

# AGENDA TOPIC 10.

TO: Mayor & City Council  
FROM: Wayne Marshall, Project Planner, Code & Planning  
DATE: July 27, 2021  
RE: Second Reading - Proposed Ordinance Amendments Regarding Multi-Family Housing

## RECOMMENDED ACTIONS

The Belfast City Council conducted the First Reading of the Ordinance amendments included in this proposal at its meeting of July 6, 2021. The focus of the amendments address multi-family concerns, and were recommended to the Council by the Belfast Planning Board. The Council did not identify any revisions to the amendments presented at First Reading. Thus, the draft Ordinance language presented at the Second Reading is the same as the language presented at the First Reading.

I am recommending that the Council take the following actions on the amendments at the August 3 Second Reading.

**Recommended Action # 1:** The proposed amendments involve 5 different sections of current City Ordinances, including specific amendments to 6 current zoning districts. I recommend the Council provide me an opportunity to describe the substance and purpose of the proposed amendments, and to explain why the Planning Board chose to support the amendments. I also can respond to questions from the Council.

**Recommended Action # 2:** The Council should conduct the scheduled and duly advertised public hearing. I note that as of the date I wrote this memorandum, I had not received any public comment in writing or via email.

**Recommended Action # 3:** This is the Second and final reading of the proposed amendments. The Council should vote to accept, reject, revise or table any or all of the proposed amendments. As this proposal involves amendments to 5 different sections of City Ordinances, I am recommending that the Council adopt individual motions for each of the sections affected by the amendments. Draft language for the proposed motions are as follows:

**Motion # 1:** The Council, after conducting a public hearing and Second Reading of amendments to Chapter 102, Zoning, Article V, District Regulations, Division 3, General Purpose-B, Division 13, Searsport Avenue Waterfront, Division 26, Route 141 & Mill Lane Commercial, Division 27, Route 137 Commercial, Division 28, Route One South, and Division 29, Searsport Avenue Commercial, votes to APPROVE, REJECT, REVISE, OR

TABLE (Identify preferred action) the proposed amendments. (Note - If you choose to revise the amendments you will need to identify specific revisions).

**Motion # 2:** The Council, after conducting a public hearing and Second Reading of amendments to Chapter 102, Zoning, Article IX, Performance Standards, Division 7, Supplemental Performance Standards for Multi-Family Dwelling Structures and Units, votes to APPROVE, REJECT, REVISE OR TABLE (Identify preferred action) the proposed amendments. (Note - If you choose to revise the amendments you will need to identify specific revisions).

**Motion # 3:** The Council, after conducting a public hearing and Second Reading of amendments to Chapter 102, Zoning, Article IX, Performance Standards, Division 6, Accessory Dwelling Unit Standards, votes to APPROVE, REJECT, REVISE OR TABLE (Identify preferred action) the proposed amendments. (Note - If you choose to revise the amendments you will need to identify specific revisions).

**Motion # 4:** The Council, after conducting a public hearing and Second Reading of amendments to Chapter 98, Technical Standards, Section 98-242, Parking Standards, votes to APPROVE, REJECT, REVISE OR TABLE (Identify preferred action) the proposed amendments. (Note - If you choose to revise the amendments you will need to identify specific revisions).

**Motion # 5:** The Council, after conducting a public hearing and Second Reading of amendments to Chapter 66, General Provisions, votes to APPROVE, REJECT, REVISE OR TABLE (Identify preferred action) the proposed amendments. (Note - If you choose to revise the amendments you will need to identify specific revisions).

### **BACKGROUND INFORMATION ON THE STEP 1 AMENDMENTS IN THIS PROPOSAL**

The City has made amendments to the zoning districts located inside-the-bypass as well as for the Office Park and Route 3 Commercial zoning districts to create more opportunities for multi-family housing. For example, the October 2014 amendments to the Residential 2 and Residential 3 zoning districts created the opportunity for both the Developers Collaborative and Realty Resources affordable housing projects for older adults on Wight Street (50 total units) that are now under construction, and the proposed Developers Collaborative project (48 units) located at the former City Public Works property that now has Planning Board approval and which is awaiting potential funding. While zoning changes do not guarantee that new projects will occur, well conceived zoning standards will create opportunities for new housing development that previously may not have been available.

The Belfast Planning Board has recently been considering a series of amendments to many of the current zoning districts to expand on the past efforts identified above to try and create more opportunities for multi-family housing. The Board discussed the proposed amendments at its meetings of February 10, April 7, May 26, June 9, and June 23, and conducted a public hearing at its meeting of May 26 on the amendments now being recommended to the Council. The Board, at its meeting of June 9, voted to forward its first series of amendments (Step 1) to the Council for First Reading and potential action, and is continuing to work on a second series of amendments (Step 2) that could affect overall land use and zoning for Belfast's 'rural' area.

The draft Ordinance language presented at the Second Reading is the same as was presented to the Council at your First Reading (July 6), and I presented all of the Background Information described below in my memorandum to the Council for the First Reading. The following summary describes each of the 5 categories of Step 1 amendments now being recommended by the Planning Board. .

- 1) **Chapter 102, Zoning, Article V, District Regulations.** The Board is recommending amendments to 6 current zoning districts, including: Searsport Avenue Waterfront (SAW), Searsport Avenue Commercial (SAC), Route 141 & Mill Lane Commercial (Rte 141), Route 137 Commercial (Rte 137), Route One South Commercial (ROS), and General Purpose B (GP-B). The attached zoning map identify the boundaries of these 6 zoning districts. The amendments would implement the following major changes:
  - 1.1 The amount of multi-family housing that could be constructed on a property that is connected to public sewer would increase in 5 of the above zoning districts; SAW, SAC, Rte 141, Rte 137, and ROS. The current standard is 6 units/acre. The new standard would be 19 units/acre (6 units on the initial 1/2 acre and 1,500 sq. ft for each additional unit), which is consistent with past standards supported by the Planning Board and adopted by the Council. Many properties in these 5 zoning districts have access to public sewer. I note that this standard does not require all units to be located in one building or to construct a large project. For example, a property owner could choose to locate 4 four-plexes on an acre of ground, or to construct a single tri-plex.
  - 1.2 In 2 of the above districts, SAC and Rte 137, multi-family housing would be permitted on a property that uses a subsurface wastewater disposal (septic) system to manage wastewater. The recommended density standards are 4 units for the initial acre and 1 additional unit for each additional 1/4 acre. Public sewer is not as available in these 2 zoning districts as it is in the other districts (SAW, ROS, and Rte 141). Allowing multi-family on a subsurface system is a significant policy change for the City.
  - 1.3 In 3 of the districts, SAW, Rte 141, and ROS, all multi-family must occur on a property that is connected to public sewer. The Board chose to adopt this standard because all properties in the ROS district have access to public sewer, in the SAW district all but the properties on High View Terrace have access to sewer, and in the Rte 141 zone, the Board concurred with Department staff that the Mill Lane area (that does not have access to sewer) is not a good candidate for multi-family housing.

- 1.4 The Board, as recommended by Department staff, is forwarding amendments for the General Purpose B (GP-B) zoning district that would eliminate the current standard that allows multi-family housing if a property is connected to public sewer. The Board notes that much of the GP-B zone is within the flight path of the Belfast Airport, and that the City should not encourage or allow significant amounts of new housing in this area until the City decides how to regulate land use activities near the airport. Policy statements in the 2009/2012 Future Land Use Plan/Comp Plan that the State just found was consistent with requirements of the State Growth Management Act (State approval) recommends that the City establish an airport overlay district for this area. Lastly, there are limited opportunities for connection to public sewer in this area.
  - 1.5 None of the proposed amendments affect the boundaries of any existing zoning districts.
  - 1.6 The amendments involve a series of other changes to the above zoning districts, some of which are largely formatting approaches to the respective district standards, while others typically fall into the 'clean-up' category of changes. Rather than trying to describe each change, I believe it would be best for me to try and answer any specific questions.
- 2) **Chapter 102, Zoning, Article VIII, Supplementary Regulations, Division 7, Performance Standards for Multi-family Housing.**
- 2.1 First, this is a completely new section of the Zoning Ordinance. Division 7 includes Performance Standards that are specific to the regulation of multi-family housing.
  - 2.2 The most critical element of the new standards involve the regulation of subsurface systems for multi-family housing; reference Sec. 102-1343 (pages 2 - 6) of the proposed amendments. The Board, after much discussion, chose to recommend that multi-family housing be permitted on a subsurface system, an approach that typically has been prohibited by City Ordinances. In making this recommendation, the Board also supported the need for better quality regulation of the larger size subsurface systems that often would be required for a multi-family housing project.
- The Department's approach was to prepare standards for the design, installation, and maintenance of subsurface systems that are more strict than current State Subsurface System requirements for a multi-family system (State allows locally adopted stricter standards). I believe the proposed standards are well founded and should provide greater assurances that a larger size subsurface system can work. While the genesis for this approach is particularly associated with the upcoming Step 2 amendments for Belfast's 'rural' area now under consideration by the Board, they also would apply to the 2 zoning districts, SAC and Rte 137, that would allow multi-family housing on a subsurface system.

2.3 The standards, Sec 102-1344 (pages 6 & &), identify access/driveway management regulations that are patterned after the ones the City adopted for detached accessory dwelling units. A key provision of these standards is to require an on-site turn-around for vehicles for all properties that are located on a road on which the posted speed limit is greater than 31 mph.

3) **Chapter 98, Technical Standards (Parking Requirements)**

Section 98-242 of the Technical Standards identifies the parking requirements for uses in Belfast. The Board chose to re-examine the current on-site parking requirements for multi-family housing, particularly in light of the recent development reviews they conducted for the Realty Resources and Developers Collaborative projects on Wight Street, and the Developers Collaborative project proposed for the former Public Works property.

The Board is recommending to reduce current on-site parking requirements based on a formula that considers both the number of units in the multi-family building and the number of bedrooms in the units. In general, smaller projects would require slightly more parking spaces/unit, and the amount of on-site parking/unit would decrease for larger projects. I presented a potential revised on-site parking formula to the Board at their meeting of June 9, and they asked that we 'test-drive' this approach compared to the amount of on-site parking the Board approved for the Developers Collaborative project on Congress St. The Developers Collaborative project includes 5 buildings with varying number of units in each building, a mix of 1, 2, and 3 bedroom units in the respective buildings, as well as a mix of affordable and market rate housing. Bub Fournier performed the requested calculations and found that the amount of on-site parking the Board approved for that project was nearly identical to that which would be required by the proposed new formula.

In short, the Board, believes the new formula makes sense. The Board also notes that the current Chapter 98 parking standards provide the Board some flexibility in considering the specific number of parking spaces required for a project; meaning that opportunities to tweak on-site parking space requirements for a specific development project remain.

4) **Chapter 66, General Provisions (Definitions)**

The Board is recommending a number of amendments to current definitions associated with housing standards. I would encourage the Council to read through the proposed revised definitions to see if you have any specific questions.

5) **Chapter 102, Zoning, Article VIII, Supplementary District Regulations, Division 6, Performance Standards for Detached Accessory Dwelling Units.**

The Council adopted the Performance Standards associated with this amendment in 2018. I am now coming forward with a very straight-forward but necessary 'clean-up' amendment. In short, the citations (Section numbers) that I used in 2018 for the amendment need to be

changed to comply with the overall numbering system used in the Ordinance. Thus, the main purpose of these amendments is to correct a past error.

There is 1 other minor change to the actual standards. The Board is recommending to make the standard at which an on-site vehicle turn-around be required the same for detached accessory dwelling units as is now being proposed for multi-family structures. Thus, the current requirement, 40 mph, would be reduced to 31 mph or greater.

I believe all of the proposed amendments are consistent with past amendments recommended by the Board and adopted by the Council, and that the amendments are generally consistent with direction in the City's adopted Comprehensive Plan.

## **STEP 2 - PLANNING BOARD APPROACH TO BELFAST 'RURAL' AREA**

At the Council's July 6 meeting I made a brief presentation on the 'Step 2' amendments regarding multi-family housing now being considered by the Planning Board. These amendments likely would affect all of the current zoning districts located in Belfast's 'rural area', including the Residential Agricultural I (RA-I), Residential Agricultural II (RA-II), Protection Rural 1 (PR-1), Protection Rural 2 (PR-2), Residential Growth (RG), General Purpose A (GP-A), and part of the Airport Growth (AG) zoning districts. While the above amendments are not a subject of the August 3 Second Reading and public hearing, I am again making note of these proposals so that the Council and public have initial information regarding the ongoing work of the Planning Board and the potential for additional amendments soon being presented for public consideration through the Planning Board and City Council public hearing processes.

Following is a synopsis of amendments now being considered by the Planning Board. Information regarding the draft changes can be found on the City website, [cityofbelfast.org](http://cityofbelfast.org), reference the planning and codes link, Multi-family Housing Ordinance Update - 2021. The Board likely will next be discussing the proposed amendments at its meeting of August 11.

- 1) The RA-I, RA-II, GP-A, and PR-1 zoning districts, as well as the Residential Growth (RG) district, would be completely eliminated, as would portions of the Residential II and Airport Growth districts.
- 2) All of the zoning districts described in clauses 3) to 7) below would allow tri-plexes and four-plexes that use a subsurface system to manage wastewater, however, the minimum lot sizes and density for such may vary in some of the zoning districts.
- 3) The City would create the Residential 4 zoning district, as outlined in the Future Land Use Plan, for the area located near Crocker and Marsh Road. The intent of this zoning district would be to create opportunities for residential growth. This area also would allow larger sized multi-family housing development (more than tri-plex or four-plex) if the development is connected to public sewer.

- 4) The City would create a specific zoning district for the area on Route 3 from near Edgecomb Road to the Belfast/Belmont town line. The district likely would allow destination type nonresidential uses (e.g. small offices, service businesses, auto repair and such), but would prohibit most retail sales activities and restaurants (drive-by uses). This district would be similar in purpose to the Rural Road Class 1 district identified in the 2009 Plan.
- 5) The City would create the Swan Lake Avenue Small Scale Mixed Use district for the area along Rte 141/Swan Lake, from Holmes Green House to near the Smart Road, similar to the area identified in the 2009 Plan. Multi-family housing connected to public sewer would be allowed at greater density; public sewer is available on Rte 141 to the area near the Back Searsport Rd.
- 6) The City would create the Outside Rural 1 zone that would include most of the rural land area in Belfast. This area would mostly would allow residential and agricultural uses, larger scale home occupations, and limited types of nonresidential use. The minimum lot size in this area likely would be around 2 acres with 200 feet of road frontage. This proposed zone would be similar to the Rural Road Class 2 area identified in the 2009 Plan.
- 7) In a limited number of areas in the rural area, the City would consider creating the Outside Rural 2 zone. This zone would allow residential development on smaller lot sizes, perhaps an acre, in areas where the current development pattern is smaller size lots. An example of such would be along the beginning of the Back Belmont Road, along Edgecomb Road, and perhaps along the Smart Road. This area is not specifically identified in the 2009 Plan.
- 8) In most of the Outside Rural area, the City would prohibit most uses that rely on drive-by traffic, such as retail sales and restaurants. There are only a handful of such uses in the Outside Rural area today. The Board is considering an approach that would recognize the existing uses, such as Belfast 52 Variety, Bowen's Tavern, and Out-of-the-Box, and create spot zoning that would allow such to continue and expand.
- 9) Along Robbins Road, the City would implement a zoning district similar to the Residential 1 zoning district recommended in the 2009 Plan to replace the current GP-A zone. I note that most of this area also is located in the Urban Residential Shoreland Zone that restricts uses to residential uses, but which allows smaller lot sizes than the GP-A zone. The intent would be to make the lot size and uses allowed the same for the main (underlying) zoning district and the Urban Residential Shoreland (overlay) district. In implementing this approach, I have suggested that the City create an exception for the only nonresidential use in the zone, Lewis Baker's auto body repair facility; an approach that is similar to the one identified in 8) above for the Outside Rural area.

The Board also has supported my recommendation to increase the minimum amount of Shore frontage required for a lot in the Urban Residential Shoreland District from the current 50 feet to 100 feet. The current 50 foot standard is problematic in that it allows lot divisions along the shore that do not make sense. I note that this change also would affect

other areas in Belfast that are in the Urban Residential district, mostly along Bay View Street, and on Fairview Street (near Young's Lobster Pound).

The Planning Board, at its upcoming meetings, will be continuing to review the boundaries, permitted uses and lot size requirements for the proposed new districts, as well as considering performance standards that would apply to development in these areas. As such, I again want to emphasize that the approach I outlined above is still fluid, and that to date, the Board has not conducted a public hearing on any of these proposals. Implementing an approach similar to the one noted above is a major undertaking. Also, undertaking this overhaul of current zoning district standards at this time while development of a new comprehensive plan is underway may raise some concerns. That said, I believe pursuing this approach at this time makes more sense than simply tweaking the current standards for the affected zoning districts to address multi-family housing issues.

I will do my best to address any questions and to convey any direction that you may have to the Board.