, in any agreement, language that spells out in great detail any penalties for violating any of the terms and those penalties need to be very significant and to the point they truly incentivize the Landlord to make sure they are always in compliance. Perhaps the penalty should be forfeiture of the short term rental amount they received.

You always have to be thinking way ahead of the individuals you are or might be dealing with, because a big part of their job is to try and figure out how they can work around things, or interpret things in their favor. They will always push things to the very limit of what is allowed. Their innate mantra is: if I can I must. I can see a Landlord telling the Town they need to be able to rent all the apartments nightly, because they don't have enough parking spaces and can't find year round tenants with only one car. The Hyannis BID and the Main Street Merchants might actually want all these apartments to be run like a motel, so that it will bring more tourists into the area, who are much more apt to spend money than tenants who can barely afford their rent and might opt to shoplift instead.

I'd also like to point out that, as you know the Town's Ordinance only requires one parking space per apartment, but there is nothing, other than common sense and smart planning, to prevent a developer from providing more spaces than that. A big developer like Winn Development knows full well that if they build a one hundred and twenty apartment complex, they will absolutely need to provide way more

than one hundred and twenty parking spaces. I've included an information sheet for the proposed Hanover II apartments behind BJ's and on it you will see that they are proposing to build 320 apartments, with 465 bedrooms and they are proposing to provide 476 parking spaces. That's 156 more parking spaces than the Town requires. They've done this completely voluntarily, because they know exactly what the reality of their tenants parking needs are. My guess is that if this were being proposed by a Winn Development, or a Bob Brennan, there would be 476 apartments with 476 parking spaces, because that's what is allowed by the Town.

Hyannis Phase II							
23-34		4 story surface parked			Version 09rev - 2024-08-02		
Unit Areas							
Type	Description	No.	Unit Areas			Total Areas	
			Net	Balc.	Gross	Net	Gross
A1	One Bedroom, One Bath	191	772	0	772	147,452	147,452
B0	Two Bedroom, Two Bath	20	1014	0	1,014	20,280	20,280
B1	Two Bedroom, Two Bath	29	1149	0	1,149	33,321	33,321
B2	Two Bedroom, Two Bath	64	1250	0	1,250	80,000	80,000
C1	Three Bedroom, Two Bath	16	1408	0	1,408	22,528	22,528
Total Units:		320					
Rentable Area at Units:						303,581	303,581
Avg. Net Unit Size:						949	Avg. Net Unit Size / Type
Avg. Gross Unit Size:						949	
Total One Bedroom Units:						191	59.7% 772
Total Two Bedroom Units:						113	35.3% 1182
Total Three Bedroom Units:						16	5.0% 1408
Total Bedrooms:						465	
Leasing, Amenity and Misc. Areas							
Leasing & Amenities (Mail Included)						6,430 SF	
Total Miscellaneous Area						6,430 SF	
Gross Building Areas							
Building Type	Gross Building Area		Quantity On Site		Total Area per Bldg Type		
Building T01	68,672 SF		3		206,016 SF		
Building T02	72,740 SF		2		145,480 SF		
Total Gross Construction Area						351,496 SF	
Project Density							
Land Area		14.98 Acres					
Unit Density		21.36 Units Per Acre					
Project Parking							
Provided Parking Spaces							
Surface (Uncovered)						430	
Detached Garages						46	
Total Spaces Provided						476 Spaces	
Parking Ratio - Spaces / Unit						1.49 Spaces/Unit	
Parking Ratio - Spaces / Bedroom						1.02 Spaces/Br	

I apologize for this being so lengthy and I wish you all the best of luck and godspeed.

Chris

Chair of Committee addressed a couple of concerns in Mr. Kuhn's comments regarding short-term rentals and asked Mr. Kupfer for the first meeting in March to go over the Short-Term Rentals and also the By-Right Zoning. Chair of Committee mentioned there has been a lot of public comment regarding this in the Local Comprehensive Planning Committee which Mr. Kupfer has been directly involved with. The Chair of Committee asked Mr. Kupfer if he had any thoughts regarding some of Mr. Kuhn's comments, realizing that there isn't anything built into the zoning for Downtown Hyannis that addresses short-term rentals, Chair of Committee is aware that some of the comments came up when the consultant was there; there are some agreements not to short-term rent. Mr. Kupfer stated there are some stipulations but not baked into the zoning, Mr. Kupfer believes Mr. Kuhn's is referring to the units that are deed restricted as year round rentals, there are also some regulatory agreements also that stipulate

year round rental only, but the new market rate units that have been realized by the new downtown Hyannis zoning do not have the stipulation of year round housing, so they could potentially in the future become short term rentals because they have not been addressed in the town. Mr. Kupfer wanted to clarify a statement made by Mr. Kuhn and the parking at Wilkens property, that is not in the downtown Hyannis Zoning, so there are different stipulations for that property and what is required for zoning. For the Wilkins property within the sub zone of the mixed-use zone of the medical services overlay district there is a 1.3 ratio; so, 1.3 is required per unit as well as 1 per every 10 units for guest parking, what is proposed at the Wilkins site is 1.5 per unit. Mr. Kuhn stated there would be 156 more spaces, when there are only 28 additional spaces. Committee members Catherine Ledec asked if the average space is able to accommodate large trucks if someone was to own one. Mr. Kupfer said he owns a pickup, and it fits nicely in the spaces, the bumper may stick out a little, but not much at all.

Discussion with Committee members concerning short-term rentals, Councilor Crow has a concern in allowing short-term rentals will give individuals incentive to buy these for investment purposes instead of year-round housing, that is one thing he would like to see is regulations pertaining to short-term rentals. It is also known that short-term rentals need more parking spaces than year-round rentals. Councilor Crow would like to see regulations or restrictions placed on these. Chair of Committee mentioned the Governors Housing Study came out and, in some ways, contradicts what we have heard from some of the Housing groups and the Cape Cod Commission. We have also heard from Arden Cadrin, who used to be the Housing Coordinator for the Town of Barnstable that the town does not really have a housing shortage, it is the way they are used that is the problem, and the state has now recognized that as well.

Councilor Terkelsen asked Mr. Kupfer how some of the regulations that regulate these short-term rentals go into the Regulatory Agreements. Mr. Kupfer answered there are negotiations that go on before a regulatory agreement is agreed upon, the developers want to be able to do something, and the town says if we allow it, you must do whatever the town and developer agree on and then that it is put into the Regulatory Agreement. Mr. Kupfer answered it is possible in a Regulatory Agreement is where you would tell the developer that you can build your projects, but all units will be year-round deed restricted. Committee member Cathreine Ledec asked if this is true, who monitors those units to make sure that they are year-round rentals only. Mr. Kupfer answered there are monitoring agents both private and town that monitor those units to make sure they are always year-round. Mr. Kupfer has also had conversations with some Councilors about a Regional Housing Service Office could provide those services to all the town across the Cape.

Committee member Seth Etienne asked if there was any way to close the gap in affordability, there is an income gap in what individuals earn here and the amount of monthly rent charged. Mr. Etienne mentioned that individuals combine household now to afford it. The Chair of Committee mentioned that there is a project in Truro where there are 50 units being built and 49 are affordable units, here in Barnstable the Wilkens project is 320 units and the number is small for the affordable.

Councilor Crow asked of the 1000 units currently permitted to be built here, is that considered in the 2% the state says we still need to have. Mr. Kupfer will get that answer for Councilor Crow for the next meeting. Chair of Committee mentioned this committee has discussed increasing the inclusionary amount, and the Ad Hoc Housing Committee is considering that as well, so how we get there is still to be determined. Chair of Committee, in his opinion, believes the town is doing enough to meet that 2% required still of Affordable Housing. Councilor Crow agrees with Mr. Etienne that the units may be being built, but the affordability aspect has a huge gap in what people are earning and what they can afford monthly. Councilor Crow mentioned it's a fine line between what the developer can build a unit for at today's building cost but still make it affordable and pay back the loan they have on the property. Chair of Committee moved onto Item D. *Continued Committee discussion of DRAFT Memo Re: Potential Amendments to Chapter 240 Zoning (dated October 11, 2024, updated November 19, 2024, and January 24, 2025) to determine detailed recommendations for the following Downtown Hyannis zoning subtopics:*

- *Parking*
- *Building Heights*
- *District Boundaries*

Mr. Kupfer discussed the following:

Town of Barnstable

DRAFT

Planning & Development Department

www.townofbarnstable.us/planninganddevelopment

October 11, 2024, updated November 19, 2024, and **January 24, 2025**

To: Committee to Review and Assess Zoning and Regulatory Agreements

From: Jim Kupfer, Director, Planning and Development

Re: Potential Amendments to Chapter 240 Zoning Ordinance and Map

At the September 6th meeting of the Town Council Ad-Hoc Subcommittee entitled Committee to Review and Assess Zoning and Regulatory Agreements, the Planning and Development Director provided a comprehensive list of amendments to Chapter 240 Zoning Ordinance that have been approved over the last 20 years and facilitated a discussion identifying each. In that presentation, the Director provided an overview of the zoning ordinance and provided a general overview of each amendment. The discussion led to committee conversation as to which amendments they wish to further discuss. The request at the conclusion of the meeting was for the Planning and Development staff to expand on specific recently amended zoning changes including Exempt Uses and Downtown Hyannis Zoning. The Committee also identified the need to discuss short-term rentals and inclusionary housing.

Subsequently, on September 20, October 4, 2024, October 18, 2024, November 1, 2024, and November 15, 2024 the Committee reconvened to discuss the matter further. Below please find the main topic areas discussed as possible ways to improve the ordinance and recommendations for further discussion.

Potential Chapter 240 Policy or Ordinance Amendments

Exempt Uses

The Committee requested to review §240-8 Exempt Uses in the Zoning Ordinance. Staff presented the section in whole to the Committee.

Committee members suggested that there was a lack of regulation surrounding exempt uses, specifically municipal uses. A committee member noted that better management of municipal properties is necessary to provide a model standard for those required to meet the zoning ordinance that the Town has set forth and that enhanced standards in §240-8 may be necessary.

Potential Recommendation to Town Council: The Committee recommends Exempt Uses, §240-8, establish standard policies or that §240-8 be amended by adding certain standards for municipalities to adhere to for site development when proposing new construction or substantial alterations.

Downtown Hyannis

Chapter 240 §24.1 through 13 of the Barnstable Zoning Ordinance is defined as the Downtown Hyannis Zoning Districts and includes the Districts' development standards. These sections were amended February 2, 2022. The Committee requested to review the entirety of the Downtown Hyannis Zoning Districts. Staff presented the section in whole to the Committee.

Committee members highlighted several issues they would like to discuss further. Those items being parking ratios, heights of structures and the districts as defined on the zoning map. In addition, while not specified in the Chapter 240 §24.1 through 13, the Committee also raised concern over the Inclusionary Housing Ordinance, the uniform requirement of 10 percent of the units being affordable as insufficient, as well as a potential need to prohibit short term rentals within these districts.

Staff presented each item requested more specifically at subsequent meetings. The Committee noted the following:

Parking

The Committee suggested that the parking ratios for residential dwelling units may need to be adjusted and studied further as one space per unit may not be enough for future development. The Committee reviewed recently approved site plans in the district, discussed the 2017 Hyannis Parking Study, as well as several members conducted a site walk with staff. The Committee concluded that while existing private parking is underutilized and could be managed better there is no guarantee that new development will utilize existing private parking in a shared manner and as a result may impact public facilities if additional parking is needed above one space per unit. The Committee also recognized that Downtown Hyannis is a more walkable district than most areas of Barnstable and trends such as uber, doordash, etc may limit the necessity for multiple vehicles. Ultimately the Committee recommended increasing the parking ratio.

Potential Recommendation to Town Council: The Committee recommends Town Council consider amendments to Chapter 240 §24.1.5.C Table 2 Minimum Required Accessory Parking Spaces by increasing "Residential or artist live/work (per DU)" from one space per unit in all districts to a parking ratio greater than one space per unit **up to no more than but less than** two spaces per unit, **and when calculating the overall parking count for a specific project, the Committee recommends that the state mandated handicap parking spaces that shall be required for any proposed project are not to be included in the parking count. Additionally, it is recommended that the Council may wish to include parking dimension standards for all districts in Downtown Hyannis Zoning. These dimensional recommendations are that new proposed parking spaces shall be a minimum of 9' by 18' and that a drive aisle between parking spaces shall be a minimum of 20'.**

Building Height

The Committee suggested building heights may also need to be adjusted. The Committee noted that the zoning may want to consider a more nuanced approach to building height considering abutting properties, roof lines, and varying heights over linear feet to reduce the likelihood of a canyon effect along Main Street. The Committee specifically identified the Downtown Main Street District and the Downtown Village District as districts to reevaluate height requirements. The Committee reviewed recently approved site plans in the district as well as several members conducted a site walk with staff.

Potential Recommendation to Town Council: The Committee recommends Town Council consider amendments to Chapter 240 §24.1.6 Downtown Main Street District Table 3 by amending Section F of the Table "Number of Stories" from "3.5 or 4 maximum" to a maximum height of 3 stories, however it is recommended allowing for a 3.5 story if the rooftop is proposed to have active space such as rooftop amenities for residents, active commercial space such as a restaurant, green roof, etc. as well as eliminating 240-24.1.6.C.6 "The fourth story of any building must be recessed ("stepped back") from the facade of the stories below at least eight feet".

The Committee also recommends Town Council consider amendments to Chapter 240 §24.1.7 Downtown Village District Table 4 by amending Section F of the Table "Number of Stories" from "3.5 or 4 maximum" to a maximum height of 3 stories, however it is recommended allowing for a 3.5 story if the rooftop is proposed to

have active space such as rooftop amenities for residents, active commercial space such as a restaurant, green roof, etc. as well as eliminating 240-24.1.7.C.4 "The fourth story of any building must be recessed ("stepped back") from the facade of the stories below at least eight feet".

District Boundaries

The Committee discussed potential amendments to the Downtown Hyannis Zoning Districts. The Committee raised concerns about the outer parcels and potentially reducing heights and density as parcels get closer to the outer limit of the Downtown Hyannis Zoning Districts. The Committee reviewed recently approved site plans in the district, existing conditions of boundary neighborhoods, as well as several members conducted a site walk with staff. The Committee suggested amendments to the Downtown Village District that would allow for similar development patterns as those abutting the outer perimeter of the districts.

Potential Recommendation to Town Council: The Committee recommends Town Council consider amendments to Chapter 240 §24.1.7 Downtown Village District and the zoning map by replacing in its entirety §24.1.7 Downtown Village District with §24.1.8 Downtown Neighborhood District or the creation of a new zoning district that reduces heights and density. In turn, the zoning map would need to reflect the proposed amendment to the district as well.

Inclusionary Housing

The Committee has noted that with the updating zoning, the Town is creating a large number of new housing units. The Committee raised concern over the number of these units that would not be deed restricted affordable. The Committee suggests that the Town Council may wish to consider requiring additional affordability requirements either in the Downtown Hyannis Zoning Districts or in Chapter 9 of the General Ordinance, townwide.

Potential Recommendation to Town Council: The Committee recommends Town Council consider amendments to Chapter 240 §24.1 through 13 and the zoning map. The Committee shall continue to work through specific issue areas to provide a comprehensive list of suggested amendments.

Short Term Rentals

Similar to above, the Committee has noted that with the updating zoning, the Town is creating a large number of new housing units. The Committee raised concern over the number of these units that may result in short-term rentals. The Committee suggests that the Town Council may wish to consider requiring a prohibition of short-term rentals either in the Downtown Hyannis Zoning Districts or added as a General Ordinance, townwide.

Potential Recommendation to Town Council: The Committee recommends Town Council consider amendments to Chapter 240 §24.1 through 13 and the zoning map. The Committee shall continue to work through specific issue areas to provide a comprehensive list of suggested amendments.

Councilor Terkelsen asked Mr. Kupfer to display the map of the district Boundaries:

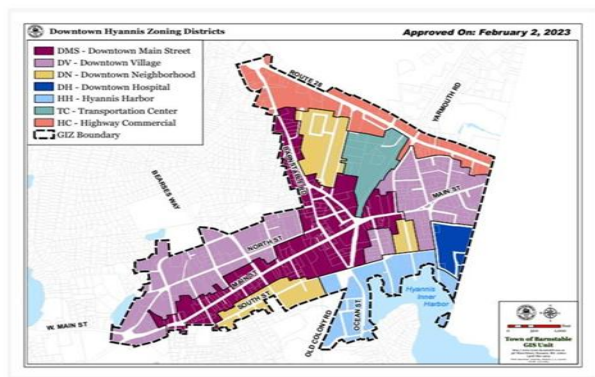
7 New Zoning Districts

Form-Based Districts (2)

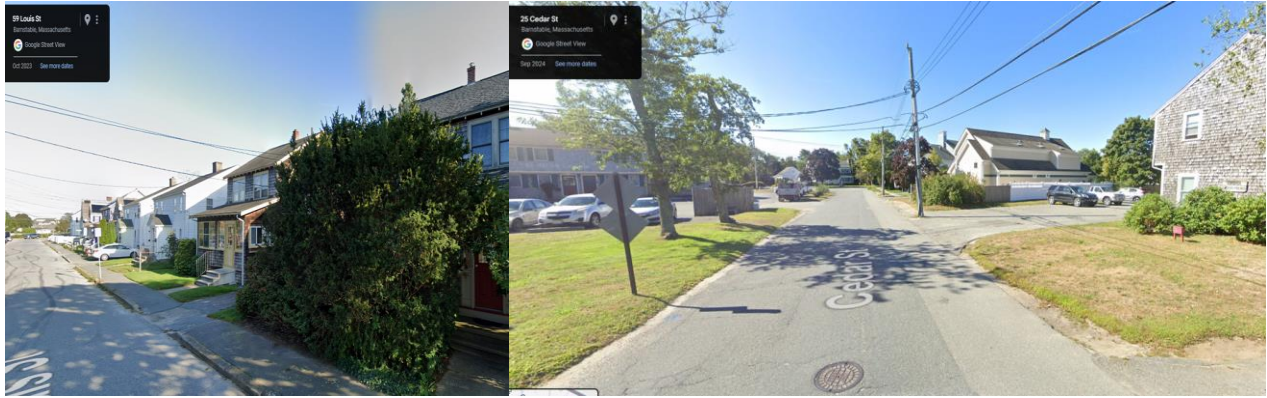
- Downtown Main Street
- Downtown Village

"Hybrid" Zoning Districts (5)

- Downtown Neighborhood
- Downtown Hospital
- Hyannis Harbor
- Transportation Center
- Highway Commercial



Mr. Kupfer mentioned the areas in light purple are district boundaries as it relates to height and setbacks. (pictures below of that area)



Councilor Terkelsen asked as it is written currently between the light purple area and the dark purple area, the light purple is 4 stories. Mr. Kupfer explained the document below states the requirements for the light purple area:

§240-24.1.7 Downtown Village District (DV)

A. Intent

1. The Downtown Village District is intended to promote mixed land uses that support the downtown core and reestablish or preserve traditional neighborhood forms and pedestrian orientation. Development is characterized by mid-rise (two to four story) single-use buildings and detached and semi-detached residential buildings.

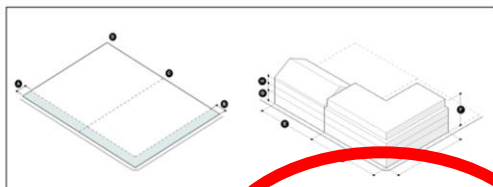
B. Lot Standards

1. Newly platted lots must be dimensioned as specified by Table 4.
2. Lot coverage may not exceed the maximum specified by Table 4.
3. Building facades must have a minimum width that is equal to a percentage of a lot's width and is specified as the facade build out on Table 4.
 - (a) Facade build out is calculated by dividing the total width of all facades at or forward of the maximum front setback by the lot width and may be cumulatively calculated by multiple buildings.
 - (b) The open space of a forecourt is considered part of the building for the purpose of measuring building width and facade build out.
 - (c) The SPGA may provide relief from the facade build out requirements; the Board must find the issuance of the special permit is consistent with the Design and Infrastructure Plan.

Table 4. DV Dimensional Standards

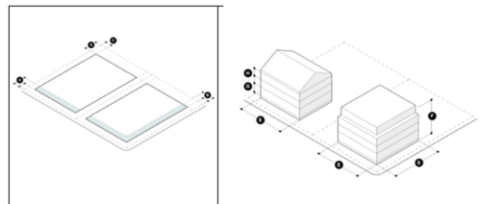
LOT		BUILDING FORM	
Lot Width	30' min	E - Building Width	120' max
Lot Coverage	80% max	F - Number of Stories	3.5 or 4 max ¹
Facade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
		Residential	10' min
SETBACKS - PRINCIPAL BUILDINGS		H - Upper Story Height	
A - Primary Front Setback	0' min 15' max	BUILDING FEATURES	
B - Secondary Front Setback	0' min 15' max	Ground Story Fenestration	--
C - Side Setback	0' min	Primary Frontage	15% min
D - Rear Setback	0' min	Secondary Frontage	15% min
		Upper Story Fenestration	15% min
		Blank Wall	20' max
		Commercial Space Depth	20' min

Table 3. DMS Dimensional Standards



LOT		BUILDING FORM	
Lot Width	30' min	E - Building Width	180' max
Lot Coverage	100% max	F - Number of Stories	3.5 or 4 max ¹
Facade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
Secondary Frontage	40% min	Residential	10' min
SETBACKS - PRINCIPAL BUILDINGS		H - Upper Story Height	10' min
A - Primary Front Setback		BUILDING FEATURES	
B - Secondary Front Setback		Ground Story Fenestration	--
C - Side Setback		Primary Frontage	60% min
D - Rear Setback		Secondary Frontage	15% min
		Upper Story Fenestration	15% min
		Blank Wall	20' max
		Commercial Space Depth	20' min

Table 4. DV Dimensional Standards



LOT		BUILDING FORM	
Lot Width	30' min	E - Building Width	120' max
Lot Coverage	80% max	F - Number of Stories	3.5 or 4 max ¹
Facade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
		Residential	10' min
SETBACKS - PRINCIPAL BUILDINGS		H - Upper Story Height	10' min
A - Primary Front Setback		BUILDING FEATURES	
B - Secondary Front Setback		Ground Story Fenestration	--
C - Side Setback		Primary Frontage	15% min
D - Rear Setback		Secondary Frontage	15% min
		Upper Story Fenestration	15% min
		Blank Wall	20' max
		Commercial Space Depth	20' min

The two side by side comparison above as you can see is not much different. Councilor Terkelsen had a question about the memo and the **active space such as rooftop amenities for residents**, do we really need that?

Potential Recommendation to Town Council: *The Committee recommends Town Council consider amendments to Chapter 240 §24.1.6 Downtown Main Street District Table 3 by amending Section F of the Table “Number of Stories” from “3.5 or 4 maximum” to a maximum height of 3 stories, however it is recommended allowing for a 3.5 story if the rooftop is proposed to have **active space such as rooftop amenities for residents**, active commercial space such as a restaurant, green roof, etc. as well as eliminating 240-24.1.6.C.6 “The fourth story of any building must be recessed (“stepped back”) from the facade of the stories below at least eight feet”.*

Chair of Committee answered the other option explained in the next paragraph:

The Committee also recommends Town Council consider amendments to Chapter 240 §24.1.7 Downtown Village District Table 4 by amending Section F of the Table “Number of Stories” from “3.5 or 4 maximum” to a maximum height of 3 stories, however it is recommended allowing for a 3.5 story if the rooftop is proposed to have active space such as rooftop amenities for residents, active commercial space such as a restaurant, green roof, etc. as well as eliminating 240-24.1.7.C.4 “The fourth story of any building must be recessed (“stepped back”) from the facade of the stories below at least eight feet”.

Councilor Terkelsen mentioned we have discussed taking the downtown Main Street area and making that 3.5 to 4 stories back to 3 stories with the option of the 4th story being some sort of outdoor space, and in the light purple area a maximum of 3 stories with a potential of 3.5 stories if the area is used for outdoor space. Mr. Kupfer answered Councilor Terkelsen by saying if you were to change DV Zoning to DN Zoning, that potentially would be moot, but it may be worth having that conversation.

Chair of Committee believes some of the concerns he has heard within the light purple area and the dark purple area are regarding confusion with the downtown zoning and would the height of those buildings that we have over at Independence House, where there is a 3 story or 3.5 story, be next to a single family style building?; and that there was no gradual decline in roof top from one building to the next. We don't want 4 stories, potentially next to a single-family dwelling, then another 3-story next to that. One suggestion would be to adjust the boundaries so that does not happen. Councilor Terkelsen would not like to see 3 story in the far-right light purple area near Main Street because that has more of a neighborhood feel to it. Mr. Kupfer answered yes, in this area, there are single family and a lot of

offices. Chair of Committee mentioned the old Seven-11 building which is proposed in that area as a 4-story structure correct. Mr. Kupfer said yes 3.5 to 4 stories proposed. Councilor Crow asked, "Do we want to scale down as we go, say by a .5 story". Councilor Crow would like to see more of a setback between commercial areas and residential areas. Committee member Catherine Ledec would also agree to more of a setback in the lighter purple area in the front. She would also like to see more ground cover or tree plantings, in the summer heat Main Street Hyannis is an oven, its uncomfortable on a hot day to walk around, and there are no shade trees or cover to get out of the heat if you wanted to. The Developer is going to maximize the amount of space he has, but if you negotiate some sort of green space or shade trees or whatever benefits the quality of life, no one will be outside, everyone will be inside. This is when a conservation ordinance works.

Committee member Ken Alsman is struggling with understanding the awkward zoning in these areas and does not really have a solution for the problem, as it is very confusing to him, so to come up with a solution right now he can't until he understands the zoning.

Committee members discussed what type of zoning would work in the light purple area so that projects that are 4 stories that are right up to the property line with zero setbacks are not sitting next to a 1 story residential home. Committee member Catherine Ledec would like to see something in between proposed for this area as the properties in this area are developed or redeveloped. Committee member Ken Alsman stated no matter what the solution, it is an awkward transition when development like this happens in areas with mixed use and residential homes. Councilor Crow proposed 3 stories in the light purple with no upper story and setbacks in the front. Committee members also discussed that putting a 4-story next to a single family is a problem for some, but may not be a problem for others, some members on the committee would have a problem living next to a 4-story and other members of the committee have lived like that and have experienced it and don't really mind it.

The Chair of Committee asked the members to think about this topic for the next meeting and to come up with any thoughts for discussion at the next meeting. Chair of Committee asked Mr. Kupfer to present his presentation on Solar:

MGL 40A Section 3: Subjects which zoning may not regulate; exemptions

No zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.

Supreme Judicial Court Finds Local Zoning Prohibition on Solar Energy Systems Unlawful

October 12, 2022

Earlier this year, the Massachusetts Supreme Judicial Court issued a decision in Tracer Lane II Realty v. City of Waltham, concluding that the City's broad zoning regulation of large-scale solar energy systems constituted an "outright ban" on such systems in violation of G.L. c. 40A, § 3, ninth para. That paragraph provides, in pertinent part, that "[n]o zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare." Our analysis of this case over the last few months suggests that it has significant implications for municipalities seeking to regulate large-scale solar energy systems.



Ground-Mounted Solar Photovoltaic Overlay District

Two Overall Amendment Recommendations by the Planning Board:

- Location
- Process

To expand the Ground-Mounted Solar Photovoltaic Overlay District to include the property located at 810 Wakeby Road

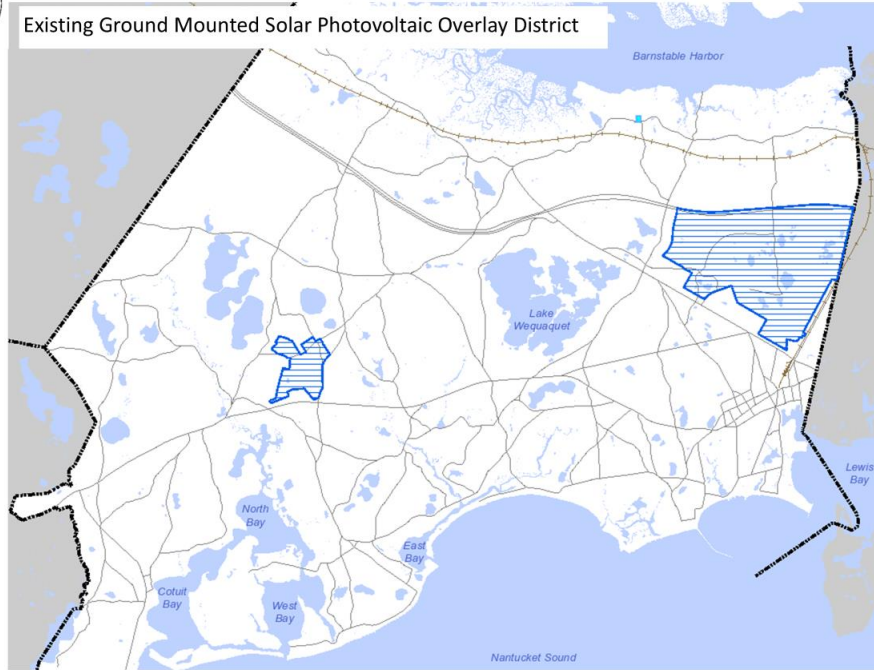
AND

To require enhanced project review standards for the existing ordinance (site plan review) as well as introduce a special permit process for solar within any residential district located within the overlay district.

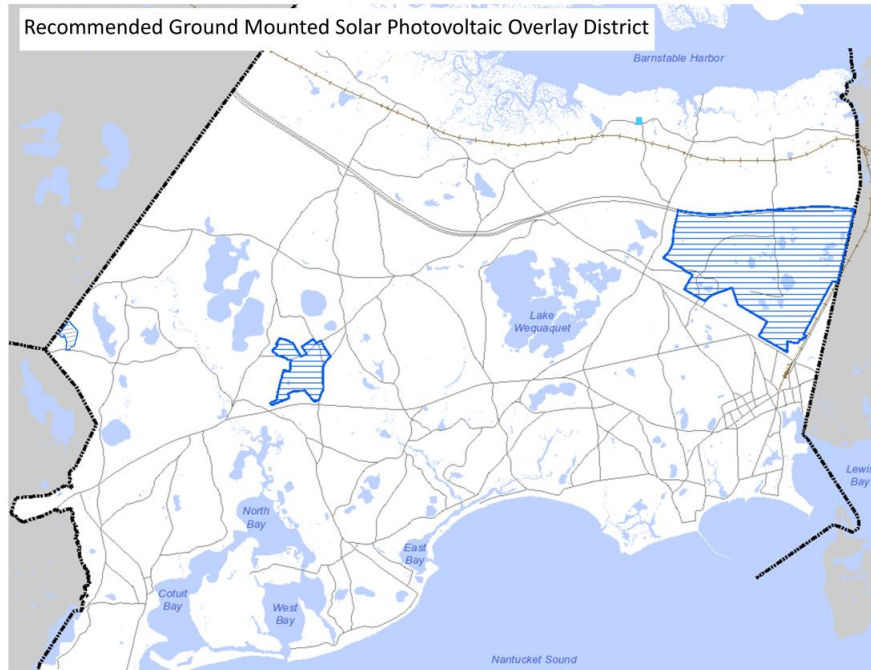
(Areas that are allowed Solar are in the etched blue)



Existing Ground Mounted Solar Photovoltaic Overlay District



Recommended Ground Mounted Solar Photovoltaic Overlay District





Approx. Boundary of Large Ground Mounted Solar in Industrial Underlying Zoning



Approx. Boundary of Large Ground Mounted Solar in Residential Underlying Zoning





Approx. Boundary of Large Ground Mounted Solar in Residential Underlying Zoning Proposed to be Added



The recommended amendments include adjustments to definitions, site plan review criteria and adding a special permit criteria for solar in underlying residential districts.

DEFINITIONS

Amendment to the definition of AS-OF-RIGHT SITING by adding, “The ground-mounted solar photovoltaic installation may proceed without the need for a special permit, variance, amendment, waiver or other local discretionary approval, **except that a special permit shall be required when located in a residential zoning district.**”

AND

The section is further amended to add definitions for

- Battery(ies),
- Battery Energy Storage Management System,
- Battery Energy Storage System and
- Hazardous Product.



All Applications Must Follow

The recommended amendments add additional criteria for site plan review.

- .amended by prohibiting Batteries and Battery Energy Storage Systems and
- .adding certain site plan requirements such as
 - existing conditions features,
 - stormwater management plan standards,
 - documented access and control of a site,
 - added operation and maintenance plan requirements,
 - Federal Aviation Administration approval, and
 - Hazardous Materials requirements.

This section also proposes to amend dimensional requirements by increasing setbacks and enhancing screening requirements, and by adding a new subsection for stormwater management.



All Applications in Residential Districts Must Follow

The recommended amendments adds a new level of permitting for solar in underlying residential zoning districts within the overlay district to require a special permit before the Planning Board.

Section F – Site Control – By replacing Section F with a new section entitled Special Permit Provisions.

This section includes special permit criteria for the following:

- .Site Plan Approval,
- .Setback requirements,
- .Screening criteria,
- .Federal Aviation Administration approval,
- .Hazard Materials requirements,
- .Expanded Operation and Maintenance plan,
- .and other compliance criteria found by the Planning Board as necessary to protect the public health, safety and welfare.



A few examples of the further defined criteria added to Site Plan Criteria:

- p. The project proponent shall provide full disclosure of all hazardous products proposed to be used at any time at a project site shall be provided in writing to the Building Commissioner with the Site Plan Review application; no application for Site Plan Review shall be considered complete until such disclosure is submitted to the Building Commissioner. No such hazardous materials shall be deployed or used at any time at a project site without Site Plan approval. Use, storage and containment of hazardous materials shall comply with all Federal, State, Regional, and local codes and regulations, including building, fire, and health codes. The Applicant shall require all manufacturers to attest and certify that all solar panels, solar sheets, batteries and all other materials used on the proposed site shall not contain Per- and Polyfluoroalkyl Substances (PFAS).
3. Dimensional requirements. Ground-mounted solar photovoltaic installations are subject to the front, side and rear yard setbacks as set forth in the underlying zoning district(s), except that any ground-mounted, large-scale solar photovoltaic installation with 250 kw or larger of rated nameplate capacity located in a residential zoning district shall maintain a minimum 150 foot setback to residentially developed lots and 100 foot setback from all other property lines to contain noise.



A few examples of the proposed special permit criteria

1. Use, storage and containment of hazardous materials shall comply with all Federal, State, Regional, and local codes and regulations, including building, fire, and health codes. Any equipment which includes hazardous materials shall provide design containment equal to a minimum of 110% of the hazardous material volume contained in the associated equipment plus an additional volume to include the 100-year storm event over a 24-hour period.

Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the Massachusetts Department of Environmental Protection pursuant to 310 CMR 30.000.
2. Expanded Operation and maintenance plan. The project proponent shall submit a plan for the operation and maintenance of the ground-mounted solar photovoltaic installation, which shall include specific measures for maintaining safe access to the installation, a stormwater management plan, , and general procedures for and frequency of operational maintenance of the installation. The Operation and Maintenance Plan shall include measures for maintaining year-round safe access for emergency vehicles, snow plowing, storm water controls, and general procedures, and a yearly schedule for the operation and maintenance of the facilities including fencing, and maintenance of landscaping. The Operation and Maintenance Plan shall include details on hazardous material containment maintenance and monitoring as well as the following:

Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition in accordance with Massachusetts Building Code and Massachusetts Fire Code (herein known as Uniform Code). Where commissioning is required by the Uniform Code, a corrective action plan shall be developed for any open or

Questions?

Ground Mounted Solar Photovoltaic Overlay District Amendment TC Item No. 2022-034

*Code of the Town of Barnstable, Part I, General
Ordinances, Chapter 240.44.2*



Councilor Crow asked if the town currently has enough dedicated space for solar. Mr. Kupfer answered we will not know that until someone challenges the town, or another town is taken to court or if the Supreme Judicial Court decides what is enough, we do not know. Committee member Catherine Ledec likes the ordinance, it is very well written and has covered a lot of ground, but was asking about the stormwater language and she did not see anything that would take into consideration climate change which is not specifically stated in the document, so when Mr. Kupfer is no longer with us, somewhere in the ordinance it states there is the 100% storm protection, but added 10% for climate change to equal 110%. She would also like to see some sort of language put in there to manage the land underneath the solar panels, as the grass grows underneath, who maintains that so eventually the grass is not overgrown from the bottom. A solution to this would be requiring native vegetation planting and managing native low growing vegetation. Mr. Kupfer answered yes that is in there, and that came from the public comments received when crafting this ordinance.

The Chair of Committee asked Mr. Kupfer for the meeting on the 14th to give some thought on some of the suggestions made tonight by committee members, and to add any thoughts he may have had as well. The Chair of Committee would like to discuss Short-Term Rentals and the By Right Zoning following the Local Comprehensive Planning process. The Chair of Committee mentioned he felt the general consensus was from public feedback was not to expand the By Right Zoning throughout the town, is that correct Mr. Kupfer. Answered yes. The Chair of Committee asked Mr. Kupfer to also put his thoughts on that as well with the feedback used in the Local Comprehensive Planning Committee for the next meeting.

The Chair of the Committee is going to put together a topical outline and send it to Cynthia to distribute to the Committee members. Between the 14th and the 21st hopes to put together a DRAFT Memo incorporating the two that Mr. Kupfer is working on regarding specific zoning aspects and then be able to review on the 14th; get feedback; and then hopefully a document for review on the 21st then a final document for approval on the 28th of March.

Committee members looked at the next meeting date, which was decided to be February 21, 2025 in the Selectmen's Conference Room at 3pm.

Chair of the Committee asked for a motion to accept the meeting minutes of December 13, 2024 and January 17, 2025, Committee member Ken Alsman made the motion, his was seconded by Councilor Crow, all members voted in favor of both sets of minutes as written and presented.

Chair of the Committee asked for a motion to adjourn. Committee member Ken Alsman made the motion to adjourn, Councilor Terkelsen seconded the motion, all members present voted to adjourn.

ADJOURN: 7:34 pm