

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

James H. Crocker Jr. Hearing Room 2nd Floor Town Hall Building
367 Main Street Hyannis, MA 02601

Councilor Jeffrey Mendes
Councilor John Crow

November 15, 2024

Councilor Kristen Terkelsen
Councilor Charles Bloom
Catherine Ledec
Bob Schulte Chair
Councilor Matthew Levesque

3:30PM

MEETING MINUTES

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

Chair of the Committee 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 Chair must inquire whether anyone else is recording this meeting and, if so, to please make their presence known. This meeting will replay 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>

Administrator of the Town Council took Roll Call: Members present: Bob Schulte, Chair; Councilor John Crow; Ken Alsmann; Councilor Charles Bloom; Councilor Kristen Terkelsen; Seth Etienne (came in at 4pm)

Absent: Councilor Matthew Levesque; Catherine Ledec; Councilor Jeffrey Mendes.

Chair of Committee read into the record the purpose of this Committee:

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

Chair of 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 mentioned a couple of housekeeping items: (1) Chair of the Committee Bob Schulte and Committee member Kristen Terkelsen took a walk with Mr. Kupfer, Director, Planning and Development through the downtown area. Mr. Kupfer provided information firsthand of the parking situation, and a look at some of the sites where there is current and potential development planned, the Chair of the Committee thought it was well worth the time he and Councilor Terkelsen spent and wanted to thank Mr. Kupfer for taking the time to do this. Mr. Kupfer has offered to do this again for anyone interested in the walk, so please reach out to Mr. Kupfer to schedule if interested. (2) At the last meeting, the Chair had informed the other members he had received an email from President Penn just prior to the start of the last meeting regarding the request we had made on behalf of the

committee to amend our charge to include recommendations to the Town Council regarding zoning enforcement. At the time, the Chair had not had the chance to review that and digest that email; the Chair would now like to give the committee and its members as well as the public an update on the background and status of that request. The handout provided to the committee members at the start of our work listed zoning enforcement as one of five key zoning topics for the committee's discussion and consideration, and in his mind, and that of most if not all of the committee members, it seemed clear that zoning enforcement was within the committee's scope of work. Once the committee started to hold the meetings, it heard significant comments from citizens both in person and via email with issues and concerns they had with zoning enforcement in our town. As the committee began discussing potential recommendations to the council on zoning enforcement, Assistant Town Attorney Connolly cautioned the committee that the purpose of the committee approved by the Town Council did not specifically include zoning enforcement. Assistant Town Attorney Connolly stated we were allowed to talk about zoning enforcement but could not make any recommendations on the topic to the Town Council. This seemed strange to the Chair of the Committee, so he requested further explanation. Subsequently Attorney Nober sent the Chair an email telling him that the Town Council role is only legislative and policy making, and that zoning enforcement is under the jurisdiction of the Town Manager and not the Town Council. Attorney Nober stated in the email the only way an expansion of the charge of the committee could be made in order to include recommendations on zoning enforcement would be if it were approved by the Town Council as a body. At the October 4 committee meeting, he explained the possibility of requesting an amendment to the committee's charge and requested the committee member's approval to discuss this possibility with President Penn. With a quorum present there was unanimous approval for him to speak with President Penn about requesting the Town Council for such an amendment. After several conversations and emails with President Penn, she indicated to him that he had her support in requesting such an amendment. It was agreed the committee would request an amendment to its charge so that it would address zoning enforcement as a second phase of the committee's work, and only after the committee finished its initial charge, The Chair then followed up with two additional emails to Attorney Nober and Assistant Town Attorney Connolly to set up a meeting to discuss the draft language for the amendment to the committee's charge and the discussion on the timing of a Town Council vote on such an amendment. He received a response on October 31, 2024 from Attorney Nober that she would be speaking with Town Council Leadership on how they would like to proceed. The next day, on November 01, 2024, an hour before the committee's meeting the Chair received an email from President Penn stating she had spoken with the legal department and the Town Manager and requested he stand down on the committee's request for an amendment to the charge; he was asked to have the committee turn over all the evidence we have regarding lack of enforcement to the Town Manager and walk away. The Chair was not privy to the conversation and does not know what Legal and the Town Manager may have said or discussed to change President Penn's mind on the request for an amendment to the committee's charge. President Penn has assured the Chair that the Town Manager and the Legal Department are more than aware that the committee believes there is an issue with enforcement. President Penn stated that because zoning is not the purview of the Town Council, she is not inclined to have the Town Council hold a workshop on zoning enforcement; however she did say she will welcome the Town Manager, the Legal Department, and the Building Commissioner to do so if they wish. The chair of the committee wanted to be clear that he personally admires President Penn's leadership and will consider her request to stand down on requesting a change of this Committee's charge; however he would like to go on record saying that he respectfully disagrees with the decision to exclude zoning enforcement recommendations from the work of this committee. He believes it is a very important issue which has been expressed to the committee by many of the town's residents and he fears it will be brushed aside or ignored by the town. Whether or not this committee ends up addressing zoning enforcement, he asks that the members of this committee that are Town Councilors to speak with your colleagues and do not allow this very important issue to be ignored by the Town Council and Town Management. (3) Chair of this Committee has been asked by Leadership of the Town Council to come to the next Council meeting to give a brief update on the Committee's

work to date, the Chair the Committee asked the members if they had any additional information, they would like him to mention, to let him know before the Council meeting.

Chair of Committee moved onto public comment, and mentioned again that once Public comment is closed by the Chair the zoom link will close, and individuals can view on Xfinity Channel 8 or <https://streaming85.townofbarnstable.us/CablecastPublicSite/?channel=1>

Eric Schwaab- Hyannis; he thinks it's unfortunate that the Town Attorney would recommend to a legislative body, or a committee formed partly of legislators to stand down on discussing an issue that is clearly at the forefront of the citizens without any indication from the Town Manager or Building Commissioner about what steps we as citizens can expect. Mr. Schwaab stated he received three emails from the building commissioner regarding neighborhood issues, and in each one of the emails the building commissioner stated he would get back to him. Mr. Schwaab reminded the committee members that during Mr. Florence's 80 min presentation, he stated we as citizens had the right to question, and to also go to the Zoning Board of Appeals with the grievance and they had two weeks to do so, according to Mr. Schwaab before they can go to the Zoning Board of Appeals, he would need a letter from the building commissioner stating he was not going to do anything, and then he could appeal that letter. Mr. Schwaab stated he is waiting for that letter; it has not arrived yet. Mr. Schwaab stated it is a significant nonperformance by a member of a talented manager staff, he believes its worth looking into; maybe not by this committee, but certainly the Town Council has some responsibility to the lack of performance by a significant member of the town manager's staff. Mr. Schwaab would like to note, and he appreciates Mr. Schulte's comments regarding the order to stand down, but you need to understand that that has ramifications, as it flows down to the residents and into our neighborhoods, and believes he was aggrieved and the grievances are not being properly attended to by the Town Manager or the Building Commissioner, who claim to have authority on these matters.

Sharon Lacasse:

My name is Sharon Lacasse. I live at 1424 Osterville W. Barnstable Rd, West Barnstable, MA with my husband Kenny. We built our home in 1986. For 31 years our neighbor at 1450 Osterville Rd was Johnson Tree Farm. Everything was peaceful with our neighbor. In 2016 the property was sold to a builder/landscaping business and our lives were completely turned upside down. The property which had many failed perk tests over the 31 years suddenly perked. (even the Town of Barnstable looked into purchasing it and because it was deemed unbuildable, they decided not to pursue it.) A septic was installed and a large barn, garage, and greenhouses were built. We were of course concerned that the tree farm was quickly transforming into a full-scale Landscaping business. An email from Paul Roma who was the interim building inspector in 2017 reads as follows: A neighbor has complained and is very concerned that you are or will use the farm as a staging area for your landscaping business. As a reminder, that was not part of your plan submission and is not an allowed use in that zone. Totally ignoring this, the property soon became a landscaping business with deliveries of bark mulch and aggregate for resale at all hours of the day and evening. Huge trucks delivering materials and slamming tailgates, some at 4 am

When my husband approached the Town of Barnstable Building Commissioner's office several times and brought up the fact that he felt this was a zoning violation, he was told to fill out a complaint form but to be advised that if he made one mistake on the form it would be 3 years before he could file another complaint so they advised him to hire a lawyer. Why should we hire a lawyer for a zoning issue?? Isn't that the Building Commissioners' job to enforce zoning? We continued to complain, the noise was unbearable. The building commissioner visited the property several times and nothing was done.

The misuse of this property continued for many years to get even worse. The owner was issued an agricultural variance to have horses and livestock and submitted the plans for a barn and other

outbuildings. This was approved but never happened. An Industrial sandpit occurred instead. The owner would dump all of his sand and topsoil from his building sites on the property. This went on all day with large vehicles bringing in materials and tailgates slamming until a 40-foot hill of sand was right next to our property. The owner then started an industrial business of processing loam with a huge sifting or screening machine. This machine ran 8 hours a day, Monday thru Friday and the noise made it impossible for us to be outside on our property. We stopped having friends over and the summer of 2022 we left our house every day because of the noise and could not return until 4:30 If you can imagine rocks rolling in a barrel next to your home all day every day. It was maddening. Material processing on this property was not used for farming, it was delivered to their landscaping customers. They had pushed this industrial business as close to our property as possible. How does someone do this?

We asked for help from our town counselor who approached the building commissioner and was told "I'm all done with that property" Our neighbor called the Building Commissioners office and was told by an employee that the new owner could do whatever he wanted with the property. We were constantly told "well you don't want to file a complaint; well, you don't want to get lawyer." Everything was pushed back at us. But we continued to express that this was not just a complaint, that it was a zoning violation. The building commissioner continued to defend the landowner. In an email to my husband and I he laid out all of our complaints and continued to say that we needed a lawyer and that it would take 3-5 years of litigation. We finally did consult with a lawyer, and he said this was a scare tactic. However, we did meet with Mark Ells, Town Manager and he said it was a good thing that we did not start legal proceedings against the property owner because then the Town Legal Dept would not be able to proceed.

In 2022 the building commissioner visited the property and finally gave the owner a year to stop the industrial activities and to use the property as a farm. For another year the sand and rock sifting machine ran every day. Nothing changed. Another year of our peace and tranquility on our property was lost. Finally in 2023 a notice of Zoning Ordinance Violations and Order to Cease and Desist was issued. The owner was made to pay back taxes as his agricultural exemption was pulled. The owner appealed this decision and asked for many extensions. His lawyer finally reversed the appeal. I believe the owner has 2 years to correct all the violations (9) in total. The large 40 ft sand hill has mostly been removed. The other large topsoil mound has not. If the building commissioner agreed that there were violations, why had he not done these years prior instead of always trying to put it in our ballpark?? We lost 7 years of our lives living next to a property that was always in violation of zoning.

Please note also: We are never notified as abutters of changes on this property because at some time two small slivers of unbuildable land were cut and sold for \$1 each between our house and 1450 and the other between 1450 and Woodside Rd. which is the next road heading North. This appears on the plot plan for the property.

Last month there was a surveying company on the property. Our fear is that the Cease and Desist is just a band aid and that the property owner will start back up where he left off.

Our goal also is that other people do not have to go through what we went through. When there is an issue of zoning violation it should not be pushed back at the abutter and made their responsibility. The Town of Barnstable building Dept needs to address these matters themselves and use Town legal to solve them if necessary.

*Thank you for your time
Sincerely, Sharon Lacasse*

Larry Morin-Cotuit wanted to let this committee know that they are doing a great job interacting with the public and are very engaged in conversation. Mr. Morin mentioned this committee works together as a group, and addressed issues that have gone beyond the limited scope of what was prescribed last

summer, but the lack of flexibility is alarming and he believes an insult to this committee and its work; and to be told to stand down and hand in your work regarding enforcement is insulting, you gathered the information, if they want it give them a xerox copy and you keep the original. Mr. Morin believes it was completely out of line to be approached the way you were approached.

Frank Brady- lives next door to the Lacasse's, he was the other person who called the building department. Mr. Brady complained about the noise, it was really getting to him, he asked if the noise could be addressed or start after 7am, according to Mr. Brady, the building commissioner told him the neighbor owns a business and has the right to operate that business. Mr. Brady asked if that included Sundays too and was told to call the police. When Mr. Brady hung the phone up, he stated to his wife that the building inspector does not work for the town, he works for Jaxtimer, who owns the property. That piece of property has a water problem. It isn't right to be able to buy a piece of property and then turn it into a business in a residential area, since this business has been there, I know have people turning into my driveway, never had it before. Mr. Brady said he does not have the money to hire a lawyer to fight this, but we should have the town back us if the issue is incorrect.

Chris Gregory-Centerville

I am writing to express my dismay in how you have used your time in session up to this point. I had hoped that you might align with the housing generation committee to produce complementary proposals that would address the housing shortage and the unsustainable price of shelter in our town. Instead, you seem to have spent half of your time indulging the venal and anecdotal complaints of a small number of people regarding their issues with their neighbors, which seem out of the purview of this specific committee. The other half has been spent entertaining ideas that seem to make it more difficult to add more housing in the areas of our town that have the infrastructure to support it.

Since several citizens have shared their stories of issues with their neighbors, I will share some anecdotes of my own: My wife and I used to own a house on Redwood Lane in Hyannis off Scudder just after it merges with Pitchers and before the four-way stop leading to Hyannisport and Craigville. I had a neighbor behind me who was a house builder on Nantucket. He was also fixing up his house to flip and his men were often working there during the week and weekend and then they would party at nights sometimes. This did not bother me. They were lovely people. Across the street was the back end of a house that a guy was running a junk business out of. He was a little weird, and he had a bunch of young men working for / living with / hanging around him. They cleared out a path in the brush behind his house to ride their dirt bikes. This was a little annoying at times, but nothing to write home about. The thing that did bother me was an ADU on a house on the south corner of Redwood and Scudder. A couple fixed it up and moved in there. They seemed fine until it turned out the guy would get drunk and go off on his partner at 2am. The police had to be called several times. I do not know if it got physical or not, but I hope it didn't. The yelling was bad enough. That situation went on for much longer than it should have in part because neither of them had anywhere else to go. They were already in an ADU. Eventually the guy did get kicked out, but an unhealthy and unsafe situation went on for longer than it should have in part because of a housing shortage.

And so, when I tune in and hear a town councilor complain about illegal rentals with too many people packed into a house, and the effect it will have on their neighbor's property values, my sensibilities are offended. They cleared the back end of that lot where the kids would ride their dirt bikes, and that lot is now listed for more than I sold that house for in 2020. No one's property value is in jeopardy. Instead, I wonder why none of you took a moment to ask, do these citizens of the town I represent want to be living like this? Or is it their only option? Talking about them as only a nuisance to property owners robs them of their dignity and their humanity and I would ask for you all to practice a little bit of empathy for their situation because they need it much more than people who are lucky enough to already own a home, including me. Housing cannot just be viewed as an investment. It is also a

commodity that people need to survive. You must find a balance in considering the two ends of that spectrum. And so, I ask, if you send a recommendation to strictly enforce illegal rentals to the town council, and it passes, what will be the result? More people will end up without shelter. Is that a good result in your mind? I am young enough to still remember making \$35k a year and being the only breadwinner for my household and having our pipes freeze because we couldn't afford to turn on our heat in winter or panicking over a \$200 rent increase and having to find an even smaller place. I can't even imagine what I would do now. Do any of you remember times like that? Did you have to live with that worry and anxiety for yourself and the people you care about? Try to bring that mentality when you are talking about people in need of housing that they can afford.

As for the development of apartments on and around Main Street, I have heard another councilor warn against adding any density to "save our town." My question in response to that is what are you trying to save? I am a 37-year-old with disposable income, and I have absolutely no interest in going to Main Street other than maybe takeout from Anejo once every few months, or a visit to Allium if I need a gift for someone. My wife and I have managed to beg borrow and steal time away from our kids to go out to dinner about five times this year and we have traveled to Yarmouth, Dennis, Brewster, and Orleans to eat. Never once did we consider Main Street Hyannis because, for the prices you pay there, you can find a higher quality meal elsewhere. Do not overestimate the quality of your downtown product as it is because there is definite room for improvement. I for one am very interested so see what an influx of year-round apartment dwellers does for the Mainstreet product and if it will stimulate an evolution to something more than what we have at the moment.

You all spent quite a bit of time looking at two different buildings in your last meeting, but honestly the ugliest buildings on main street right now are the one-story structures. I look forward to some 3 or 4 story buildings on the South side of the street just for the shadows they will cast to make summer sun more bearable. When you talk about "saving" anything downtown, what I hear is that you want to embalm the place so that tourists can have the same experience every Summer. But I warn you that with upcoming demographic shifts you are not putting our town in a position to succeed by freezing it in its current state.

Since you have mentioned site visits and reviews of proposed plans, I would also suggest you look at other towns with comparable situations, needing to balance a sense of place with seasonal demand, and year-round residents. The two that come to mind for me aren't even on Cape. Please go look at Main Street in Mystic Connecticut or Newburyport MA on Google Street view. They both provide interesting alternatives to what we have now. I was just in Mystic last month, and they recently finished a 4-story apartment building. It sits right next to 1 and 2 story buildings, and the back end of it is across the street from historical single-family homes. To me, the area does not suffer from the change. That is not to say we need to emulate another town exactly to be successful, I would just ask that you look at other places to understand what is in the realm of the possible, and also to remove doubts about the impact new construction has on quaint downtowns.

The two largest concerns I hear about new construction are water use and traffic. The water concerns, to me, stink of bad faith. We are worried about the water use of our full-time residents, but we accept as fate tourists flocking here, and using our water until it tastes like shit some days. My question is, are we requiring these new developments to use gray water systems that would reuse water 2 or 3 times before sending it back out for treatment? If not, I think that would be an excellent requirement to have so that any apartment structure is several times more efficient in water use than a comparable number of single-family homes. While we're at it, if water is a true concern, why am I going to pay to fill in my septic tank when my house connects to the sewer in the next few years, when I could be using that tank for my own gray water system? We have solutions to fight these concerns; why are we taking housing options off the table instead of leveraging solutions to make life better for everyone? Surely the new tax

base from these developments would be able to fund expanded water treatment since some of your other public commenters are so concerned with the existing solution.

As for traffic, I looked at some statistics about employment in our town. Construction, and building and groundskeeping management only make up about 15% of our workforce. Healthcare, Education, Retail, Food Services, and Public Administration (all industries concentrated in our downtown) make up nearly 45% of the workforce. It only makes sense to me to put housing near our jobs and then to create an environment so that people working and living in an area can exist as easily as possible with need for a car, or several cars for a household. Please use systems thinking to ask, if more housing will increase vehicles in an area, what can we do to reduce car use while adding housing? Better public transportation, more downtown amenities, and incentives for carpooling and reduced vehicle use come to mind. If I had a magic wand, personally, I would have a light rail running from the Community College Campus on 134 to the campus on Main Street with stops at the mall, Capetown, and the other different plazas along the way. How many cars would something like that take off the road?

I hear a lot of denigration of property developers when I tune into your meetings. And I understand that people find it distasteful that they can build and charge the rents that they are able to at the moment. However, that seems to be what the market will tolerate. I saw a public commenter come up a few meetings ago and warn against a glut of housing. That sounds really awful, doesn't it? Well, if you really want to stick it to developers that are bleeding your citizens, what you may actually need is indeed a glut of housing because that is the only way you will create a deflationary effect on rents. I expect most of these developers are charging so much on the first lease because they have a 5-year break even plan and they expect that they won't be able to charge as much on the 3rd or 4th lease cycle on their properties. What if you make it so that they had to wait 10 years to break even because they had to reduce rents on the second lease cycle? That is what I would like to see from my town leadership.

And since we are on the topic of things people find distasteful, when you are talking about the lack of places for people to park their trucks, go look at the Premier compound on Yarmouth Rd and tell me exactly what that mess is doing for our community. Car dealerships are the most ineffective use of land anyone can ever imagine, and we have four in the Main Street area, and five if you include the Honda dealership on West Main. Every time I drive past one of those places all I can think is what a waste of space they are.

Finally, I would like to say that I do not think apartment buildings are the only solution to our housing shortage, but they are an important tool in our arsenal that will allow for quick infusions in the near term while other policies take time to have impact. I would like you all to consider zoning that would allow for a greater concentration of single-family homes in any area of our town that has sewer. That is to say, I would like someone to be able to take a lot where someone might build a single McMansion these days, and instead build three houses. That is to say, in so much of our town, the general unit per acre is about 1-1.5. I would like to see it closer to 3 or 4. This would not make our town into a city, as some have fussed over. It would instead allow us to embrace our status as the beating heart of the Cape and acknowledge that we are a modern suburban town that cares for all of our citizens. I especially hope that our Council President, who boasted of saving a GOLF COURSE instead of building much needed townhouses will consider this opinion. I leave you with this column from the Washington Post discussing the merits of townhouses. I think for people who refuse to accept apartment buildings, these have to be a necessary alternative to make more aggressive use of the limited land we have. Personally, as a homeowner just off of Phinney's, I would be happy to see more buildings like this pop up, especially if it comes with reduced setbacks and curbs that might make the road feel narrower and thus make people drive slower on that stretch of road.

Chair of Committee thanked Mr. Gregory for his comments, and thought his question regarding gray water was an interesting one. The other comments he had was regarding the housing and affordability, Mr. Schulte wanted to let Mr. Gregory know that from the beginning the committee has talked to Mr. Kupfer about having a joint meeting with the LCP Committee (Local Comprehensive Planning Committee) and the Ad Hoc Housing Committee. Mr. Schulte has had two conversations so far with Rick Presbrey, Chair of the Ad Hoc Hosing Committee and that is a concern both committees have. Mr. Schulte also mentioned Mr. Gregory's comment about being dismayed about what this committee has been talking about to date, but the charge was recent zoning changes which happen in the downtown area, but Mr. Schulte stated that the committee has also tried to address some other issues in other villages as well, and not just Hyannis. Mr. Schulte believes the overlap in the committees is the inclusionary part, and currently that inclusionary is set at 10%, and perhaps one of the ways of addressing the affordability portion of housing is to increase the percentage to possibly 20% or 25% something to look at, and he wanted Mr. Gregory to be aware that they are looking at that.

Natalie Pittenger- she wanted to let the committee know she is dismayed at the decision to stand down and not discuss zoning enforcement, she doesn't understand what that could be all about, she is glad to see Kristen here today, as she has questions about the Strawberry Hill property and wants to know what to do in the future to prevent something like that happening again, and should be on our regulatory books. This property clearly is a safety issue, it's a decrepit house and it used to have a fence around it, but the fence has since caved in, and it is right next to a bus stop for children, Ms. Pittinger doesn't know how long it been there like this in this condition, she was told the owners did have building permits, but maybe the permits should have an expiration date, and then have to be renewed after a period of time and not go on forever, and there should be regulations in place to prevent this from happening.

Mr. Schwaab spoke again at public comment as it was about to close he began by citing state law regarding enforcement: If the officer or board charged with enforcement of zoning ordinances or by laws is requested in writing to enforce such ordinances or bylaws against any person allegedly in violation of the same, and such officer or board declines to act, he/she shall notify in writing the party requesting such enforcement of any actual refusal to act and the reasons, therefore, within the 14 days of receipt of such request. Mr. Schwaab stated that the committee has heard from several people that the 14 days is not being adhered to or respected by the town and not being administered in the town.

Chair of committee asked Mr. Kupfer to answer Mr. Gregory's question regarding gray water requirement. Mr. Kupfer stated there is not a requirement, but he stated it would be a Code issue for the Town, and directed the question to the DPW Town Engineer, who have some unique thoughts on how the town can improve on some of the codes, but nothing in zoning that addresses gray water. Mr. Kupfer said as far as lot sizes, that is a conversation this committee could have in the future, lot sizes have evolved over time and when development took hold in the 70's 80's and 90's, that's when the town had acre or less as lot sizes and it has progressively gotten larger over time, most of the town is two acre zoning as part of the resource protection overlay district, which is the western part of town; so if you were to subdivide a lot today, an individual would need at least 2 acres to do so.

Chair of Committee wanted to clarify that the majority of land in town were subdivided before the overlay protection and would be for only very large parcels.

Chair of committee closed public comment and asked if any committee members had any response to public comment.

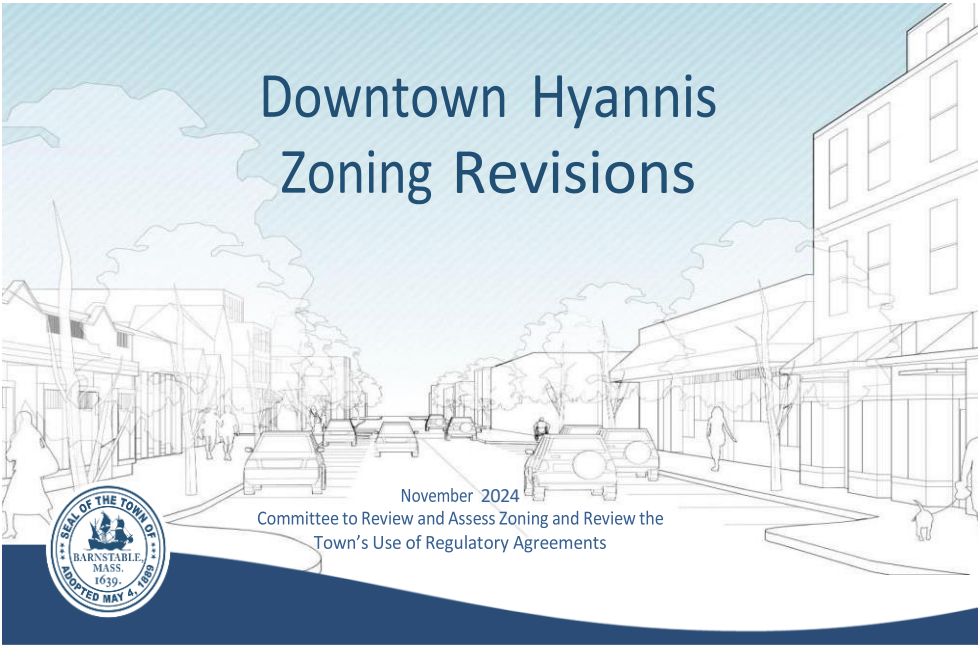
Councilor Terkelsen commented on Mr. Brady's comment that hit close to home for her which was "we rely on those in town to help us out" Councilor Terkelsen mentioned she has been a Councilor for a little over 1 year now and the struggle for a regular resident who takes this position is you get into an intermediate zone where you are still a resident, but your connected to this larger entity that brings you information and provides you guidance, but we need to remember that the resident is at the top and

the Council is seated below the residents, and the managerial system is below that, and she hears his story and its heartbreaking and can't imagine what living next to a neighbor like that is like, she has a neighbor out in her back yard that is often quite loud, and it drives her crazy, it's not constant, but intermittent and episodic, and you go to sleep at night hoping it goes away, so she apologized to those that had to endure this for so long, but now that we are aware of the issue, maybe it is time we dive into these issues and find out why, so as Councilors on this committee, she can speak for herself in saying she will not let these issues be forgotten, as it is the responsibility of us as Councilors to serve our residents as best we can. Councilor Terkelsen wanted to thank Mr. Gregory for his comments, and wanted to say that someone else's behaviors may be normal to them and abnormal to me or us, it's the human experience that is just that in itself and we need to be aware of that, something that may be just annoying to me may be just breaking point for someone else, but we do have laws in place, and we all need to be respectful of each other.

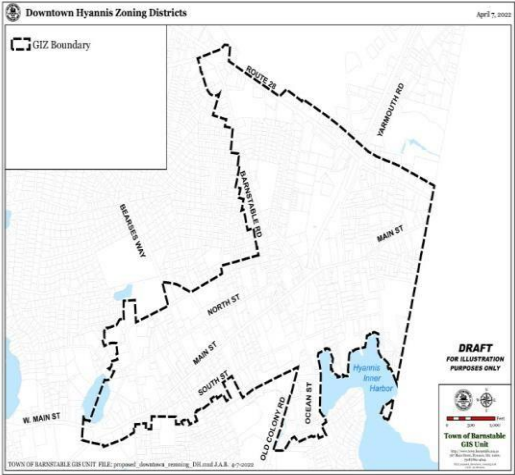
Councilor Bloom commented on the fact that he has been to the property that Ms. Lacasse spoke about several times, and sat in their home and had conversations with them, and that fact that you spoke for 5 minutes today is just a drop in the bucket of what you all have endured for a very long time, the disruption of your lives, having to always keep your windows just to keep the constant banging, and we all in this town need to respect the neighborhoods in this town, and the business that are in these areas should be respectful of the fact that they are in a residential area.

Councilor Crow mentioned that he has been involved in local government for about 25 years or so especially in his village of Osterville, and one of the issues he has is with enforcement, or lack of enforcement. We do not enforce anything here in Barnstable, it's pathetic and non-existent; he has made this very clear to the Town Manager and others. If this committee is not charged with enforcement, which he thought it was which is why he wanted to be on this committee, if we are looking at zoning, then zoning enforcement goes hand in hand, he understands the explanation from the legal staff that this is an administrative issue that goes to the Town Manager, but Councilor Crow promised that one of his issues going forward is to address this very issue of lack of enforcement, it's gotten out of hand and needs to be addressed, and he is making it his primary job going forward. Councilor Crow believes the town has forgotten the residents' rights in neighborhoods and cater more to the businesses.

Chair of Committee introduced James Kupfer, Director, Planning and Development to present the following:



Downtown Hyannis Zoning Districts



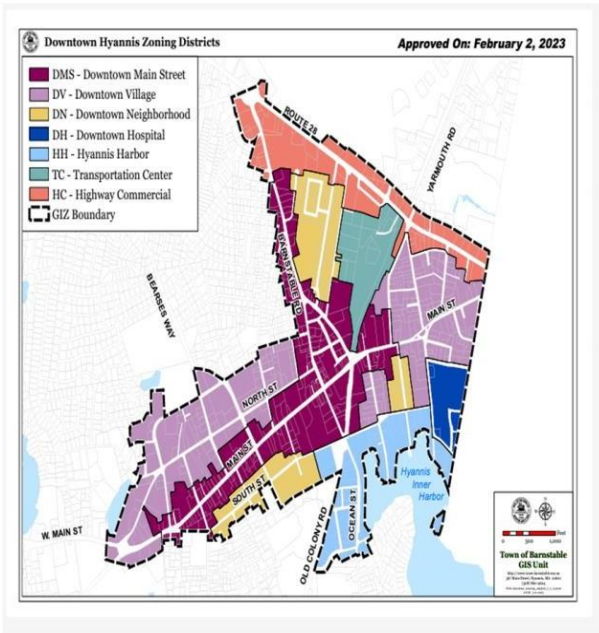
7 New Zoning Districts

Form-Based Districts (2)

- Downtown Main Street
- Downtown Village

“Hybrid” Zoning Districts (5)

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



Concerns Raised for Discussion



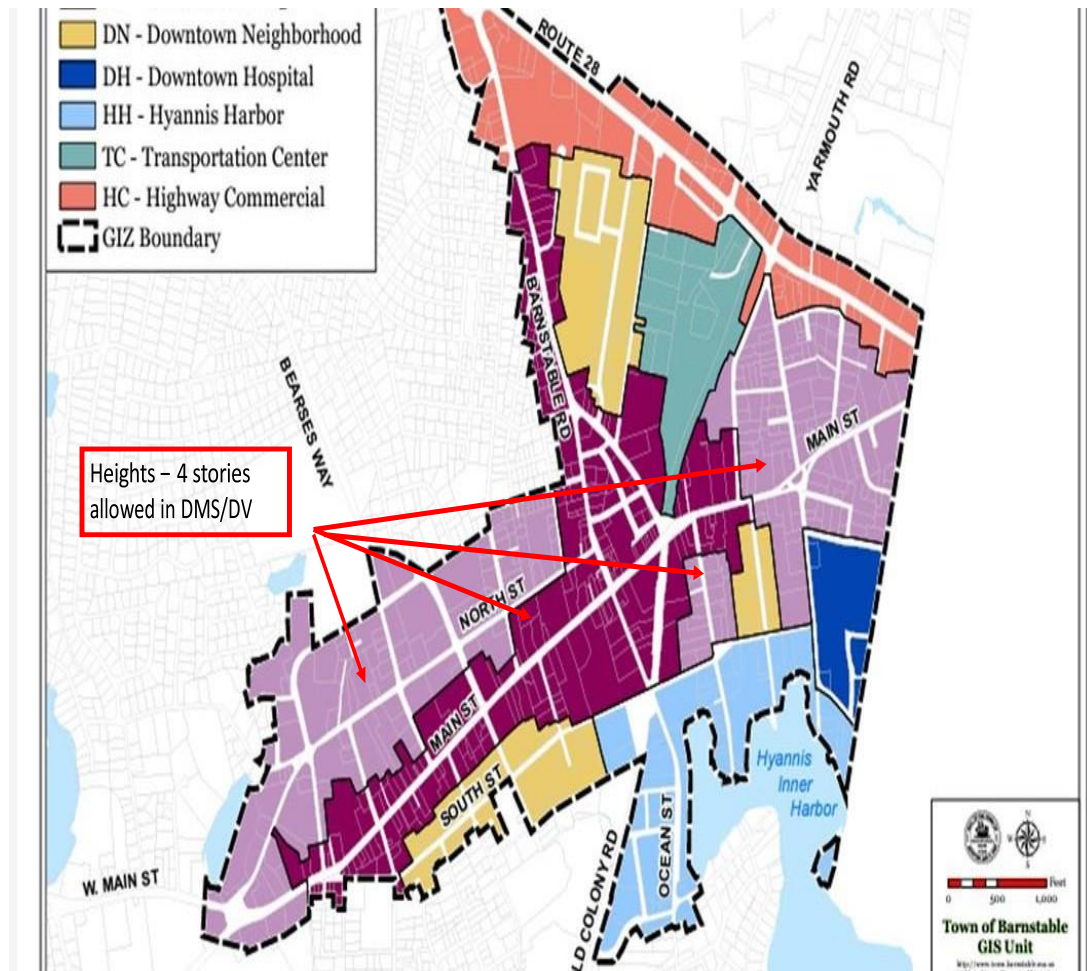
HEIGHT OF BUILDING

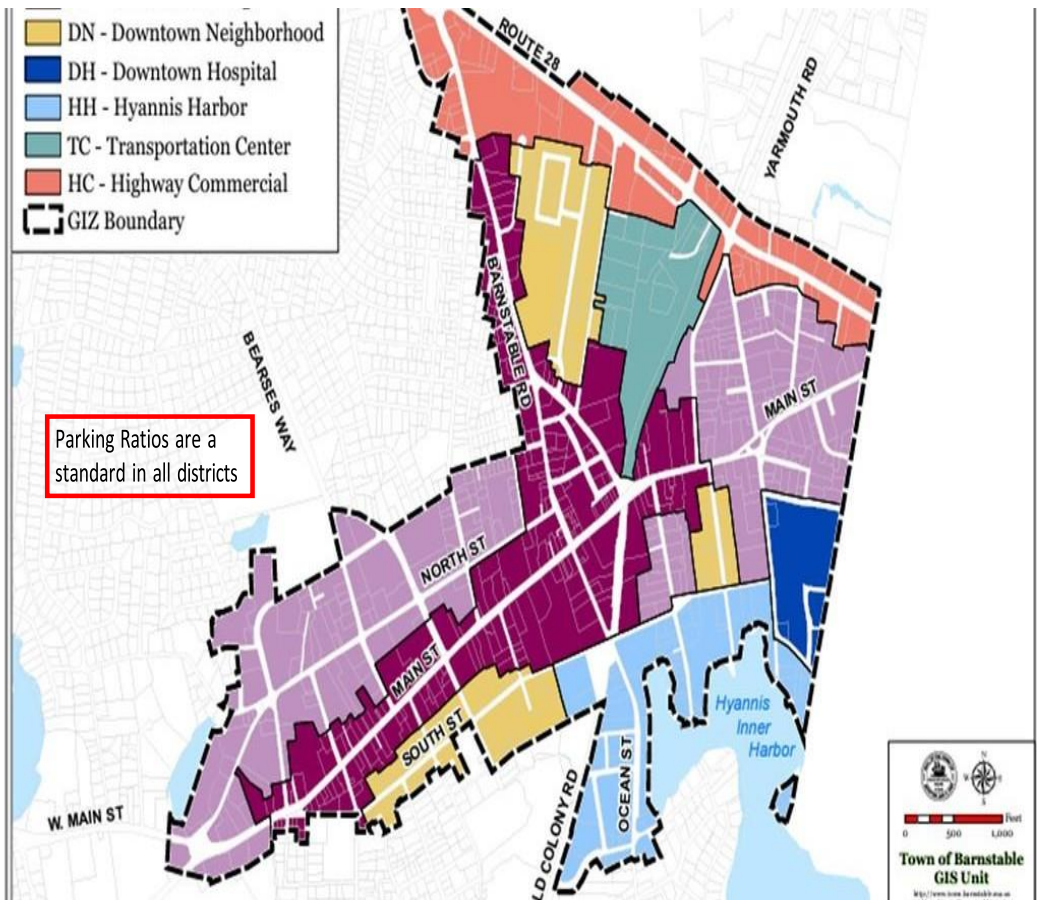
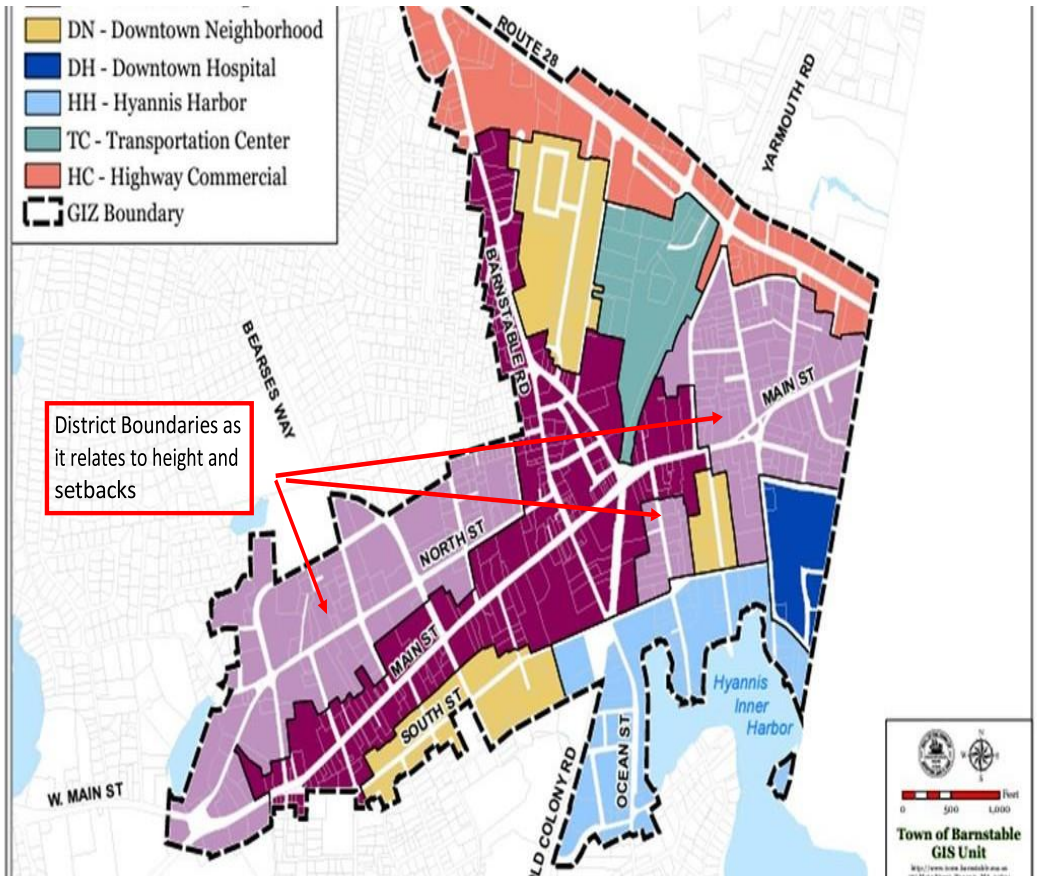


PARKING RATIO



DISTRICT BOUNDARIES

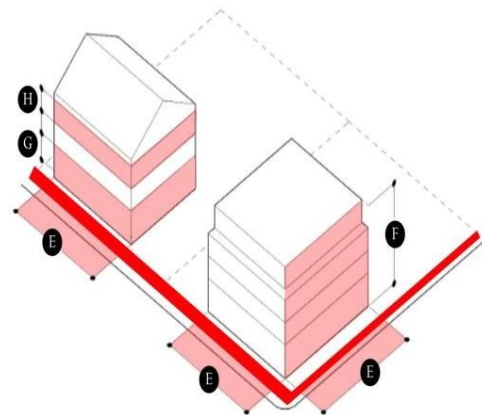




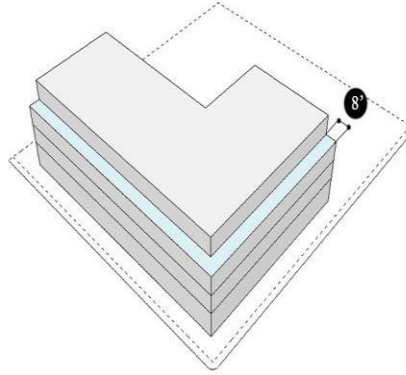
Height of Building

Building Standards – Height

- E Facade Build-out (min)
- F Number of Stories
- G Ground Story Height
- H Upper Story Height



Building Standards – Height



uti | e Dan Bartman

Table 3. DMS Dimensional Standards

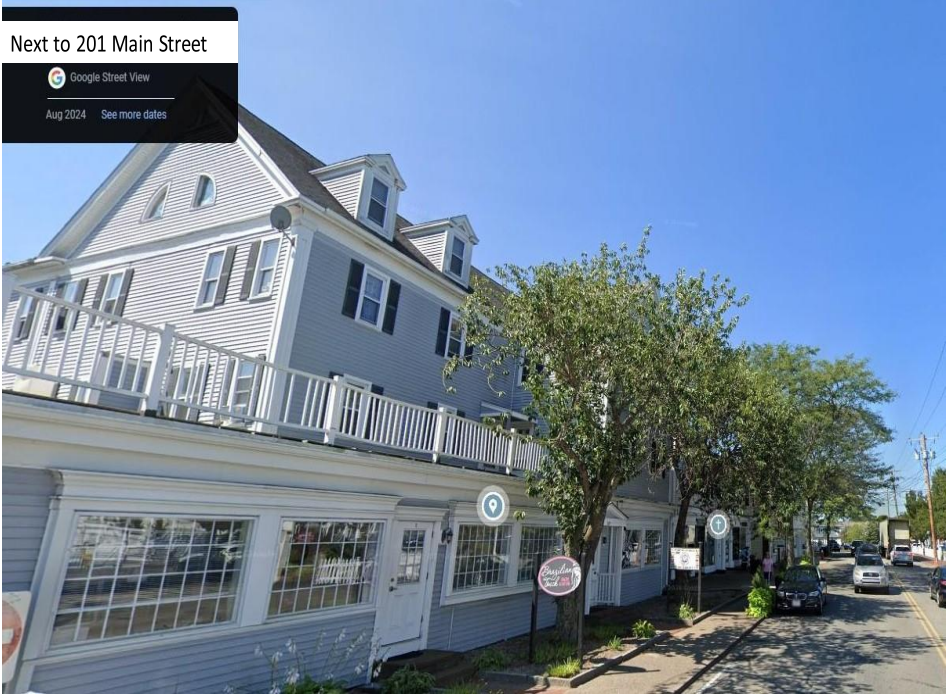
LOT		BUILDING FORM	
Lot Width	30' min	F - Building Width	180' max
Lot Coverage	100% max	F - Number of Stories	3.5 or 4 max ¹
Façade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
Secondary Frontage	40% min	Residential	10' min
SETBACKS – PRINCIPAL BUILDINGS		H - Upper Story Height	10' min
A - Primary Front Setback	0' min 15' max	BUILDING FEATURES	
B - Secondary Front Setback	0' min 15' max	Ground Story Fenestration	--
C - Side Setback	0' min	Primary Frontage	60% min
D - Rear Setback	0' min	Secondary Frontage	15% min
		Upper Story Fenestration	15% min
		Blank Wall	20' max
		Commercial Space Depth	20' min

Height Requirements Previously:

(2) Height:

(a) Maximum Building Height:

- (1) The maximum height of buildings or structures, other than accessory rooftop equipment discussed below or special architectural features, is 42 feet or three stories not to exceed 46 feet.
- (2) Maximum height may be increased to 46 feet or three stories when the roof pitch is in the range of 6 in 12.



CONTEXT PHOTOS



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	
	0' min 15' max	Ground Story Fenestration	--
B - Secondary Front Setback		Primary Frontage	10% min
	0' min 15' max	Secondary Frontage	15% min
C - Side Setback		Upper Story Fenestration	15% min
	0' min	Blank Wall	20' max
D - Rear Setback		Commercial Space Depth	20' min
	0' min		

Table 4. DV Dimensional Standards

Height Requirements Previously:

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	
	0' min 15' max	Ground Story Fenestration	--
B - Secondary Front Setback		Primary Frontage	15% min
	0' min 15' max	Secondary Frontage	15% min
C - Side Setback		Upper Story Fenestration	15% min
	0' min	Blank Wall	20' max
D - Rear Setback		Commercial Space Depth	20' min
	0' min		

Parking Ratio

Parking

- Minimum parking standards
- Incorporates provisions to reduce parking requirement for shared-uses

Parking Requirements Previously:

(3) Parking spaces shall be provided for new and/or expanded building area, and for new and/or expanded outdoor uses, as follows:

(a) Fifty percent of the spaces required under § 240.56 for all uses other than office uses and residential dwelling units.

(b) Parking space requirements for residential dwelling units shall be one parking space per bedroom for one and two bedroom units or a total of two parking spaces for units with two or more bedrooms.

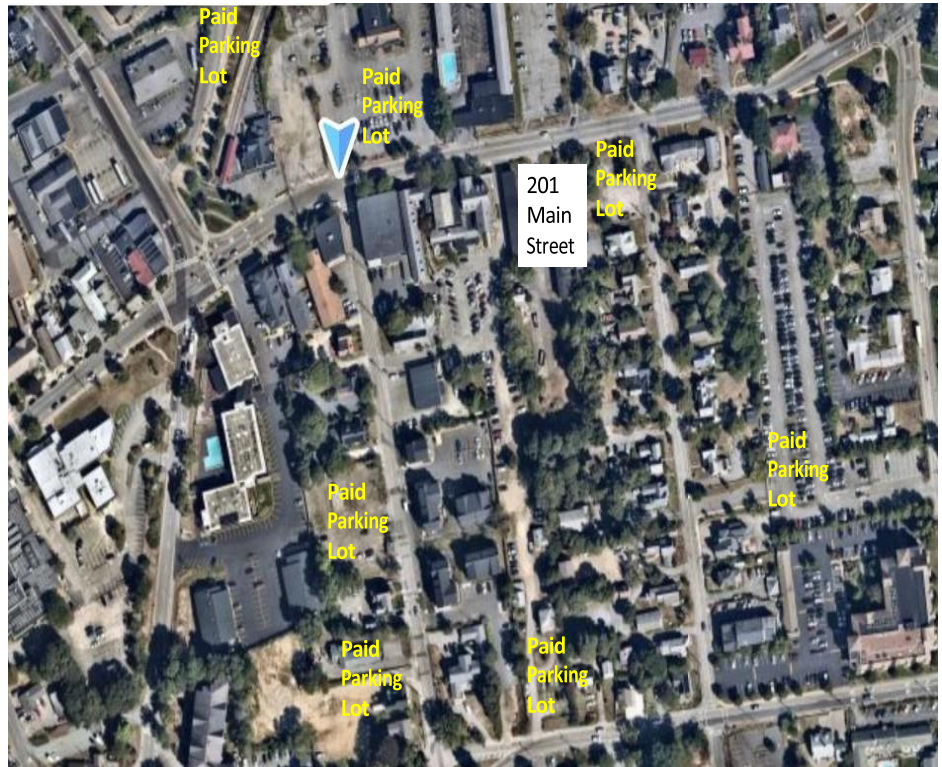
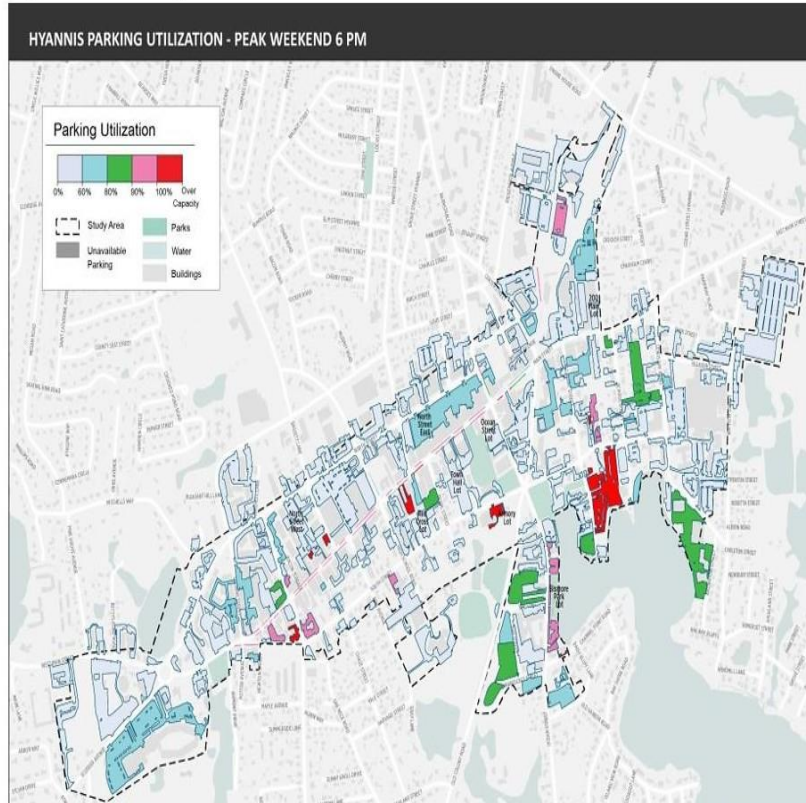
(4) The SPGA may, by special permit, further reduce the parking required as follows:

(a) Off-site parking. Parking requirements may be satisfied if an off-street municipal parking lot of 20 spaces or more exists within 500 feet of the proposed use and provided that a fee is paid which would be set aside for the creation of future municipal parking facilities to service the district, consistent with a schedule of fees, if any, to be adopted in the Design and Infrastructure Plan. Off-site parking may also be provided on a private parking lot with sufficient parking spaces within 300 feet of the proposed use, provided that a lease agreement is presented as part of the site plan approval or special permit process and provided that a fee is paid which would be set aside for the creation of future municipal parking facilities to service the district, consistent with a schedule of fees, if any, to be adopted in the Design and Infrastructure Plan. In no case shall leased parking be allowed on land that is residentially zoned for, or in residential use as, a single-family or a two-family dwelling.

(b) The SPGA may reduce the on-site and off-street parking requirement for all uses except office uses and residential uses, based upon a consideration of:
 1) availability of shared parking,
 2) other factors supporting the reduction in the number of required parking spaces.

Use Category	DMNS	DV	DN	DP	HP	FC	HC	On Site Shared Parking Adjustment ¹
Commercial Services (per 1,000 sf)	0	4	N/A	4	4	4	4	Subtract 80% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Cultural Services (per 1,000 sf)	0	4	4	4	N/A	4	4	Subtract 20% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Food & Beverage Services (per 1,000 sf)	0	4	N/A	4	4	4	4	--
Hospital (per 3 beds)	N/A	N/A	N/A	1	N/A	N/A	N/A	--
Office (per 1,000 sf)	3	3	3	3	3	3	3	Subtract 80% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Residential or Artist Live/Work (per DU)	1	1	1	N/A	1	1	N/A	--
Retail Sales (per 1,000 sf)	0	4	N/A	4	4	4	4	Subtract 20% of any spaces provided for any Residential uses on the same lot from the total required for all uses
Visitor Accommodations (per room)	1.25	1.25	1.25	N/A	1.25	N/A	1.25	--

Parking Utilization Peak Weekend 6pm



District Boundaries

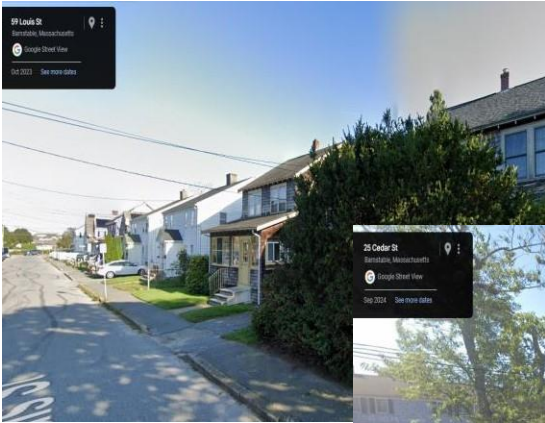
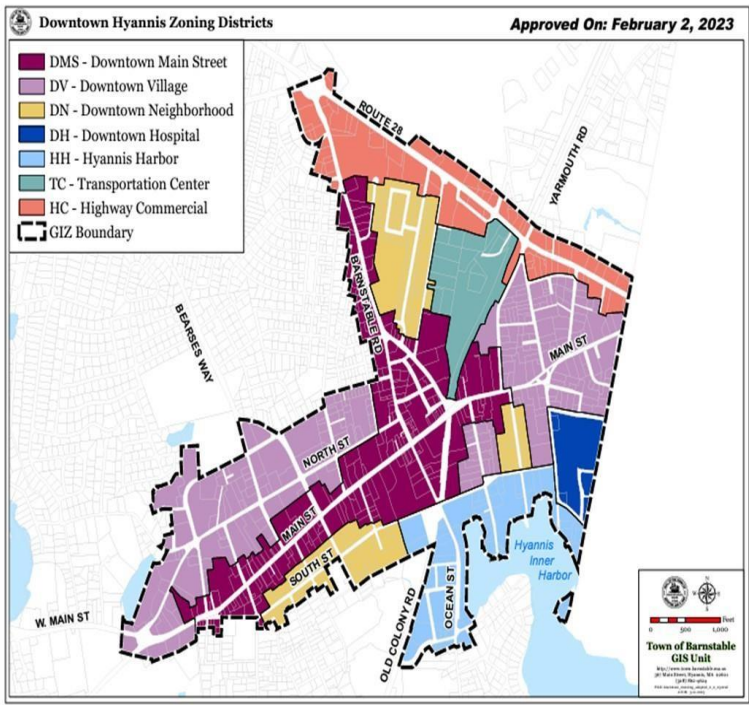


Table 4. DV Dimensional Standards

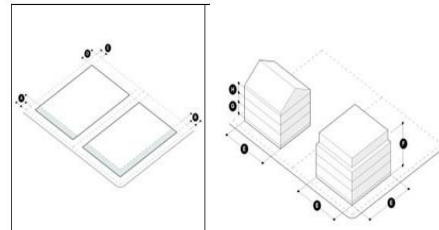
§240-24.1.7 Downtown Village District (DV)

A. Intent

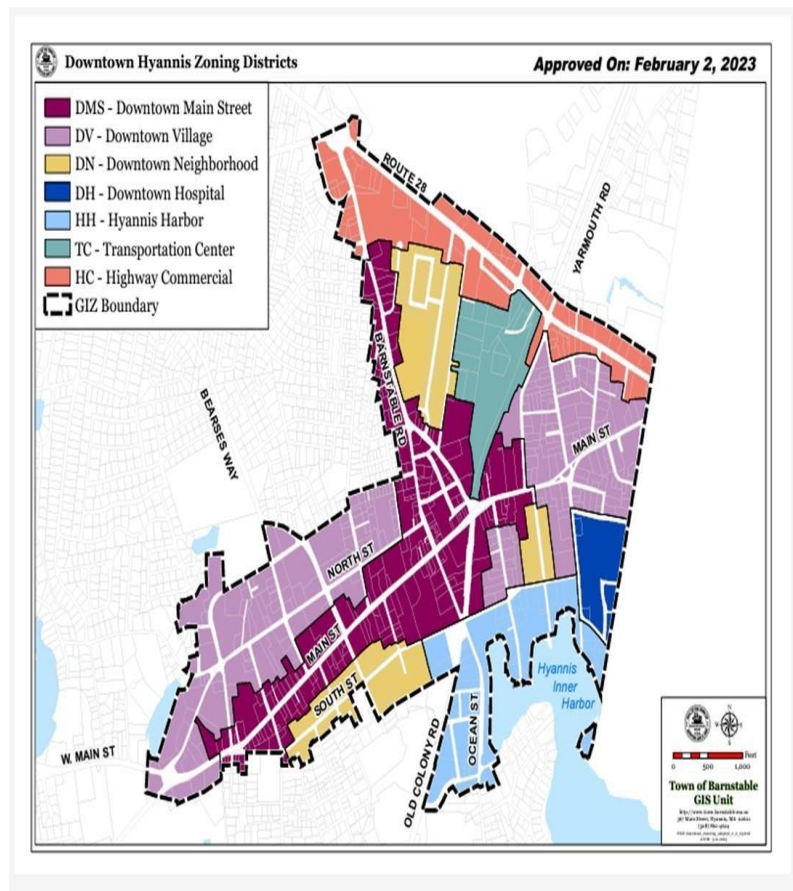
1. The Downtown Village District is intended to promote mixed land uses that support the downtown core and reestablish or preserve traditional neighborhood forms and pedestrian orientation. Development is characterized by mid-rise (two to four story) single-use buildings and detached and semi-detached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



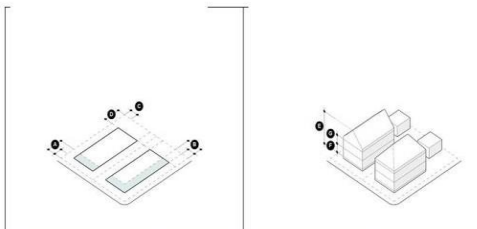
LOT		BUILDING FORM	
Lot Width	30' min	E - Building Width	120' max
Lot Coverage	80% max	F - Number of Stories	3.5 or 4 max ¹
Facade Build Out (min)	--	G - Ground Story Height	--
Primary Frontage	80% min	Commercial	14' min
		Residential	10' min
SETBACKS - PRINCIPAL BUILDINGS		H - Upper Story Height	10'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



§240-24.1.8 Downtown Neighborhood District (DN)

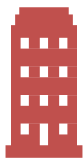
- A. Intent
 - 1. The Downtown Neighborhood District is intended to promote the traditional uses and form of the neighborhoods adjacent to downtown that are characterized by a variety of 19th and 20th Century detached and semi-detached residential building types.
- B. Lot Standards
 - 1. Newly platted lots must be dimensioned as specified by Table 5.
 - 2. Lot coverage may not exceed the maximum specified by Table 5.
- C. Building Standards
 - 1. One (1) principal building and multiple outbuildings are permitted per lot.
 - 2. Principal buildings and outbuildings are permitted as specified by Table 5.
 - (a) The third story in a single-family or two-family dwelling can only occur within habitable attic space.
- D. Use Provisions
 - 1. Limitations
 - (a) Office and Health Care Clinic uses are permitted only for lots fronting South Street, School Street, or High School Road.
 - (b) Two-Unit dwellings are prohibited for lots fronting only Brookshire Road or King's Way.
 - (c) Multi-Unit dwellings are permitted in the DN District with a maximum of four dwelling units permitted in any one building per lot. In addition, one Accessory Dwelling Unit may be permitted per lot. Multi-unit dwellings shall be prohibited for lots fronting on only Brookshire Road or King's Way.

Table 5. DN Dimensional Standards



LOT		BUILDING FORM	
Lot Width	20' min	E - Number of Stories	3 max ¹
Lot Coverage	50% max	F - Ground Story Height	10' min
SETBACKS - PRINCIPAL BUILDINGS		G - Upper Story Height	10' min
A - Primary Front Setback	10' min 20' max		
B - Secondary Front Setback	10' min 20' max		
C - Side Setback	10' min		
D - Rear Setback	20' min		
SETBACKS - OUTBUILDINGS			
Front Setback	60' min		
Side Setback	3' min		
Rear Setback	3' min		

Concerns Raised for Discussion



Height of Building



Parking Ratio



District Boundaries

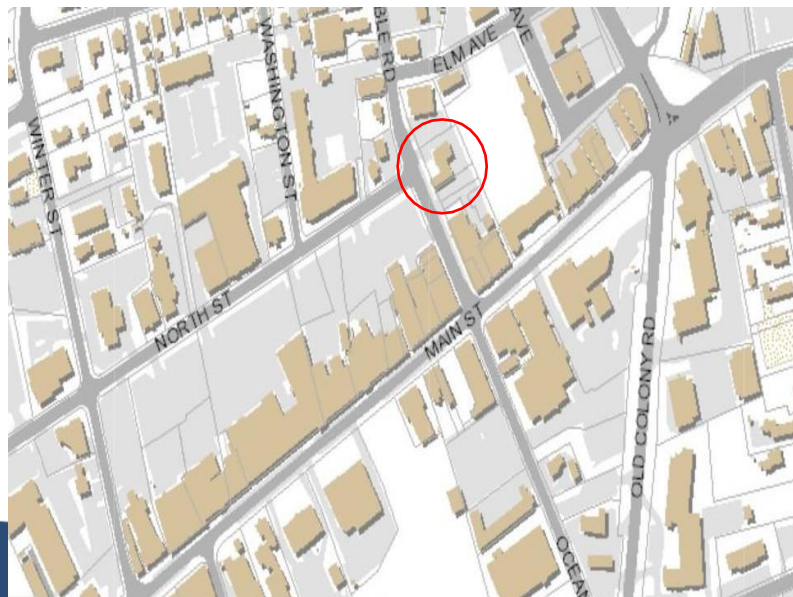


Plan Review



Plan Review

28 Barnstable Road



Plan Review

Permitted						
Project has come before the Town's Site Plan Review Committee and has been approved to proceed and, as applicable, project has been granted zoning relief						
	Total Units	Total Affordable Units	50 % AMI	65 % AMI	80% AMI	100% AMI
Dockside	54	5	-	5	-	-
28 Barnstable Road	4	-	-	-	-	-
507 Main Street	120	30	-	-	30	-
11 Potter Avenue	5	-	-	-	-	-
53 Camp Street	5	-	-	-	-	-
19 & 29 Bearse Road	8	-	-	-	-	-
473 Main Street (Phase 1)	20	2	-	2	-	-
50 Main Street	10	1	-	1	-	-
201 Main Street	95	10	-	10	-	-
310 Barnstable Road	30	3	-	3	-	-
442 Main Street	5	-	-	-	-	-
Sea Captains Row Phase 2 24, 28, 43, 44, 53, 56, 64 and 66 Pleasant Street and 86 South Street	14	2	2	-	-	-
68 Yarmouth Road	8	-	-	-	-	-
TOTAL	378	53	2	21	30	0

Plan Review

Existing Conditions



Plan Review

Existing Conditions

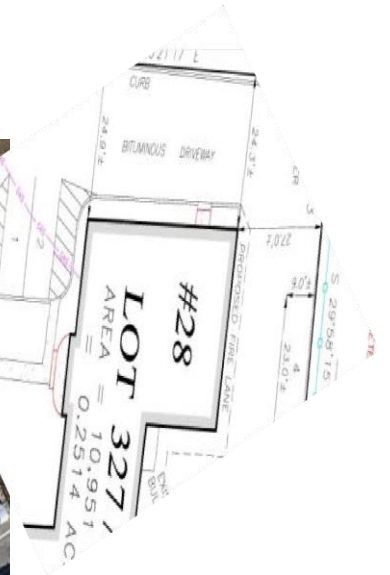
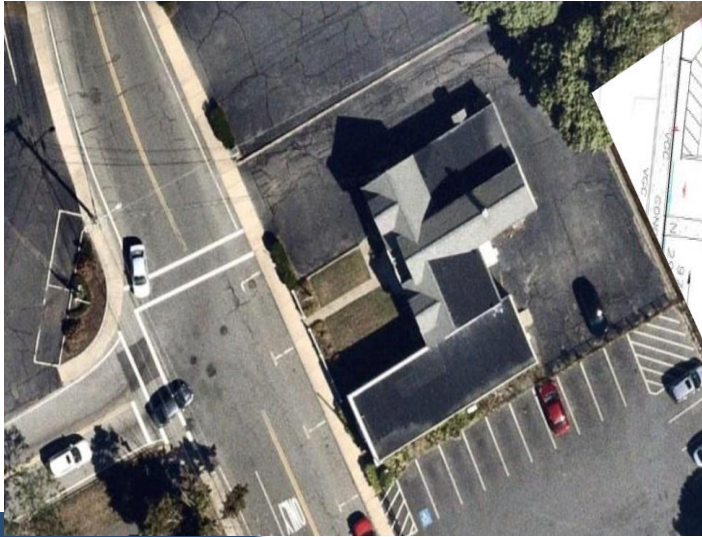


Plan Review

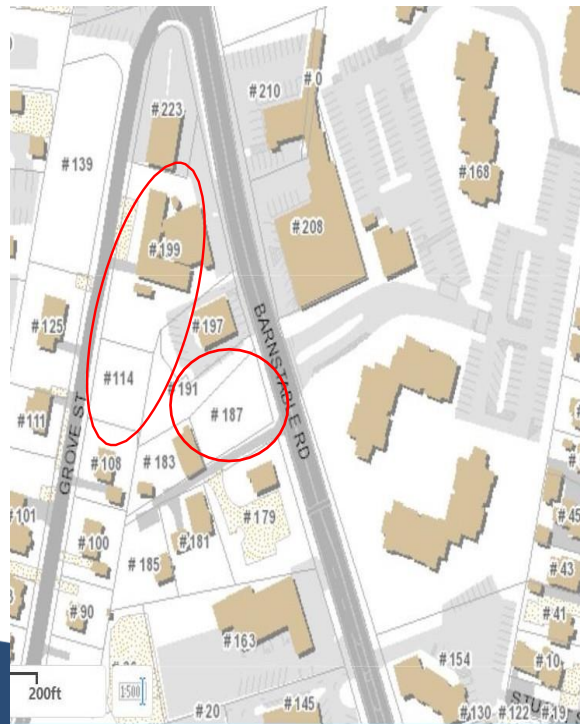
Proposed Conditions



Plan Review



199 Barnstable Road



In Permitting							
Project is before the Town's Site Plan Review Committee or, as applicable, zoning relief is being sought							
	Total Units	Total Affordable Units	50 % AMI	60% AMI	65 % AMI	80% AMI	100% AMI
94 Stevens Street	40	4	-	-	4	-	-
79 Center Street	9	-	-	-	-	-	-
81 Bassett Lane	4	-	-	-	-	-	-
725 Barnstable Road	13	1	-	-	1	-	-
199 Barnstable Road	45	9	-	-	5	4	-
40 North Street	7	-	-	-	-	-	-
473 Main Street (Phase 2)	35	4	-	-	4	-	-
210 North Street	18	2	-	-	2	-	-
32 Main Street	9	-	-	-	-	-	-
407 North Street	9	-	-	-	-	-	-
900 Old Stage Road	14	4	-	-	-	4	-
337 Main Street	22	2	-	-	2	-	-
268 Stevens Street	50	40	-	-	-	-	40
TOTAL	275	66	0	0	18	8	40

Site Plan Review Existing Conditions



Site Plan Review

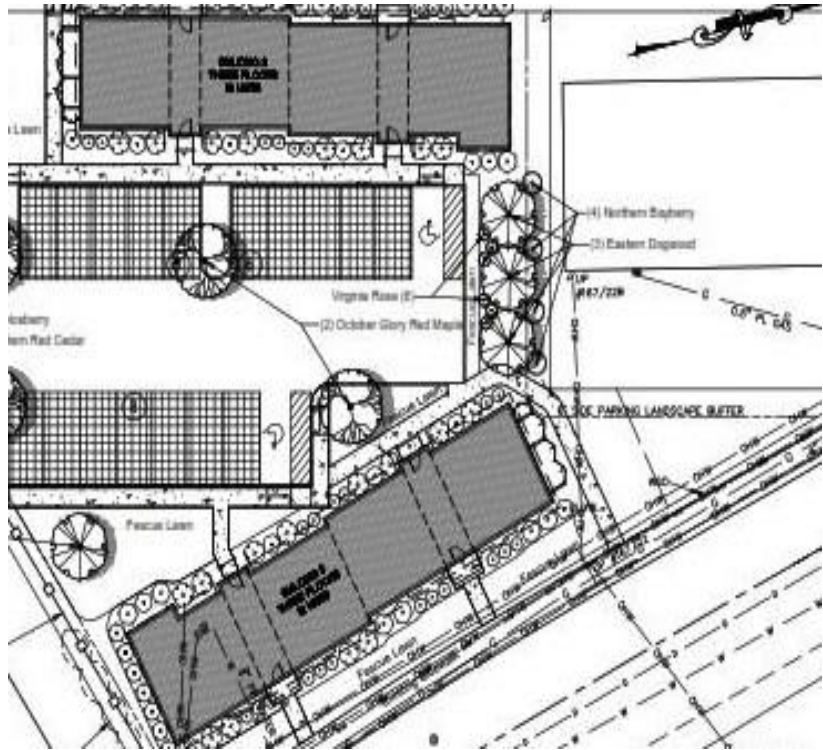
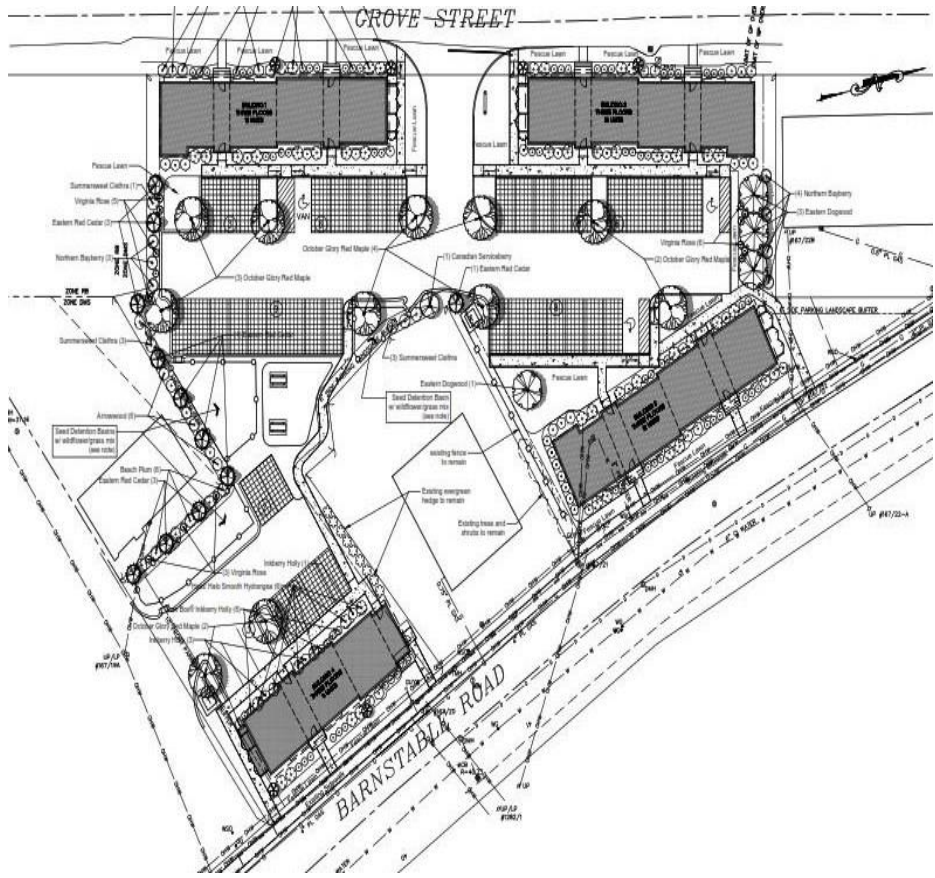
Proposed Conditions



Proposed Conditions



VIEW FROM BARNSTABLE ROAD



Plan Review

201 Main Street



Plan Review

Permitted						
Project has come before the Town's Site Plan Review Committee and has been approved to proceed and, as applicable, project has been granted zoning relief						
	Total Units	Total Affordable Units	50 % AMI	65 % AMI	80% AMI	100% AMI
Dockside						
110 School Street	54	5	-	5	-	-
28 Barnstable Road	4	-	-	-	-	-
307 Main Street	120	30	-	-	30	-
11 Potter Avenue	5	-	-	-	-	-
53 Camp Street	5	-	-	-	-	-
19 & 29 Bearse Road	8	-	-	-	-	-
473 Main Street (Phase 1)	20	2	-	2	-	-
50 Main Street	10	1	-	1	-	-
201 Main Street	95	10	-	10	-	-
310 Barnstable Road	30	3	-	3	-	-
442 Main Street	5	-	-	-	-	-
Sea Captains Row Phase 2 24, 28, 43, 44, 53, 56, 64 and 66 Pleasant Street and 86 South Street	14	2	2	-	-	-
68 Yarmouth Road	8	-	-	-	-	-
TOTAL	378	53	2	21	30	0

Plan Review

Existing Conditions



Plan Review

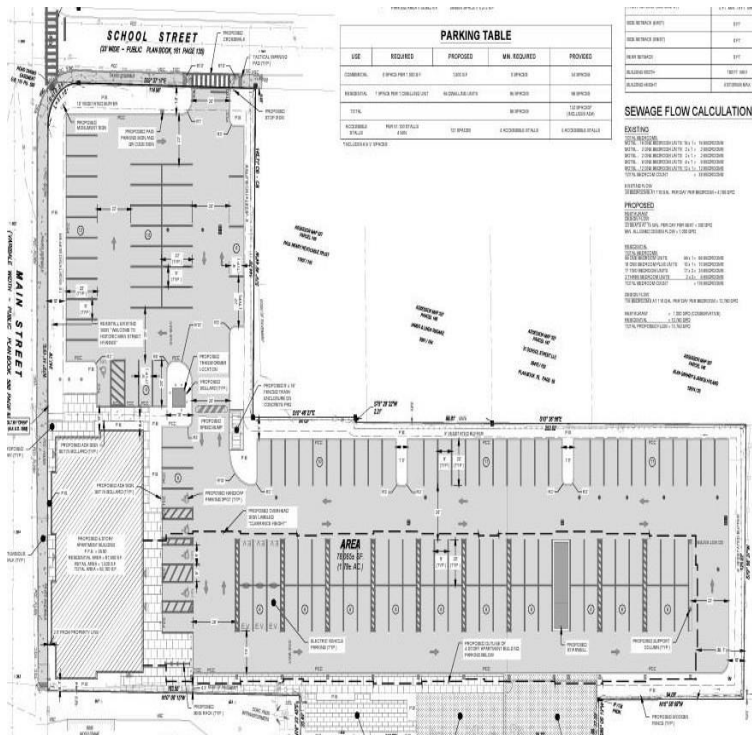
Proposed Conditions



Plan Review



Plan Review





Committee members discussed setbacks in the downtown village. Main street has a different vision, so it gets confusing with the setback in certain areas. Mr. Kupfer stated yes definitely in future discussions setbacks will be a part of those discussions because there are areas that need a new look a refreshed look.

Councilor Crow mentioned he would like to see more architecture to the buildings when they are built, and if there was a way to let the contractors know that more design is needed, or something more to look at than just a square front.

Councilor Terkelsen likes the current proposed design, Mr. Kupfer said he was asking for shutters of some sort, but that that idea fell short.

Councilor Bloom thanked Mr. Kupfer for not making this a 4 story, that it was reduced to three story, so he thanked him for that.

Mr. Alsmann wants to see more greenery planted when these go up. He asked if we had a green scape policy in the town, Mr. Kupfer stated we have a greenery project and work with the DPW to make sure that trees are appropriately planted according to our native vegetation.

Chair of Committee suggested that the next meeting be focused on drilling down our thoughts to specifically make some recommendations regarding parking, setbacks and maybe reducing the height on Main Street or some of the buffering areas. Mr. Kupfer agreed for the next meeting he would update the memo to include some variables such as increasing the parking from 1 to 1.5, building heights from 4 story to 3 story, and Mr. Kupfer will lay it out in the memo where the committee could just insert the language agreed upon by the members of the committee. Members of the committee agreed.

Chair of committee asked for suggestions of topic for the next meeting, and possibly discussing the affordability provision and the inclusionary provision. Mr. Kupfer mentioned bringing the two committees together because that is a topic that the Ad Hoc Housing Committee is starting to talk about, so it's a great way to overlap the discussion between the two committees. Chair of Committee asked Mr. Kupfer to reach out to Mr. Presbrey, Chair of the Ad Hoc Housing Committee to attend our next meeting to get feel as to the discussions they are having about the inclusionary provision.



Town of Barnstable
Planning & Development Department
www.townofbarnstable.us/planninganddevelopment



DRAFT

October 11, 2024

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 and October 4, 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, architectural design features, 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 a subsequent meeting. 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.

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.

District Boundaries – The Committee has begun discussing 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.

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.

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.

Chair of Committee asked the members for the next date to meet. The members decided on December 13, 2024, at 3:30pm. Looking into January it looked like January 10, 2025, and January 24, 2025, were available from the Chair's discussion with IT.

Chair of Committee asked for a motion to accept the meeting November 01, 2024, Chair of Committee asked if all the members had a chance to review, some did not so the minutes of November 01, 2024, will be voted on at the next meeting

Chair of Committee asked for a motion to adjourn; Councilor Crow made the motion to adjourn, the motion was seconded by Councilor Terkelsen, all members voted in favor of adjournment.

ADJOURN: 5:37pm

