PLANNING BOARD

PACKET OF MATERIALS

MEETING OCTOBER 19, 2016

__X__ Cover page with date

__X__ Agenda

__X__ Minutes for approval

_____ Applications

__X__ Supporting Documents

Agenda
Bar Harbor Planning Board
Wednesday, October 19, 2016
Council Chambers- Municipal Building
93 Cottage Street
4:00 P.M.

I. CALL TO ORDER

II. ADOPTION OF THE AGENDA

III. EXCUSED ABSENCES

IV. APPROVAL OF MINUTES (October 5, 2016 – regular meeting and October 14, 2016 – special meeting)

V. REGULAR BUSINESS

a. **Land Use Ordinance Discussion of Draft Shoreland District at Ferry Terminal**

b. **Land Use Ordinance Discussion of Parking**

c. **Land Use Ordinance Discussion of Minimum Area Per Family**

VI. OTHER BUSINESS

a. **Cottage Street Streetscape Update**

b. **Pending Applications**
(CU) Mount Desert Street, LLC (68 Mount Desert Street)

c. **Planning Board sign subdivision plans.**

VII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

VIII. ADJOURNMENT

Minutes
Bar Harbor Planning Board
Wednesday, October 5, 2016
Council Chambers – Municipal Building
93 Cottage Street
4:00 P.M.

I. CALL TO ORDER

The Chair called the meeting to order at 4:00 PM. Planning Board members present: Tom St. Germain, Vice Chair; John Fitzpatrick, Secretary; Joe Cough, Member and Basil Eleftheriou, Jr., Member.

Also present: Robert Osborne, Planning Director and Angela Chamberlain, Code Enforcement Officer.

II. ADOPTION OF THE AGENDA

Mr. Fitzpatrick moved to adopt the agenda as published. Mr. Eleftheriou, Jr. seconded the motion which was approved unanimously.

III. EXCUSED ABSENCES

None (It was noted that there is now an opening on the Planning Board)

IV. APPROVAL OF THE MINUTES

a. September 21, 2016 Meeting

Mr. Eleftheriou, Jr. moved to approve the minutes as presented and Mr. Fitzpatrick seconded the motion which was approved unanimously.

V. REGULAR BUSINESS

a. **Completeness Review- Subdivision/Site Plan Application – SD-2016-04–** Acadia Park Company
Project Location: 134 Main Street, Bar Harbor Tax Map 104, Lot 504-000
Applicant: Acadia Park Company (David Woodside)
Application: The applicant is proposing demolition of an existing commercial building and construction of a mixed use commercial retail and multi-family dwelling (4 units), a two-story building with a 3,976 sq. ft. footprint.

Todd Hardy and David Woodside were present to address the Board. Mr. Hardy indicated that the Board will recall that they had previously presented subdivision sketch plan on this site and that there had been a few modest changes since that time. He indicated that they had a Certificate of Appropriateness from Design Review Board to demolish the existing structure except the front façade of the building which will be saved and incorporated into the new design. He also noted that the right-of-way driveway at the rear of the building was reviewed and the building was pulled back 4 feet in that area to create some additional space.

The Planning Board discussed the waivers that had been requested.

Mr. Fitzpatrick asked if there were electrical easements required. After some discussion it was left that Mr. Hardy would check with Emera. He noted that 3C Easements had been provided. 4A Emera easements would be explored. All signs would be on the building and in accordance with Design Review. 20B Elevations document would be provided to be on the record noting that there was not a concern that the building height was at issue. Business Operations 25B and 25C have been provided.

Lighting was discussed and in addition to the sign lighting Mr. Hardy indicated that they would also need a soffit light at the rear entrance and they would provide details and photometric plan for that as well.

Mr. Fitzpatrick made a motion that the Acadia Park application be set for public hearing for November 2, 2016 and that the requested waivers be approved except that 3C, 4A, 9Q 20B (height) be provided. He noted that 25B & C need not be waived as they had already been provided. Mr. Eleftheriou, Jr. seconded the motion which was approved unanimously.

Mr. Fitzpatrick noted that as required conditions of approval that the lighting details previously discussed and the Emera easement would also be required.

Mr. Hardy asked: Are there any know issues we should be looking considering? It was suggested that they provide a sheet that identifies total square footage and uses within the building. (This goes to questions such as parking requirements).

b. Land Use Ordinance Discussion of Draft Shoreland District at Ferry Terminal

The Planning Board discussed some background concerning the request from Maine Port Authority requesting the zoning amendment to add the cruise ship use to the Eden Street location.

Martha Searchfield discussed the joint partnership of the Town, Chamber of Commerce and Maine Port Authority that paid for then B&A study.

Mr. Fitzpatrick indicated that there was valuable information in the study that compared differing amounts of usage at the terminal.

Passenger caps were noted as a governing factor and that this would be the Town Council's role to determine

The Board discussed the potential of a marina at the terminal and that it has a number of considerations for both uses and interplay with cruise days.

The Board questioned what the marine law is in terms of land use law.

c. Land Use Ordinance Discussion of Parking

Mr. Osborne indicated that there would be a draft set of warrant articles available for the next meeting that would attempt to address a number of questions that had been raised through the recent hearings and reviews.

d. Land Use Ordinance Discussion of Minimum Area Per Family

Mr. Osborne indicated that he had available a draft set of warrant articles for minimum area per family that proposes to eliminate the requirement in the Downtown Village I and II districts.

OTHER BUSINESS

a. Cottage Street Streetscape RFP Update

Mr. Osborne noted that the review committee had met with design firms and that a recommendation to contract with one of them was on the Town Manager's desk at this time.

b. Pending Applications
(CU) Mount Desert Street, LLC (68 Mount Desert Street)

Mr. Cough identified a number of questions that he had regarding MDOT approval, curb cuts, parking, driveways, loading berths and non-conformities noting that he would provide Mr. Osborne with a list that could be passed on to the applicant.

c. Sign Minor Subdivision Plan – MSD-2016-02– Pine Street Subdivision Revision

Mr. Osborne noted that this plan had been approved by staff in accordance with the LUO. The Planning Board signed the subdivision plan after they adjourned.

VI. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

All members of the Planning Board took the opportunity to laud Ivan Rasmussen for a job well done.

Tom St. Germain noted that he would not be available for the December 7, 2016 meeting.

VII. ADJOURNMENT

Mr. Fitzpatrick moved to adjourn the meeting at 5:24 pm. Mr. Cough seconded the motion. The Board voted four in favor and none against the motion to adjourn.

Signed as approved:

John Fitzpatrick, Secretary **Date**
Planning Board, Town of Bar Harbor

Minutes
Bar Harbor Planning Board Special Meeting
Wednesday, October 14, 2016
Council Chambers – Municipal Building
93 Cottage Street
4:00 P.M.

I. CALL TO ORDER

The Chair called the meeting to order at 3:00 PM. Planning Board members present: Tom St. Germain, Vice Chair; John Fitzpatrick, Secretary; Joe Cough, Member and Basil Eleftheriou, Jr., Member.

Also present: Robert Osborne, Planning Director; Cornell Knight, Town Manager; Paul Paradis, Town Council, Matt Hochman, Town Council; Peter St. Germain, Town Council.

II. ADOPTION OF THE AGENDA

Mr. Cough moved to adopt the agenda as published. Mr. Eleftheriou, Jr. seconded the motion which was approved unanimously.

III. EXCUSED ABSENCES

None (It was noted that there is now an opening on the Planning Board).

IV. REGULAR BUSINESS

a. Planning Board discussion with officials from Maine Port Authority and Bermello, Ajamil & Partners regarding potential zoning, uses and dimensional standards for 121 Eden Street Ferry Terminal

Mr. St. Germain provided an outline of the item and the history of the ferry terminal. He noted that the reuse of the terminal is a stated goal of the 2007 comprehensive plan and that it is a recurring Council Goal year after year. The terminal closed in 2009 and shortly thereafter the Town and MDOT began discussions on how to best take advantage of the facility. The participants in those discussions were the Town, MDOT, MPA, Chamber of Commerce and B&A.

Mr. St. Germain indicated that the Planning Board received a request from the Maine Port Authority in March, 2016 to consider a Land Use Ordinance amendment that would add a definition of a new use for the terminal and to add that use to the two zoning districts where the terminal is located. He stated that the Planning Board has also considered the creation of a new shoreland district that might better accommodate the site development proposed.

Jon Nass, MDOT and John Henshaw, MPA spoke to the Board about their involvement in the project. He indicated that he was approached by the Town in 2012 to acquire the terminal. He indicated that they approached the owner and have negotiated a lease for purchase. They are now working through a risk assessment. He cautioned that MDOT is careful with tax payer funds and that they seek value on

investment. He indicated that Commissioner Bernhard expressed concern with the current zoning of the property and that the original timeline for the November ballot initiative had not been met. He discussed the relationship with Maine Port Authority noting that they are separate entities but that they are capital partners. He indicated that the intent is for the purchase of the lot but not the capital outlay of $30 million for improvements. That would be done by a third party. The terminal would likely be transferred to Maine Port Authority who would lease the property to the third party investor who would operate the terminal. MDOT is looking for economic development by making the initial investment and taking some corrective actions to make the property more attractive to the investor. Part of this is accomplished by preserving options for investors through regulatory certainty. The regulatory certainty was discussed in some detail. It was noted that the zoning request may not be necessary but it certainly makes a better investment. It was discussed that this could be accomplished with either the existing districts or with a new district. It was discussed that the intent of the new terminal would be that the passenger fees would not go away and that the Town would continue to have that stream of income.

Mr. Eleftheriou, Jr. indicated that the Board feels that the redevelopment of the terminal and an appropriate zone amendment is a good idea. He asked what process would be used to vet concerns the town might have about the terminal.

Mr. Nass indicated that MDOT has a robust process that was used on the Route 3 project and would envision a similar process used for this issue as well.

Mr. Eleftheriou, Jr. asked about potential height needs for the facility.

Luis Ajamil indicated that the height needs for cruise ship are not very tall and tend to be moveable gang planks about 11 feet above sea level, a 30 foot plank. There are options of floating and fixed piers and permanent or seasonal.

Mr. Henshaw was asked about the uses that he envisions are needed for this to be successful? He indicated that he is open to any use allowed in the zone.

Mr. Nass agreed stating that not limiting the uses will get better quality investors.

Mr. Henshaw was asked about how local ordinances might address issues? He indicated that the Port Authority would work with the municipality to address and mitigate issues and that in his opinion a municipal ordinance is not needed.

Mr. Nass agreed noting that MDOT and MPA would have a contract agreement with the operator of the facility which would have operational language in it.

Mr. Cough asked what is the time line? Mr. Nass indicated that it is three years from the signing of the lease to purchase. There is no immediate condition to sign.

Mr. Cough asked what if the new guy insists on new terms? Could they supersede zoning?

Mr. Nass indicated that the MDOT would not utilize sovereign immunity. He indicated that the path to seeking qualified parties to construct and operate a terminal starts with a request for qualifications and proposals and then runs through a selection process.

Mr. Nass stated that MDOT goes above and beyond in order to involve citizens in a vetted process.

Mr. Cough indicated that one of his concerns is the alcove and what is to become of it if the ferry were to come back.

Mr. Henshaw indicated that there is no particular plan for ferry service to return at this time and the state has no subsidy available to make that happen.

Mr. Henshaw also clarified that the existing pier is considered to be unsafe and would need to be torn down. He also indicated that the "alcove" if used for pleasure crafts might be a possible source of revenue.

Mr. St. Germain asked if a transportation plan for the terminal had been started? Mr. Nass indicated that would be premature at this time.

Mr. Henshaw indicated that a benefit of the ferry terminal location is that it spreads out the passenger points of interest and may alleviate some issues.

Mr. Nass indicated that there has been no funds for transit planning yet. He noted that if the Town were to purchase the property that there would be additional local control and that MDOT would be willing to help with that.

Mr. Nass noted that the SHIP grants and BIG grants programs are out there.

Mr. Eleftheriou, Jr. asked if there is a survey plan available? Mr. Henshaw stated that a new survey should be done and that it could be provided to the Town. Mr. Henshaw stated that there is no specific plan for the reconstruction of the terminal.

Mr. Fitzpatrick asked about sovereign immunity? Mr. Nass stated that the state has some authority in this area but they do not wish to do that.

It was noted that the Land Use Ordinance generally only has controlling interest to normal high water and that beyond that it is Submerged Lands, Army Corps of Engineers and Maine Department of Environmental Protection and FEMA.

Mr. Fitzpatrick asked if the state would commit to complying to the district in perpetuity? Mr. Nass indicated that they are happy to discuss it.

Mr. Nass indicated that MDOT does not go into unwelcome towns. They try to work with the Town. They are willing to walk away and are also willing to work with the town to purchase the property.

Mr. Henshaw indicated that they could look at assigning the lease to the town. The town is very familiar with the project for over four years. The town sought out MDOT.

At this point Vice Chair St. Germain opened the meeting to the public to ask questions.

James Collier stated that the Town needs to decide what it wants to be and would like the town to be in control of its zoning. Should be having a discussion about that.

Dennis Bercale stated that a clear idea and vision for the town is imperative. How many visitors? Overuse of the Park. Business vs. residential interests. Parking issues.

Martha Searchfield indicated that the Chamber of Commerce is a partner in the B&A study. It is regarded as the last best chance. This land will go to a private owner if we do not have this partner.

Luis Ajamil answered noise and lighting questions stating that they can either be controlled by ordinance or by contract and management process.

Darrin Collins, College of the Atlantic stated that there is a lack of vision and is worried about the impacts to the College. He is concerned about additional visitors. He is not impressed with other cruise ship locations. He questioned possible other owners. Other than cruise ship?

Mr. Nass indicated that MDOT is not in business to flip this property to another owner. They seek economic development interests. Looking for cruise ship uses.

Dessa Dancy asked about tax exempt considerations and how that reconciles with economic development? Mr. Nass noted that the Town would continue to collect passenger fees.

Ms. Dancy asked about tendering to the ferry terminal and when that might begin. Mr. Henshaw noted that the condition of the pier would not allow that to occur until there was a substantial investment in the pier. And he noted that the goal would be to construct a new cruise ship terminal not simply reconstruct what is there now.

The topic turned to the cruise ship budget and what the impact to the Town is from those fees. The fees were about $675,000 this year and will be $800,000 next year. It amounts to about 10% of the Town's gross budget. Cornell Knight ran through what the funds pay for: Harbor Master budget; sidewalk improvements of $90,000; Chamber of Commerce $52,000; comfort stations; wayfinding signs and more. All to be made up with property tax if the cruise fees were to go away.

It was stated that tendering is consistent with the current zoning language and there was no argument that for over 20 years it has been ongoing based on marina and ferry use language that is contained in the LUO.

Art Grief suggested that sovereign immunity is a topic that the Town should seek a legal opinion concerning. He noted that there is the "rule of reason" test. Mr. Grief stated that the Land Use Ordinance can impose rules on piers beyond the water concerning length, size and other factors. He indicated that berthing fees would not be affected moving from municipal pier to ferry terminal. He asked the MDOT position on this?

Mr. Nass indicated that the Town would be held whole is the concept. There has been some recent growth of passengers.

Luis Ajamil indicated that a range of future trends were discussed in the study from zero growth to the largest ships available. He noted that currently ships top out at 5,000 passengers.

Dan Gregory, West Street asked a question about the lease? Mr. Nass explained that there is not a lease yet but that the lease could be reassigned. He noted that the State does pay property taxes for the time being.

Dianne Vreeland noted that an investor will be driven by revenue. Mr. Nass discussed the risk assessment and that the investor will want certainty in order to be willing to make the investment. Ms. Vreeland asked if the investor would be building and running the terminal. Mr. Nass indicated that $20 - $30 million would be too much for MDOT to do. The investor would have a long term ground lease with the Maine Port Authority. It was noted that the improvements would be taxable.

Kristy _____ asked if the timeline would be no building for some time?

Luis Ajamil noted that many islands have transitioned from tendering to piers because it enhances the visitor experience.

Donna Karlson noted that the town is impacted by the visitors including but not limited to the ships. She is not opposed to visitors but is concerned about who we are as a town and how we attract visitors. The closeness of the pier and the size of the ships and the proposed length of the pier are a matter of scale. The community needs to be involved to discuss the size and aesthetic. She asked who sets the passenger caps and it was answered that the Town Council does so.

Elery Quinn expressed concern about the length of the proposed pier and the impact it would have on the town. Concerned that the town is losing its character.

Mr. Ajamil noted that the length of the pier is partly a function of dredge or not dredge.

Eben Salvatore reminded the group that the state of Maine is given a three year window to do this. If it is not done this site will be developed with something else and this opportunity will be lost.

Doreen Willit stated that this is a big part of the economy and that we need to look at how much we can take.

Ms. Vreeland discussed her conversations with weekly renters who have expressed disappointment with the downtown being crowded.

Dennis Brocale mentioned a law suit and made a comment that the Town Planner should be working on this question.

Mr. Grief noted that Bar Harbor is not comparable to New Brunswick. Without the terminal we already are overcrowded and traffic is congested.

Paul Paradis spoke about the history of this site. He cited the 2007 Comprehensive plan that encourages the redevelopment of the terminal which was voted on by the Town. The Town approached the state in 2009 citing concerns that the terminal would be lost. The B&A study researched the best path. The Town

Council has had this in its goals for years. MDOT and MPA need to know that the site can support the proposed use. The Planning Board can hopefully provide the assurances that the state and developers will need from the Land Use Ordinance. He noted that ownership by the town is a year or a year and a half to acquire and we may not have that much time. This is very impactful for the town.

Joe Cough asked about how the passenger fees are set. It was answered that the fees are set by the Council but are negotiated with the industry.

Barbara Fenderson discussed the cap on passengers and the leeway to the cap that is in the Harbormaster's authority. What happens to the caps and leeways if the terminal is constructed? Mr. Paradis stated that he does not know. It would be reviewed by the Cruise Ship Committee and the Council. The discussion is all conceptual at this point.

Mr. Paradis stated that the Maine Port Authority is making a decision on this and needs the Planning Board to send a message.

Mr. Cough thanked the attendees for their participation.

The Maine Department of Transportation and the Maine Port Authority want to be involved.

V. ADJOURNMENT

Mr. Fitzpatrick moved to adjourn the meeting at 4:59 pm. Mr. Cough seconded the motion. The Board voted four in favor and none against the motion to adjourn.

Signed as approved:

John Fitzpatrick, Secretary **Date**
Planning Board, Town of Bar Harbor

MEMORANDUM

DATE: OCTOBER 14, 2016

TO: BAR HARBOR PLANNING BOARD

FROM: ROBERT OSBORNE, PLANNING DIRECTOR

RE: FERRY TERMINAL LUO DISCUSSION

Planning Board role is to develop language for the Land Use Ordinance that guides uses and dimensional standards. In this case much of what is allowed or not is spelled out in Chapter 1000 Municipal Guide to Shoreland Zoning. Chapter 1000 calls out uses that are contemplated in the shoreland area as well as the dimensional standards that are the limits.

The Bar Harbor Planning Board has a request from Maine Port Authority to add a use to the existing districts, Bar Harbor Gateway and Shoreland General Development III districts. Initially staff presented language that would simply add the requested use and definition to the LUO.

The Planning Board and staff looked carefully at the question and discovered several issues: 1) The proposed defined use raised as many questions as it answered in part because of the fact that the use would apply to the entire zoning district(s). 2) The development standards of the current districts would not allow a development such as the one proposed in the B&A study. 3) The existing shoreland district does not expressly allow water dependent uses to be constructed in the water setback area.

The Board and staff reasoned that perhaps a well established definition from a major city would be worth looking at for the use. One model of interest was Seattle, Washington. They also had Staff review Chapter 1000 to see if there would be a different type of shoreland district that would be more appropriate. The result of that research was that the Maritime activities district was decidedly more workable as the model district for this use.

Of the questions received they fall into categories. 1) Those questions that are use specific and dimensional standard specific. 2) Those questions that are governance related and not typically part of a Land Use Ordinance. Of the following questions I would suggest that the critical ones for our discussion are:

- What level of jurisdiction does the municipality have over development and dimensional standards of maritime structures built on piers constructed below the high water line?
- How much can the site accommodate in terms of uses and parking?
- How much can the site accommodate in terms of marina and boat storage?
- How can Board members strike a balance between protecting neighboring uses and aesthetics and accommodating a broad range of potential uses?
- What use limitations can the Maine Port Authority/MDOT live with? Caps?

- Is a parking garage proposed for the site?
- Are there mechanisms that the Maine Port Authority can utilize to control nuisance issues so that they do not become zoning issues?
- What mechanism can be used to assure that the final outcome of the buildings and site development is attractive and appropriate?

Draft Order

Of the Bar Harbor Town Council
For the June 2017 Town Meeting

It is hereby ordered that the following article be placed on the special town meeting warrant with voting thereon to be held by Australian ballot.

Draft Warrant Article b

LAND USE ORDINANCE AMENDMENT – Shoreland Maritime Activities District – Shall an Ordinance dated x, 2016 and entitled "An amendment to create a new shoreland district entitled Shoreland Maritime Activities District and define "passenger terminal" use in the Land Use Ordinance" be enacted?

Shoreland Maritime Activities District

An amendment to create a new Shoreland Maritime Activities District at the ferry terminal site 121 Eden Street and define "passenger terminal" use.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is <u>underlined</u>.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE III Land Use Activities and Standards

<u>§ 125-49.3 Shoreland Maritime Activities District.</u>

<u>A. Purpose. The Shoreland Maritime Activities District seeks to support maritime activities related to the reuse of Bar Harbor Tax Map 231, Lot 004, the ferry terminal for both cruise ship and ferry activities. This district includes all land currently occupied by or suitable for active water dependent uses, taking</u>

into consideration: (1) Shelter from prevailing winds and waves; (2) Slope of the land within 250 feet, horizontal distance, of the shoreline; (3) Depth of the water within 150 feet, horizontal distance, of the shoreline; (4) Available support facilities including utilities and transportation facilities; and (5) Compatibility with adjacent upland uses.

B. Dimensional standards.

(1) Minimum lot size: None.

(2) Minimum road frontage and lot width: None.

(3) Minimum setback from shoreline: None.

(4) Minimum shore frontage: None.

(5) Minimum front setback: 50 feet (measured from centerline of Route 3).

(6) Minimum side 25 feet and rear setback: None.

(7) Maximum lot coverage: 70%.

(8) Maximum height: 35 feet.

C. Allowed uses.

(1) Principal uses allowed by building permit or a change of use permit from the Code Enforcement Officer: government facility and grounds, and temporary pier, dock, wharf, breakwater or other use projecting into the water.

(2) Accessory uses that are usual and normal to a principal use are allowed if they are typically permitted by the Code Enforcement Officer or site plan review for the district in which the use is proposed. Accessory uses are allowed by review of the same permitting authority that approved the principal structure.

D. Uses allowed by site plan. The following uses shall be permitted by site plan review Transportation Terminal, Permanent piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland that are water-dependent uses Essential services Parking facilities Marinas

E. Allowed activities.

(1) Non-intensive recreational uses not requiring structures such as fishing and hiking

(2) Emergency operations

F. Other requirements. (To be determined).

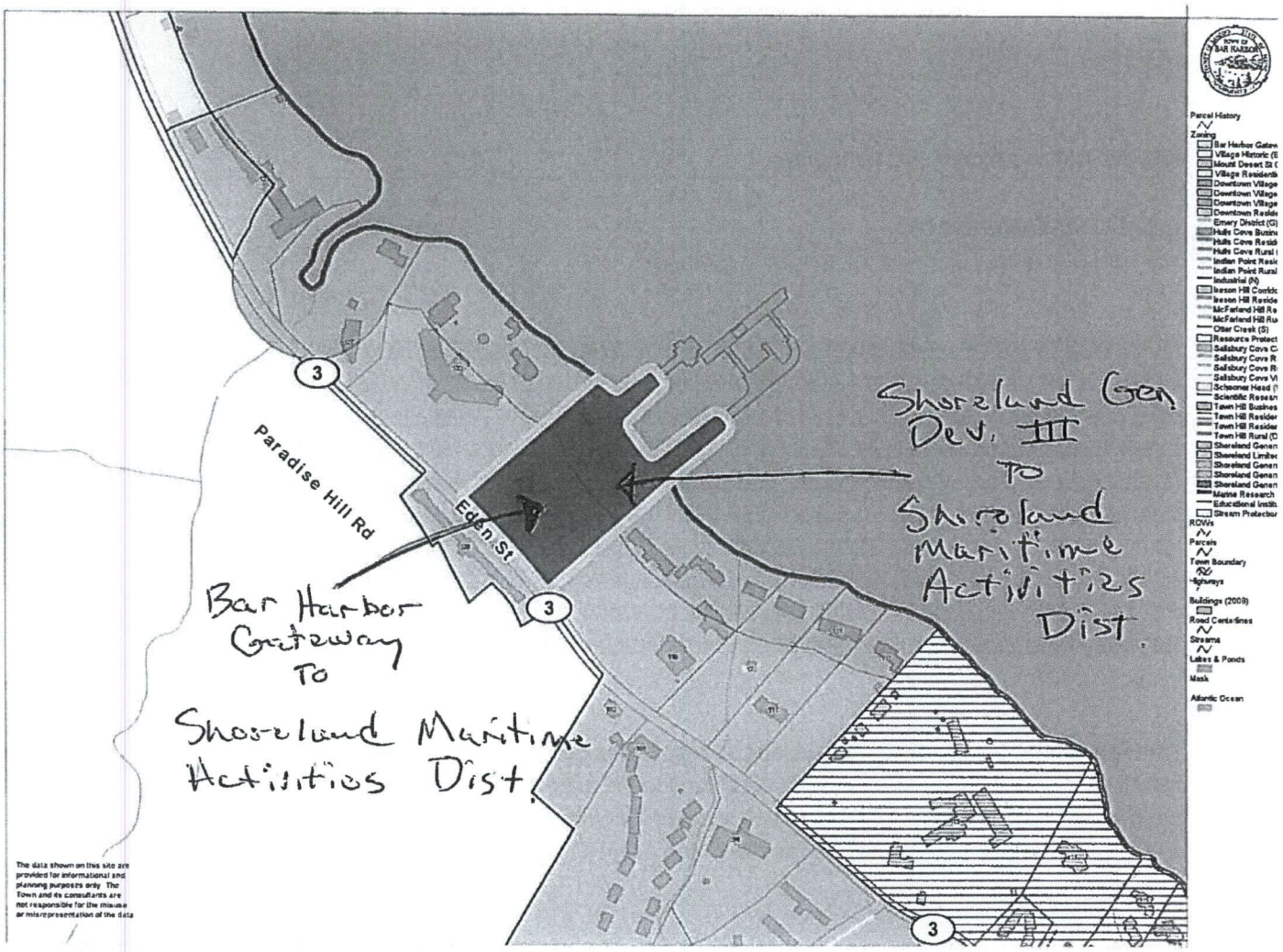
ARTICLE XII Construction and Definitions

§ 125-109 Definitions.

The following terms shall have the following meanings:

PASSENGER TERMINAL - A transportation facility where passengers embark on or disembark from carriers such as ferries, buses or planes that provide transportation to passengers for hire by land, sea or air. Passenger terminals typically include some or all of the following: ticket counters, waiting areas, management offices, baggage handling facilities, restroom facilities, shops and restaurants. A passenger terminal use on the waterfront may include moorage for cruise ships and/or vessels engaged in transporting passengers for hire. Activities commonly found aboard such vessels, whether moored or under way, that are incidental to the transport of passengers shall be considered -part of the passenger terminal use and shall not be treated as separate uses. Bus stops are not included in this definition. Also excluded is the use of sites where passengers occasionally embark on or disembark from transportation in a manner that is incidental to a different established principal use of the site.

EXPLANATION: Maine's Municipal Guide to Shoreland Zoning, Chapter 1000 allows municipalities to create a shoreland district on a single parcel of land to facilitate the uses and structures necessary for a deep water port. Thus the district proposed to cover the single parcel at 121 Eden Street. The dimensional standards proposed are compliant with Chapter 1000.



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Draft Order

Of the Bar Harbor Town Council
For the June 2017 Town Meeting

It is hereby ordered that the following article be placed on the special town meeting warrant with voting thereon to be held by Australian ballot.

Draft Warrant Article a

LAND USE ORDINANCE AMENDMENT – Minimum Area Per Family – Shall an Ordinance dated x, 2016 and entitled "An amendment to adjust minimum area per family in the Downtown Village I district and Downtown Village II district in the Land Use Ordinance" be enacted?

Minimum Area Per Family

An amendment to adjust the required minimum area per family within the Downtown Village I and Downtown Village II districts.

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE III Land Use Activities and Standards

§ 125-21 Downtown Village I.

B. Dimensional standards.
(1) Minimum lot size: 1,000 square feet.

(2) Minimum road frontage and lot width: 20 feet.
(3) Minimum front setback: zero feet.
(4) Minimum side setback: 25 feet on any side yard that abuts a residential or historic district; zero feet elsewhere.
(5) Minimum rear setback: 25 feet on any rear yard that abuts a residential or historic district; zero feet elsewhere.
(6) Maximum allowable lot coverage: 100%, exclusive of setbacks.
(7) Maximum height: 45 feet and within 15 feet of the front property line, the building height shall be no more than 35 feet. Beyond 15 feet of the front property line, the building may extend to a maximum height of 45 feet. The building shall contain no more than three stories above mean original grade unless the following conditions are met, in which case the building may contain a fourth story above mean original grade:
(a) An amount of space equal to the square footage of the floor area that extends above 35 feet is dedicated somewhere in the building for dwelling units only;
(b) These dedicated dwelling units shall be rented for periods of no fewer than 90 consecutive days; and
(c) The building must provide a minimum number of dwelling units (See Table 3.[2]) which qualify as affordable housing as defined or otherwise provided.
[2]Editor's Note: Table 3 is included as an attachment to this chapter.
(8) Minimum lot area per family: ~~750 square feet~~ NONE.

§ 125-21.1 Downtown Village II.

B. Dimensional standards.
(1) Minimum lot size: 1,000 square feet.
(2) Minimum road frontage and lot width: 20 feet.
(3) Minimum front setback:
(a) Ten feet for buildings up to 30 feet in height.
(b) Twenty feet for buildings over 30 feet and up to 45 feet in height.
(c) Ten feet for buildings up to 45 feet in height, provided that the portion of the building above 30 feet in height meets all three of the following conditions:
[1] The portion of the building which is above 30 feet in height shall be set back no fewer than 20 feet from the front property line;
[2] The dedicated dwelling units shall be rented for periods of no fewer than 90 consecutive days; and
[3] The building must provide a minimum number of residential units (See Table 3.[2]) which qualify as affordable housing as defined or as otherwise provided.
[2]Editor's Note: Table 3 is included as an attachment to this chapter.
(4) Minimum side setback: zero feet.
(5) Minimum rear setback: 20 feet for buildings on any yard that abuts a residential district; 10 feet for accessory structures and parking on any yard that abuts a residential district; five feet elsewhere.
(6) Maximum lot coverage:
(a) Ninety percent for buildings up to 30 feet in height.
(b) Eighty percent for buildings over 30 feet and up to 35 feet in height.
(c) Seventy percent for buildings over 35 feet and up to 45 feet in height.

(7) Maximum height: 45 feet and: within 15 feet of the front property line, the building height shall be no more than 35 feet. Beyond 15 feet of the front property line, the building may extend to a maximum height of 45 feet. The building shall contain no more than three stories above mean original grade unless the following conditions are met, in which case the building may contain a fourth story above mean original grade:
(a) An amount of space equal to the square footage of the floor area that extends above 35 feet is dedicated somewhere in the building for dwelling units only;
(b) These dedicated dwelling units shall be rented for periods of no fewer than 90 consecutive days; and
(c) The building must provide a minimum number of dwelling units (See Table 3.[3]) which qualify as affordable housing as defined or otherwise provided.
[3]Editor's Note: Table 3 is included as an attachment to this chapter.
(8) Minimum lot area per family: ~~750 square feet~~ NONE.

EXPLANATION: The term minimum area per family is a metric utilized to require a certain number of square feet of land area for each dwelling unit or "family" on a lot within the Town. The proposed change would eliminate the minimum area required per family requirement in the Downtown Village I and Downtown Village II districts in order to facilitate construction of additional dwelling units in the location with the most demand. These districts already allow between 75 percent to 100 percent lot coverage (building and pavement). The anticipated visual impact of this amendment: The Land Use Ordinance would allow an additional story (floor) of apartments.