

REZONING, DENSITY
&
THE 2021 LOCAL COMPREHENSIVE PLAN

barnstable  watch

August 2021

Contact: Heather Hunt through www.BarnstableWatch.com

Who we are

barnstable  watch

A group of citizens concerned about the proliferation of real estate investors operating commercial Airbnbs in residential neighborhoods, adversely affecting housing availability, affordability, and residential life.

Based on seeing how zoning is developed, now watching it all.

What we're going to talk about

- Your Home: Single-family zoning “a burden”
- Your Village: In 2021, Village Plans out
- Past is Prologue: recent zoning proposals
 - STR, ADU, Form-based Zoning*
- Predictions: 2021 Local Comprehensive Plan
- Our housing crisis
- Questions: Does the 2021 Plan matter to you?
- Planning Department processes

* Current views STRs: oppose investor model | ADUs: support traditional model | FBZ: still learning

FIRST, YOUR HOME

DID YOU BUY A HOME IN A SINGLE-FAMILY RESIDENTIAL NEIGHBORHOOD?



Expect Planning Department staff express bias against single-family zoning to permeate the 2021 Plan

Warning: If you speak in support of single-family zoning, expect to be labeled elitist and racist, as I have.

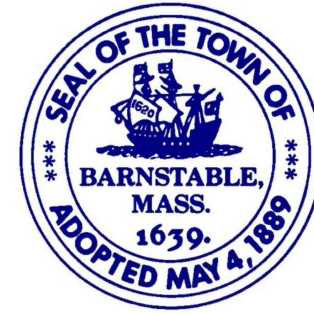
a common dislike of single-family zoning IN THEIR WORDS



Realtor lobby (and others') spokesperson

“ ...if the town and, you know, every neighboring Cape community **committed to eliminating single-family only the zoning** and allowing multifamily by-right, making it easier to build apartment buildings and we could snap her fingers and add a ton more units on the market*

* Zoning Subcommittee, June 2020



Town Planning Director

“ Single-family residential zoning - a **“burden”** on the community*
ADU proposal a **“babystep”** to **“pushing back”** on the **“legacy”** of single-family residential zoning*

* Zoning Subcommittee, June 2020

Second, your Village

The 2010 Local Comprehensive Plan Villages Mattered



Start: Vision Statement expressed shared intentions of residents for future of their town developed through Village Vision work and a Resident Survey



Village Plans: Consistent with Planning Department’s job in Town Code to “...preserve the character of the seven villages and improve the quality of life for Town residents...”



Goal #1: “Sustain diverse villages and livable neighborhoods for year round residents while providing housing opportunities for all.”



2010 Village Plans [Barnstable](#) | [Centerville](#) | [Cotuit](#) | [Hyannis](#) | [Marstons Mills](#) | [Osterville](#) | [West Barnstable](#)

In 2021, the Planning Department says it will **abandon Village Plans**

“We’re going in a different direction”*

you’ll get committees, forums, comment opportunities

Before the 2021 planning process starts.
Before any community conversations.
Before any Town Council (public) discussion.
Before it has selected a consultant.
Before anything at all.

**Because in 2021, the Planning Department already has
a plan for you. And your Village Plan would disrupt it.**

LET'S REVIEW RECENT ZONING PROPOSALS



Where the results weren't as permissive as some want, count on the Planning Department using the 2021 Plan as a tool to revisit them – back up the truck and load the Plan with what's been in process.

#1 AIRBNBS EVERYWHERE

2019 Zoning Subcommittee 'Anything Goes' Proposal

- Permit non-resident investors to use all housing stock as commercial Airbnbs (not Cape Family Rental Traditions)
- Investor welcome mat, no limits, 1-night stays
- Contrary to mainstream rules in tourist communities and those with housing challenges

Status

- 2020 Town Council pulled it. It, or a way around it, will be back.
- 2021 MA Supreme Court rules STRs incompatible with single-family residential zoning



Town STR proposal tracked Realtor' Lobby 2019 STR adopted policy. Realtor lobby then paid for a survey to identify "politically popular messaging" to sell its policy to decision-makers. *Source: Realtor lobby memo 12/12/19*



**“We have a large housing stock.
It’s just not being used to house our residents.”**

[Barnstable staff in Airbnb conversation](#) at Housing Committee
May 21, 2019

THE TOWN HASN'T ACTED LIKE IT HAS A HOUSING CRISIS



2019 & 2020: Zoning Subcommittee, Planning Board, express no concern about housing availability, cost, or impacts on locals who need housing due to proliferating investor short-term rental *businesses*

THE TOWN HAS THE
INDEPENDENT
RESEARCH & ANALYSIS

And ignored it.



Airbnb and the Rent Gap



The Airbnb Effect On Housing And Rent



Airbnb as a gentrification tool



When Airbnb Listings Increase,
So Do Housing Prices

Advocates that are now urging increased density and building due to housing needs were either advocating for or silent on this proposal.



Q: “If I bought a home in a residential neighborhood on a cul de sac with four homes, do the draft regulations let all of the other homes around me be used as 365-night-per-year Airbnbs?”

Answer: YES*

* Director of Planning and Development
Town Council, 27 February 2020

The STR proposal to permit non-resident investors to convert all homes to Airbnb businesses deliberately blurred these

TWO TYPES OF STRs

Homes



Families who are part of the community renting homes they really live in to others from time to time

Businesses



Absentee investors who buy houses as cash cows, removing housing stock, disrupting neighborhoods

The Town blurs these two groups, let's not anymore

Imposing no - even limited - residency requirement as a condition to short-term rent decreases housing stock, increases prices, puts investors before locals.

Suddenly, when it's about building and density, HOUSING ROCKETTS TO TOP PRIORITY



surges in ADU discussion



Multiple public officials who have converted homes to Airbnb businesses urged Town during ADU public comment to increase density to meet housing needs



drives Look & Density (form-based) zoning



“...encourages compact residential development...”

#2 ACCESSORY DWELLING UNITS

2020 Zoning Subcommittee Proposal

- Permit non-resident investors to build “investor duplexes by right,” eliminating single-family zoning without calling it that
- Depart from most Cape towns’ requiring residency in a unit (which model we support)
 - *ADUs are an accessory use to your home*

2021 Status

- Council amended to allow rental of only one unit, rejected Realtor Lobby and a chamber request for summer rental durations
- Next day, commercial interests & some Councilors that want “investor duplexes by right” commit to revisiting restrictions



Town ADU zoning proposal tracked Realtor Lobby (& Chamber, Builders, others) proposal in “investor duplex” by right model - departing from other Cape Towns. In presenting, Realtor Lobby spokesperson advocated “eliminating single-family zoning”.

The new ADU bylaw would have, in a back door-way, eliminated single-family zoning by permitting investors to convert single family homes into duplexes by right – a departure from almost all Cape ADU rules.



The Planning Department's messaging wasn't that. It messaged:

- the housing crisis (which was irrelevant in 2020 Airbnb debate)
- residents aging in place
- flexibility for local homeowners to earn some rental income

You were **one amendment away in the final vote from elimination of single-family zoning where you bought your home – **without candid communication to you about that.****

ADU BYLAW - IN THEIR WORDS I



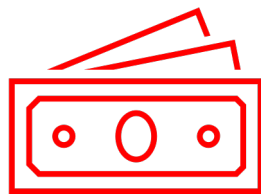
Housing staff: “Creating **two-family homes as of right** was discussed next. **[Staff] asks [developer] if the proposed accessory dwelling unit bylaw that is being proposed comes close** to this. [Developer] believes it is but will have to wait and see how it is received. **Proposal that neither unit has to be owner occupied and could both be rental units.**” *

Proposal departed from other Cape Town’s ADU rules that treat the unit as an accessory to one’s home.

ADU BYLAW - IN THEIR WORDS II



In talk about duplexes-by-right, that developer told Councilors **without an ADU owner occupancy requirement, there will be a huge push from real estate investors looking to buy up (already) scarce housing.****



(Then they proposed just that...which would have investors, counting on two rental income streams, outbidding locals for housing, driving up the price of homes and rentals)

ADU BYLAW - IN THEIR WORDS III



Planning Director: ADU proposal a **“babystep”** to **“pushing back”** on the **“legacy”** of single-family residential zoning. ***



Investor duplexes-by-right will be back in the 2021 Plan

#3 LOOK & DENSITY (FORM-BASED) ZONING

Proposal for downtown Hyannis (but if you caught one Housing Committee, you'd know staff says it's always been its goal to “move it” to other Villages)

- Zone looks, not property use
- Increase density, height
- Reduce required parking

Timeline:

- 2019 – 2021 Planning Department works proposal with business interests through self-selected Economic Development Task Force
- July 2021 Start the public process



In 2018, Realtor Lobby urged Town to move to form-based zoning
In 2020, Realtor Lobby funded public officials' training about it.

We're not zoning experts.

This does not express an opinion about form-based zoning.

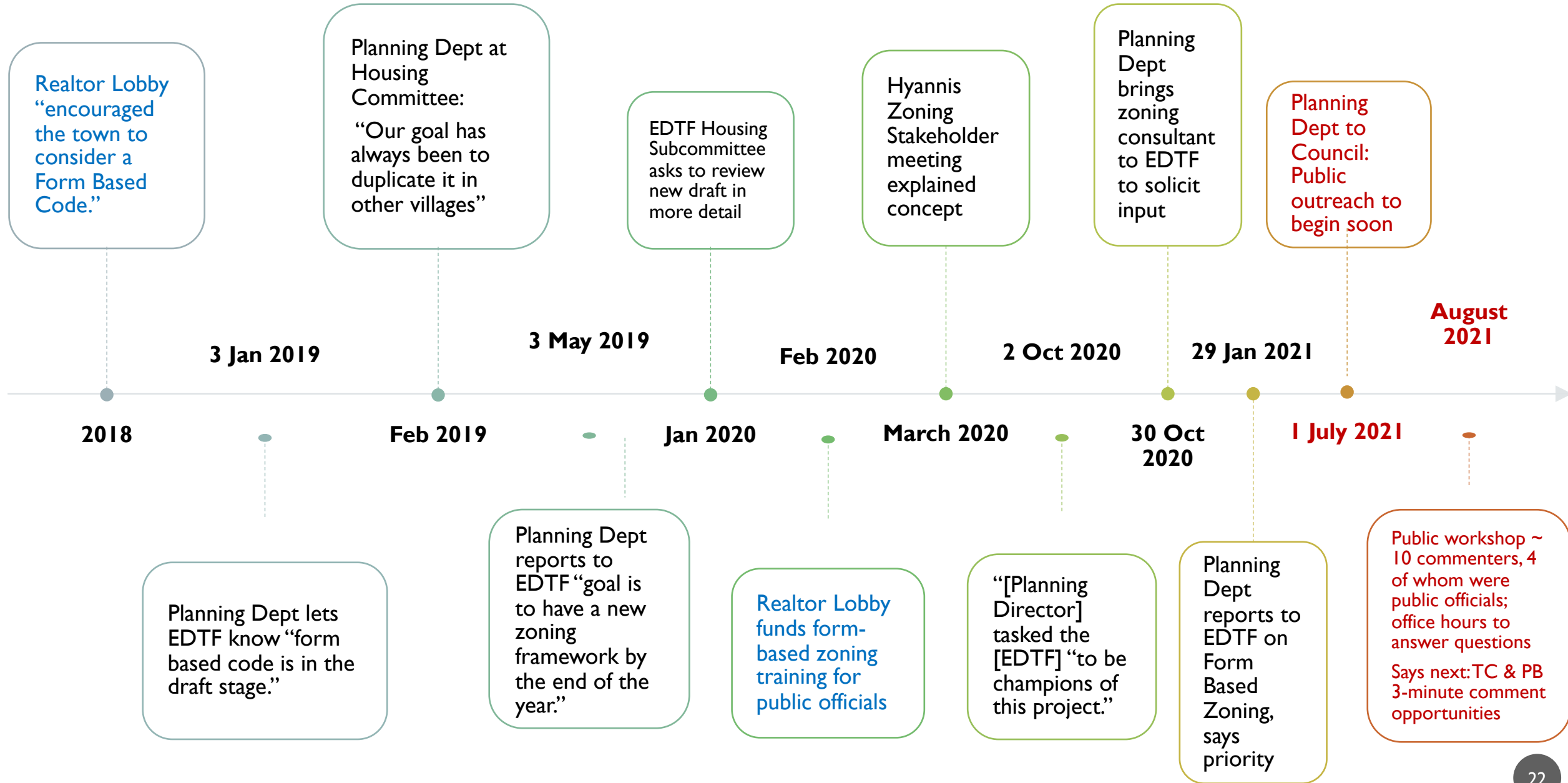
It's a massive zoning change.

Lots to understand. Lots for you to consider.

To date, the material presented to the public doesn't spell it out in simple terms. We hope that happens.

The point: pay attention - staff wants it here.

Form-Based Zoning Code Follows Planning Dept Routine: 1st business interests. Years later, residents can react (quickly)



WHAT IS IT?

In their words



“...Form Base Code changes the zoning so that the form of the building, the size, the height, the amount of lot coverage, the amount of parking required, that’s what the zoning dictates. **What the use is inside is not dictated by zoning.**”

So you could construct a 3-story building and you could put 6 large high-end apartments in there or 15 one-bedroom apartments in there. You know, as long as you can meet the parking requirements. The form is about the appearance...

“...**density is up to the developer and really dictated by parking.** ...there is less restrictions and it will be by-right so there is no uncertainty to it.”

Staff to Housing Committee, February 18, 2020

Standards for All Districts

- A. Building Standards
 - 1. Frontage types
 - 2. Facade build out
 - 3. Front doors
 - 4. Number of stories
 - 5. Components
 - 6. Fenestration

§240-24.1.5 Standards for all Districts

A. Building Standards

1. Frontage types are permitted as specified by Table 11.
 - (a) Buildings must have at least one (1) frontage type. Buildings on corner lots must have two (2) frontage types, one (1) for each frontage.
 - (b) Multiple frontage types may exist for buildings that have more than one (1) principal entrance.
2. Facades must be built parallel to any primary front lot line, at or between the minimum and maximum front setbacks, for a minimum percentage of a lot's width and is specified as the minimum facade build out required for each district.

Facade Build Out

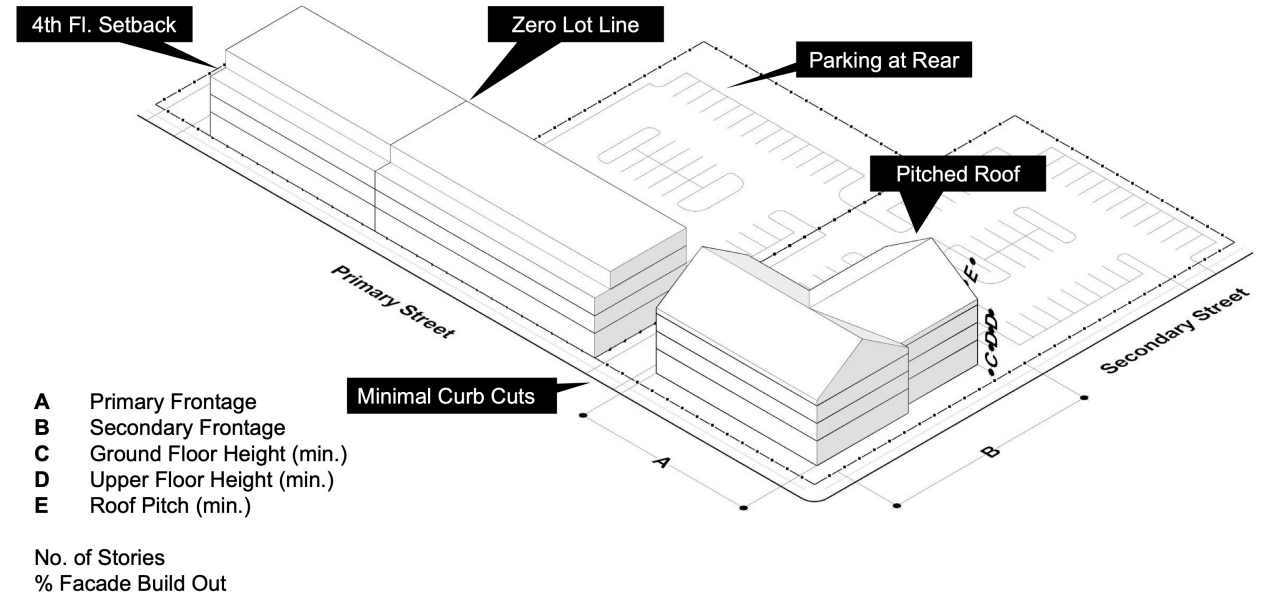
Single Building per Lot = $A \times B$ Multiple Buildings per Lot = $(A+B) \times B$

- (a) The open space of a forecourt is considered part of the building for the purpose of measuring facade width and facade build out.
3. Buildings must have at least one (1) principal entrance located on the facade.
 - (a) Multi-story buildings with ground floor commercial space(s) must have one (1) principal entrance for each commercial space in addition to any principal entrance(s) necessary for any upper stories.
4. Buildings may not exceed the maximum number of stories specified for each district.
 - (a) Each individual story of a building must comply with the minimum and maximum story height specified for each district.
 - (b) The ground story is always counted as one (1) story, except that a single ground story over eighteen (18) feet in height is counted as two (2) stories.
 - (c) Each upper story is counted as one (1) additional story, except that any upper story over sixteen (16) feet is counted as two (2) stories.
 - (d) Basements are not counted as one (1) story unless the finished floor of the ground story is five (5) feet or more above the average ground level of the lot.
 - (e) Habitable space located directly under a pitched roof is counted as a half (0.5) story.
 - (i) The roof rafters of a half story must intersect the wall plate or top of wall frame of the exterior walls at a height no more than (2) feet above the finished floor of the half story.
 - (f) Non-habitable attic space located under a pitched roof is not counted a half story.
 - (g) Pitched roofs with a slope greater than 12:12 require a Special Permit.

3

Increased Density

Downtown Main Street - Building Massing



Without a comparative table showing *current* permitted uses, you need to memorize the current zoning code to understand what use is changing, where. We've said this to the Planning Department and were told that was good feedback. Still waiting for that comparative look.

Reduced Parking Requirements

Permitted Use Table

Table 1. Permitted Uses

Use Category Specific Use	DMS	DV	DN	DH	HH	TC	HC
Commercial Services (except as follows)	P	L	L	P	P	P	P
Automobile Maintenance & Repair	N	N	N	N	N	N	N
Boat Storage	N	N	N	N	N	N	N
Contractor Services	N	N	N	N	N	N	N
Funeral Services	N	N	N	N	N	N	N
Marina	N	N	N	N	SP	N	N
Outdoor Recreation	SP	SP	N	SP	SP	SP	SP
Parking Facility	N	N	N	N	N	P	SP
Public Transportation Maintenance	N	N	N	N	N	SP	N
Veterinary Services	N	N	N	N	N	N	P
Cultural Services (as specified below)	--	--	--	--	--	--	--
Arts & Culture Establishments	P	P	N	P	N	P	P
Fraternal & Social Organizations	P	P	N	P	N	P	P
Performing Arts & Theaters	P	P	N	P	N	P	P
Artist Live/Work	P	P	P	P	N	P	N
Food & Beverage Services	P	P	N	P	P	P	P
Visitor Accommodations (as specified below)	--	--	--	--	--	--	--
Hotel/Motel	P	N	N	N	P	N	P
Bed & Breakfast	N	P	P	N	P	N	N
Office	P	P	L	P	P	P	P
Residential	--	--	--	--	--	--	--
Multi-Unit Dwelling	L	P	N	N	P	SP	N
Two-Unit Dwelling	L	P	L	N	N	N	N
Single Unit Dwelling	N	P	P	N	N	N	N
Retail Sales (except as specified below)	P	P	N	P	P	P	P
Boat Sales	N	N	N	N	SP	N	N
Gasoline Sales	N	N	N	N	N	N	N
Motor Vehicle Sales	N	N	N	N	N	N	N

P – Permitted By-Right SP – Special Permit
N – Not Permitted L – Permitted with Limitations (see district)

*

*

*Commercial, Retail Use By Exception

Minimum Required Accessory Parking

Table 2. Minimum Required Accessory Parking Spaces

Intended Use	DMS	DV	DN	DH	HH	TC	HC	On Site Shared Parking Adjustment ¹
Commercial Services (per 1,000 sf)	0	4	4	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	4	4	4	4	4	--
Lodging (per room)	1.25	1.25	1.25	1.25	1.25	1.25	1.25	--
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 (per DU)	1	1	1	1	1	1	1	--
Retail Sales (per 1,000 sf)	0	4	4	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

¹ Rounded up to the nearest whole number

Existing Parking Requirements

Commercial Services	1/ business + 5/ 1,000 sf
Cultural Services	1/ 3 person of capacity
Food & Beverage Services	1/ 3 seats + 1/ 2 employees + 5/take out counter
Lodging	0.5/ room + 1/ 2 employees
Office	1/ business + 3.33/1,000 sf
Residential	1.5/ DU + 1/ 10 DU
Retail Sales	1/ business + 5/ 1,000 sf

(Parking is a chief concern in meetings to date. To the question does this address Hyannis' parking problems, the answer was no.)

Does the public want this?

The Planning Department Measures Community Support for Look & Density (Form-Based) Zoning Through a “Visual Preference Survey”

The Town asked what pictures people think are prettier and translated answers into the community’s assumed density zoning preferences

Old sterile grey boxy single-family house with blinds drawn, a shrub, flagstones



or

Warmly lit, “golden hour” photo of multi-family with porches, sidewalks



Like asking which do you prefer to eat?



or



2. Do you think a building of this **scale** would be a good fit within the study area:

- Definitely a good fit
- Probably not a good fit
- Could be a good fit
- Definitely not a good fit

Why, or why not?

Do you think a building of this **scale** would be a good fit within the study area:

- Definitely a good fit
- Probably not a good fit
- Could be a good fit
- Definitely not a good fit

Visual Preference Survey Purpose

In their words

Staff: ...to **understand the preferences of the community as far as density, building mass, building design, building styles...** then take those preferences, turn them into zoning that we would assume would be acceptable to the community.
Turn it into by-right zoning...



Staff: We went through a **really big outreach effort and this is what the majority of people do prefer....** We are going to take these preferences and we are going to move them into zoning.



Committee member: When someone stands up at a town meeting or in any public forum and says I don't like that, we don't like that, we at least have an answer.
We polled the community and this is what they said.

The “Really Big Outreach” that shows what the “majority of people do prefer” by way of density zoning?

140

people in Hyannis (?)
replied to on-line survey

1%
ONEPERCENT

Of Hyannis’ – one
Village’s - population

003

Or .003% of the
Town’s population

2021 Workshop: ~10 people , 3 regulars, 4 public officials, a few others
Few Prior Workshops: ~30, if you add in staff & officials

* Twice the number people signed a Resident Zoning Petition Task Force petition within a week based on a couple of emails

Let's Not Confuse

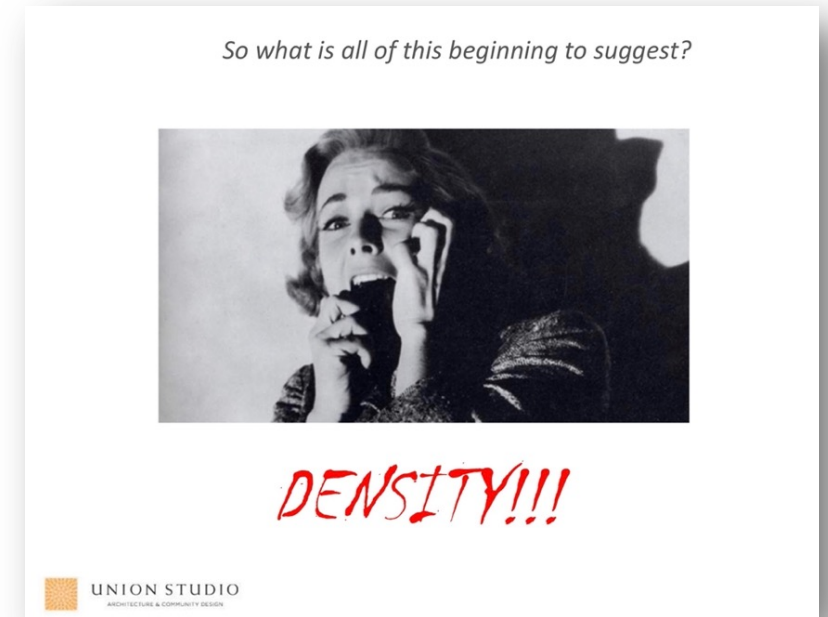


Asking people their **impressions of house pictures** put together by an architectural firm that promotes density

with



A broad-based, impartial, valid, **reliable survey** of residents' views on eliminating zoning based on use, increasing density, reducing parking in Village centers

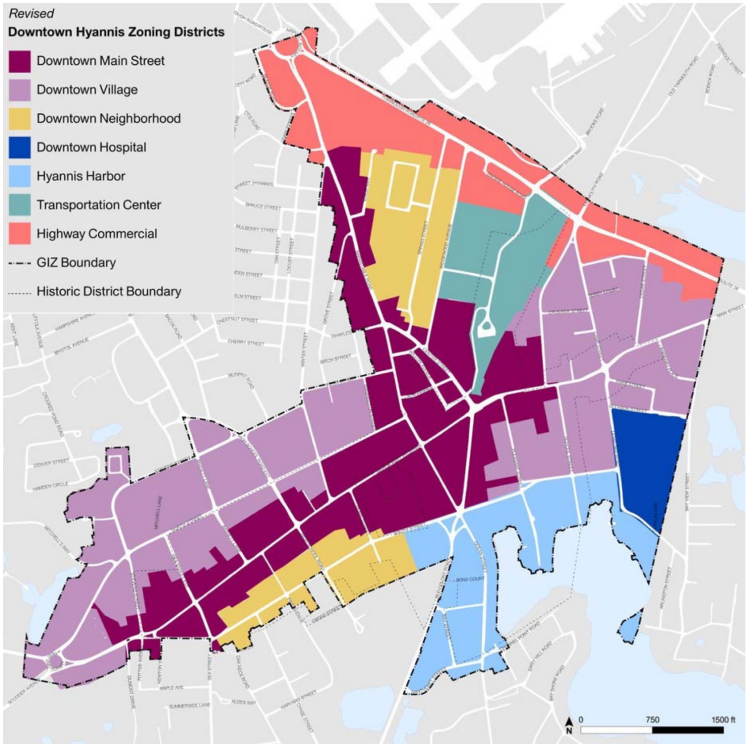


Slide by architectural firm that created the survey

Let's acknowledge the image survey was designed by a firm that sells density. It was not a zoning or impartial or reliable survey.

Where is the Planning Department Proposing Look & Density (Form-Based) Zoning?

Planning Department public communications exclusively about downtown Hyannis



Wait



Staff goal

IN THEIR WORDS (not in FBZ public communications)

“

.....project is focused right now in the Growth Incentive Zone...a portion of downtown Hyannis. That's the focus of this area however **our goal has always been to be able to replicate this in other areas”**

“

“That would be our goal, we'd say, ok absolutely, now **let's replicate this in the village center of Marstons Mills, in the village center of Osterville and Barnstable, we'll move it.”**

Cape Cod Commission categorized **Barnstable Village, Hyannis, Osterville as ‘Community Activity Centers’**

(This isn't in the Planning Department's public FBZ communications; we know because a Councilor asked in public.)

The Cape Cod Commission said towns should consider adopting changes to zoning to support ‘Community Activity Centers’ including the following

- Zoning to allow higher density and multi-family housing
- Inclusionary zoning by laws
- Dimensional regulations that foster pedestrian activity and follow established development patterns


Planning Department portrays density zoning as about housing

“meeting range of housing needs” by encouraging a “concentrated mix of residential and commercial uses” and “compact residential development”

But doesn't require homes enabled by density to be used as homes



Consultant said Airbnb use can be regulated in form-based context.* Yet:

- No requirement for use of homes as homes, or STR limits
 - No answer to question about this in online “public forum” yet
 - Verbal answer August 2021 Workshop – market will respond
- 
- No provision for well-known extra parking needs at homes used as Airbnbs
 - Already suggestions to use your tax dollars to incent year-round rentals while the Town allows all homes to be commercial STRs

Consultant also said expect units to be expensive, upper end of market rate

* March 2020 Stakeholder meeting

AIRBNB is economically rational choice grounded in experience and math, not speculation

owner of this former mixed-use property in Hyannis urged Council to pass ADU ordinance due to housing needs and people “suffering” after converting 4 units to Airbnb businesses (4th nearby)

2008: 1ST MIXED-USE PROPERTY IN GIZ

GROWTH INCENTIVE ZONE IN HYANNIS



2021: MONETIZED AS 3 AIRBNBS

GROWTH INCENTIVE ZONE IN HYANNIS



Wait for more of this

Parking: The Tail Wags The Form-Based Dog*



Parking isn't zoning.

But this proposal – that maxes out density - is entirely about parking
Without a plan for where residents, employees, customers, visitors will actually park.

WAIT FOR BOSTON-STYLE PARKING FRUSTRATION IN VILLAGE CENTERS

Only without a T, without cabs, without work, groceries, stores, doctors, etc., in walking distance



- Reduces required dedicated parking from 1.5 per bedroom to 1 (below 1.3 consultant tested)
- "...just allows you to build whatever dwelling units you can if you can park it..."*
- Staff hopes for 'shared' parking agreements between property owners

Osterville businesses and residents really need to think about Village parking

Some Councilors' answer to every zoning change objection is “**we can fix it in two reads**”



Can anyone explain how permitting maxed out density, increased height, decreased parking requirements, and move away from zoning on property use can be fixed in two reads?

Predictions: 2021 Local Comprehensive Plan



- Homogenized Villages
- Move to eliminate single-family zoning
- Increase density and height
- Permit investor duplexes by right
 - With rental periods incompatible with year-round housing
- Look & Density (form-based) Zoning in other Villages to ease development
- Increase 'Top of Shop' housing and mixed-use development
 - Without requiring homes used as housing for residents
- Reduce parking requirements in Village centers to max out density
- Affordable ADU program demise
- Substitute "affordable" with "attainable" housing
 - Consistent with developers' desire to put a moratorium on inclusionary housing obligations
- Use tax funds to incent year-round rentals
 - While the Town permits 'Anything Goes' investor STRs
- Use tax dollars to fund development of town property

The background of the slide features four white paper houses with red roofs, arranged in a line on a wooden surface. The houses increase in size from left to right. A white rectangular box with a thin black border is centered over the houses, containing the main text.

A WORD ON THE HOUSING CRISIS.
IT'S REAL. LOCAL RESIDENTS NEED HELP.

The housing crisis. It's real. And there is work to be done – to help locals. The Planning Department will invoke the housing crisis as priority for zoning changes when it's about easing development and increasing density (that increases tax base). But don't assume increased density will serve locals' needs: even in the village center density zoning change portrayed as about housing, the Planning Department proposal would let investors use new homes as Airbnb businesses. As we all know, housing was irrelevant when the Town chose to look away as non-resident investors converted (unlimited!) existing housing stock to Airbnb businesses (because that generates tax revenue, too).

In Barnstable, housing matters, sometimes.

We can do better, and without wiping out single-family zoning, or turning density decisions over to developers.

Does the 2021 Plan matter to you?

We in America do not have government by the majority. We have government by the majority who participate.

Thomas Jefferson

Do you care about what your Town, Village and neighborhood looks like a decade from now? | Do you want homogenized villages? | Do you want to max out density? | Do you care about parking in your Village center? | Do you want to preserve your single-residential neighborhood? | Do you want investor duplexes by right? | Do you want to spend your tax dollars to incent landlords to long-term rent? | Do you want to spend your tax dollars to develop town-owned land to compensate for housing policy that doesn't protect housing for locals? | Do you want every home in town to be permitted to be a non-resident run Airbnb business?

PLANNING DEPARTMENT PROCESSES

Transparency is for those who carry out
public duties and exercise public power.
Privacy is for everyone else.

Glenn Greenwald

We've learned three things since engaging in STR matter

I. How the Planning Department works on zoning:

- Commercial interests are brought in early, given time to influence proposals, often out of public view
- Proposals are often not developed through Boards and Committees assigned to the subject
- Public communications often lack candor, critical specifics
- Residents 3 minutes for one way comment often comes after proposals are well baked

It's a pattern. And a matter of record, not opinion.

2. The decline in local news hinders public awareness and enables the out-of-public view processes and the business-at-the-front-of-the-bus approach here in Barnstable.

- *Cape Cod Times, Barnstable Patriot* has reduced staff. It's a national problem that means even less transparency into local government.

3. We need to watch every meeting, insist on minutes, find fine print, look in unexpected places, ask questions - and follow up when answers are non-responsive happy buzz-word laden run-ons. (Ya'll know what I'm talking about.)

Words of the jargon sound as if they said something higher than what they mean
- Theodor Adorno

WHERE TOWN CODE SAYS HOUSING & ZONING WORK WILL BE DONE

- **Housing Committee**
 - Largely dormant '20 & '21
- **Planning Board**
 - In recent years, it *receives* and votes out zoning proposals *others* develop often in one meeting, with a “let’s send this back to the elected officials!”

WHERE THE PLANNING DEPARTMENT HAS BEEN DOING THE WORK INSTEAD*

- **Ad hoc Economic Development Task Force**
 - Largely self-selected commercial interests
 - Minutes in Planning Dept desk for 2.5 years – try following that!
- **It’s Housing & Inclusionary Housing Subcommittees**
 - No posted agendas - try tuning into those!
 - No posted minutes
- **Ad hoc Zoning Subcommittee**

* Now eliminated. Now that Task Force is eliminated, wait for Housing Committee to get active and take up Planning Dept’s ideas

Barnstablewatch thanks those members who research, watch, and read town planning and zoning and share information with us.

We love how much you love your neighborhood, village and town.

www.barnstablewatch.com