

**Town of Cape Elizabeth
Ordinance Committee Minutes**

October 25, 2023

7:00 p.m.

Town Hall

Members Present: Penny Jordan, Chair
Caitlin Jordan
Gretchen Noonan

Staff: Maureen O'Meara, Town Planner

Minutes

The September 19, 2023 minutes were approved by a vote of 3-0.

Public Comment

Councilor Tim Reiniger noted the email with questions that he sent. Chair Jordan said it would be addressed as part of the review.

LD 2003 Amendments

Chair Penny Jordan introduced the discussion referencing the public forum held October 16th. The intent of LD 2003 is to create housing and the amendments are drafted to manage impact on neighborhoods and allow homeowners to create ADUs. Post forum, she had provided questions she heard from the public forum to the town planner. The draft memo includes those questions, pinch points and themes intended to help the Town Council understand what is required.

The committee agreed to review the draft memo from the Ordinance Committee to the Town Council.

Councilor Caitlin Jordan said Town Attorney Mary Costigan's breakdown has been the most helpful for her.

Chair Penny Jordan noted Town Manager Matt Sturgis' breakdown of the impact on municipal services and the lot analysis spreadsheet. The committee agreed to add the public forum presentation to the attachments.

Chair Jordan noted the survey information on size of an ADU, where 54% support a size of 1,100 sq. ft. or larger. She doesn't think many people will build an ADU.

Councilor Caitlin Jordan said that if they build an ADU because of a family need, they may want a size that meets the need. If an ADU is built for revenue, it may be built smaller to minimize the impact on your life. The market will drive the size and 1,100 sq. ft. is a good cap.

The committee consensus is to set the ADU maximum size cap at 1,100 sq. ft.

The committee decided that question 2 was useful to see but did not need to be in the memo to the Town Council.

Question 3: The committee discussed the Camoin report and concluded that the report tends to use the term multifamily, supporting the LD 2003 change to replace “multiplex” with “multifamily.” Committee members were clear that this was a word change, not any change to standards of review.

The committee retained Question 4, and deleted Question 5, noting that the word “multiplex” was added to the ordinance in 1980, before Councilor Caitlin Jordan was born. Chair Jordan asked for the context of adding it, and Town Planner Maureen O’Meara suggested it was to accommodate a new land use type (at the time), condominiums.

The committee added a new question, “Are 4-unit buildings required?” Town Attorney Mary Costigan was asked to respond and her emailed response was read to the committee and will be added to the memo.

Question 6 on small multifamily buildings with the lot size analysis chart was retained.

Question 7 on municipal services: The committee noted that there was no significant impact from LD 2003. Chair Jordan noted that Fire Chief Young mentioned adding sleeping quarters and this is a need that has already been identified.

Question 8 on Teardowns, the committee discussed that a prohibition would only be the difference of one multifamily unit.

Councilor Noonan described her calculation that if someone were to buy built lots in her neighborhood to assemble enough land for a multi-unit building, the density would be less units than they start with.

Question 9: The committee discussed the requirement to require owners to live on site. They discussed the comments from Town Attorney Mary Costigan that is not allowed under LD 2003.

Question 10: Similar to #9 above, the committee discussed the comments from the town attorney that LD 2003 does allow you to impose conditions on ADUs that are not included in the law.

Chair Jordan referenced a note from Tom Dunham with concerns that an 1,100 sq. ft. ADU would have an adverse impact on school because the value of an ADU would not generate the tax revenue to pay for school education costs. Families in rentals would result in a burden on Cape taxpayers. Councilor Noonan stated that her taxes don't cover the cost of education. The committee agreed that the cost of education is a societal responsibility.

Chair Jordan noted that if you don't properly educate children, they can grow into much more costly options like the corrections system. We have a responsibility to educate kids.

The committee reviewed the questions provided by Councilor Reiniger.

On the question of how you can tell if a new housing unit is an ADU or a multi-family unit, Chair Jordan said that would be decided when the building permit is applied for. Most folks will not ask for a 2-unit because the ADU option does not require additional land area. The committee concluded that the proposed amendments, including the definitions, provided adequate guidance.

Question 2 questioned allowing an existing accessory structure to be an ADU. The Ordinance Committee chose to allow this, supported by requests from residents for this option to convert an existing accessory structure. The committee noted this would have less neighborhood impact because the structure was already there.

Question 3 on nonconforming lots, the committee agreed that an ADU was allowed on a nonconforming lot that could have a single family home on it because that is consistent with LD 2003. Current setbacks would continue to apply.

Question 4 on ADUs and STRs, the committee reviewed that the existing town STR regulations prohibit operating a STR in a ADU. The LD 2003 amendments also state that an ADU cannot be a STR, which LD 2003 explicitly authorized as an option for towns.

Chair Jordan wants it on record that the Ordinance Committee, as noted the recent Cape Courier, did not do away with Site Plan Review. Site Plan review remains a requirement for multifamily buildings that do not fall under LD 2003 requirements.

Councilor Noonan clarified that Site Plan review does not allow neighbors to say no to development. Ms. O'Meara added that site plan approval is granted based on satisfying standards in the ordinance, and the process allows the public to comment, but not to veto a project that meets standards.

Councilor Caitlin Jordan stated that there is no site plan review now for single family homes.

The committee expressed irritation with the inaccurate information published in the Courier. Regarding teardowns, Councilor Caitlin Jordan noted that a more cohesive building may be possible with the teardown option. A teardown/rebuilt on Ocean House Road where the new 2-

unit home has been constructed is a significant upgrade from the prior structures and is providing workforce housing. Councilor Noonan noted that we learned we have a new single family home with an 8,000 sq. ft. building footprint. Chair Jordan noted that whether we call it multifamily or multiplex, it still must comply with state law.

Following a motion from Councilor Caitlin Jordan, seconded by Councilor Penny Jordan, the LD 2003 amendments were sent to the Town Council by a vote of 3-0.

Public Comment

Jennie Smith-Brock, 7 Tall Pine Rd – Her question on the ADU size is related to the potential for greater parking demand with a larger ADU, but she notes that parking requirements are not scientific and property owners can decide how much asphalt to have.

Kevin Justh, 9 Spruce Ln – He noted on page 92 of the Camoin study that it references “multifamily” in the RC zone. The Housing Diversity Study committee survey asked specific questions about ADUs, and asks the committee to also look at the density question responses. There will be a forum November 6th with the survey consultant. He notes that there is only a marginal cost to adding one kid to the schools. ADUs provide economic benefits. In his work, there are four factors underpinning real estate development: legal, physical, financial, and marketability and LD 2003 only deals with legal permissibility.

Next meeting

The committee discussed pending items and the town attorney’s availability.

They agreed to hold a short meeting on November 1st, starting at 6:30 p.m. to review the Conservation Ordinance Events amendment.

They will hold a meeting on November 29th, when the town attorney is available, to begin review of the Outdoor storage amendments. Town Attorney Mary Costigan will be staff on that amendment and Ms. O’Meara will continue to provide logistical support (agenda, minutes, etc).

The meeting adjourned at 8:20 p.m.