

To: Ordinance Review Committee  
From: Mark Eyerman  
Subject: Multifamily Housing  
Date: February 25, 2022

Here is a start on possible revisions to the Land Use Ordinance to accomplish four things:

1. Eliminate the need for duplicative review of multifamily housing by amending the subdivision provisions to exempt multifamily housing from subdivision review as long as it is subject to review under the site plan review provisions.
2. Remove the requirement that multifamily developments with more than one building conform to the cluster or open space development standards.
3. Update the performance standards for new multi-family dwellings
4. Create a density bonus for affordable multifamily housing

### **Subdivision Review**

In 2018 the state Subdivision Law was amended to exempt multifamily housing from subdivision review if the project is subject to site plan review. The exemption provision was revised in 2019 to read:

**Division of new or existing structures.** Beginning July 1, 2018, a division of a new or existing structure into 3 or more dwelling units whether the division is accomplished by sale, lease, development or otherwise in a municipality where the project is subject to municipal site plan review.

A. For the purposes of this subsection, "municipal site plan review" means review under a municipal ordinance that sets forth a process for determining whether a development meets certain specified criteria, which must include criteria regarding stormwater management, sewage disposal, water supply and vehicular access and which may include criteria regarding other environmental effects, layout, scale, appearance and safety.

B. The municipal reviewing authority in each municipality shall determine whether a municipal site plan review ordinance adopted by the municipality meets the requirements of paragraph A.

To take advantage of this provision, the City will need to make the following amendments to the Land Use Ordinance:

- Revise 14.3 Applicability to add language exempting multifamily housing from subdivision review if it is subject to site plan review in accordance with 6.2.3.2.5 or 6.2.3.3.5

### **Cluster/Open Space Linkage**

We can uncouple multifamily housing from the open space development requirements by simply deleting 10.16.3.4. As part of this we should review and update the performance standards for multifamily housing – see the next section.

## **Multifamily Housing performance Standards**

Sections 10.6.3 and 10.16.4 establish additional standards for both new multifamily housing and for the conversion or expansion of multifamily housing. The strict application of these standards create significant obstacles to the development of multifamily housing via new construction, the conversion of nonresidential buildings to housing or the expansion of existing multifamily housing. So here are some thoughts on how we might look at possible revisions to these standards:

- Multifamily housing is subject to the dimensional requirements of the district in which the structure is located. This includes standards for lot size/density, frontage, height, and setbacks. So the first thing we should probably do is look at how the dimensional standards apply to multifamily housing in each district and decide if there is a need for any special or additional dimensional standards for multifamily housing
- Section 10.16.3 exempts multifamily housing in the Downtown Area or Cobbossee Corridor District from many of the additional standards. We should think about what is appropriate district by district if there is a need for additional standards
- All new or expanded multifamily housing is subject to either Planning Board Review or Site Plan Review. Section 6.5.1 sets out general standards that all new or expanded multifamily housing must meet. Section 6.5.2 sets out additional standards that multifamily projects that create 5 or more units must meet. So a key question is are there things that are not covered in these standards that need to be addressed in the multifamily performance standards. The current standards in 10.16.3 address road frontage, side setbacks, rear setback, parking, trash receptacles, and open space. The Planning Board and Site Plan Review standards do not address any of these requirements explicitly. Here is an overview of these factors:
  - *Parking* - The parking standards of 11.4.5 provide for a range of required parking spaces based on the type/size of a dwelling unit. It also provides flexibility in the downtown area and CC District. The district specific design standards address the location of parking in most districts. So additional parking requirements for multifamily housing in 10.16.3 are not needed.

- **Setbacks** – The multifamily housing standards increase the side and rear setbacks to 30 feet in most zones. This essentially prohibits multifamily use (even 3 unit buildings) on narrow lots (and see frontage below). Are increased setbacks necessary? If so maybe they should be tied to the scale of the building so that as the size of the structure increases the minimum setback increases.
- **Frontage** – The multifamily standards require that a lot on which multifamily housing is located must have a minimum of 200 feet of road frontage. This precludes the conversion of an existing structure to multifamily use in most of the City except downtown and in the CC District. And the combination of the frontage and side setback requirements makes it difficult to develop a lot in a way that is compatible with most of the built-up areas in the City. Do we need expanded frontage requirements with reasonable side setbacks and the district specific standards?
- **Trash Receptacles** – 10.16.3.8 requires the provision of common trash receptacles (aka dumpsters). Is this needed?
- **Open Space** – 10.16.3.9 requires the provision of 1,000 sf of open space per unit except in the downtown and the CC District. This can be a yard, garden or playground. This is probably a reasonable requirement especially for larger projects. Maybe this should only apply to new construction and not conversions and to larger projects – maybe 10 or more units.

## **Affordable Housing**

As everyone is aware, the ordinance creates a density bonus for developments that use the open space development provisions. The state recently had a committee looking at affordable housing and local land use regulations. I will send out the report of the committee. One of the recommendations is that communities be required to create density bonuses that would allow affordable housing at 2.5 times the density allowed for other housing. Obviously this could have a significant impact on the City since multifamily housing is already allowed at higher density in a number of zones. But we will have to wait and see if these recommendations move forward in the legislature and if so what the outcome is.

The City could take a couple of approaches with respect to the affordable housing density bonus. One would be to leave the current bonus in place until we see what the legislature does with the affordable housing recommendation or as an alternative simply remove it from the ordinance for now. Or the City wants to move forward with

addressing the possibility of revising the bonus here are two questions to think about to restart the discussion:

1. Does the City need to provide a “density bonus” to encourage the provision of affordable housing?
2. And if so how should it apply and where?

***Need for a Density Bonus*** – The concept behind density bonuses is that they make projects more viable from a financial perspective since they allow costs for things like land, utilities and site improvements to be spread out over a larger number of units so the per unit cost is reduced. Using land cost as an example, if you purchase a lot for \$100,000 and can build say 4 units on it, the land cost is \$25,000 per unit. But if you can build six units on the lot (a 50% bonus) the land cost per unit drops to \$16.667 per unit. Or if it costs say \$60,000 to bring sewer to the lot, the per unit cost drops from \$15,000 to \$10,000 per unit in this example. And the argument is that these savings add up making affordable housing more financially viable.

The City already allows multifamily housing which includes most affordable housing at relatively high densities. There is no maximum density in the TD to allow for full utilization of upper stories. In the CC the density can be as much as 35 units per acre. In many of the other “residential districts” multifamily housing is allowed at a base density of 6-8 units per acre with increased density for smaller units (see Note 9 in dimensional table). In a number of the districts multifamily housing is allowed at significantly higher density than single family development. So a fundamental question is whether these currently allowed densities are reasonable to accommodate multifamily affordable housing or does an additional incentive need to be provided via a density bonus.

***Density Bonus Considerations*** – If the City wants to consider an affordable housing density bonus to allow higher densities than currently allowed, here are some considerations:

- **Affordability** – In talking about affordable housing, the typical measure is the affordability of the units versus the ability of households with a certain percentage of the area-wide median household income to pay. Often this is characterized as 60% of median equals Very Low Income, 80% equals Low Income, and 100% or 120% equals Moderate Income. In terms of a density bonus the City might consider using the 80% of median as the basis for determining affordable housing
- **Locations** – In general, the locational standards for most of the subsidized or tax credit programs for multifamily affordable housing call for locations that are

close to services. If the City creates a revised affordable housing density bonus it might make sense to apply this to the RG, PR, PD, MUV, and CPD Districts. The other intown districts already allow high density development.

- Amount of Bonus – To influence the provision of affordable housing, the bonus needs to be significant enough to impact the cost of the housing. The City might consider something in the range of a 25 to 50% bonus or for every four affordable units 1 or 2 additional units. This would keep the density in the districts outlined above within a reasonable range.
- Duration of Affordability – A bonus provision needs to address the issue of how long do the units need to remain affordable. It might make sense to require that provisions be established to maintain the affordability of the units for the longer of say 40 years or the duration of any state or federal program involved in the financing of the units. This would need to have binding restrictions in place including periodic reporting to assure continued affordability if the units are not part of a financing program.
- Size of the project – Assuring affordability over the long-term will require periodic oversight by the City especially if housing is not part of government financing programs that includes oversight provisions. So it might make sense to limit a density bonus to somewhat larger projects (maybe a minimum of 10 units) to avoid the administrative burden of having to keep track of smaller projects.