MEETING POSTING
TOWN OF NANTUCKET

Pursuant to MGL Chapter 30A, § 18-25
All meeting notices and agenda must be filed, and time stamped with the Town Clerk's Office and posted at least 48 hours prior to the meeting (excluding Saturdays, Sundays, and Holidays)

RECEIVED
2024 SEP 06 AM 11:00
NANTUCKET TOWN CLERK
Posting Number:T 815

Committee / Board	**AFFORDABLE HOUSING TRUST**
Day, Date, and Time	**TUESDAY, September 10, 2024 @ 12:30 PM**
Location / Address	**REMOTE PARTICIPATION *VIA* ZOOM (*See Below*)** **THE MEETING WILL BE AIRED AT A LATER TIME ON THE TOWN'S GOVERNMENT TV YOUTUBE CHANNEL AT** **https://www.youtube.com/channel/UC-sgxA1fdoxteLNzRAUHIxA**
Signature of Chair or Authorized Person	**Ellis Ramos** **Housing & Real Estate Department Office Manager**
WARNING:	**IF THERE IS NO QUORUM OF MEMBERS PRESENT, OR IF MEETING POSTING IS NOT IN COMPLIANCE WITH THE OML STATUTE, NO MEETING MAY BE HELD!**

AGENDA FOR 09-10-24
Please list below the topics the chair reasonably anticipates will be discussed at the meeting.

PLEASE CLICK ON FOLLOWING LINK TO JOIN ZOOM MEETING:
Join Zoom Meeting
https://us06web.zoom.us/j/89282277139?pwd=KkELxhOz6GnuFZ7a1wIvn8d5n9ZXsR.1
Meeting ID: 892 8227 7139
Passcode: 933445

I. Call to Order

II. Approval of Agenda – ACTION

III. Public Comment *for items not listed on the agenda.*

IV. Approval of Minutes – ACTION

- August 6, 2024

V. Affordable Homes Act - UPDATE

VI. Special Town Meeting Housing Articles Review – UPDATE

VII. Year-Round Deed Restriction Pilot Program – DISCUSSION/ACTION

VIII. Other Business

<u>Next Meetings</u>

September 13, 2024, at 11:00am

October 1, 2024, at 12:30pm

IX. Board Comments

X. Executive Session, Pursuant to MGL C. 30A § 21(A)

1. Approval of Executive Session Minutes of February 21, 2023; March 21, 2023; July 25, 2023; August 22, 2023; August 29, 2023; September 5, 2023; September 19, 2023; October 31, 2023

2. Purpose 6: To Consider the Purchase, Exchange, Lease, or Value of Real Property Regarding 8C Thirty Acres, where an Open Meeting May have a Detrimental Effect on the Negotiating Position of the Affordable Housing Trust Members and the Chair so Declares

3. Purpose 6: To Consider the Purchase, Exchange, Lease, or Value of Real Property Regarding 10 Parker Lane and 55 Fairgrounds Road, where an Open Meeting May have a Detrimental Effect on the Negotiating Position of the Affordable Housing Trust Members and the Chair so Declares

4. Purpose 6: To Consider the Purchase, Exchange, Lease, or Value of Real Property Regarding 15A Park Circle, where an Open Meeting May have a Detrimental Effect on the Negotiating Position of the Affordable Housing Trust Members and the Chair so Declares

5. Purpose 6: To Consider the Purchase, Exchange, Lease, or Value of Real Property Regarding 20 Pine Grove Lane, where an Open Meeting May have a Detrimental Effect on the Negotiating Position of the Affordable Housing Trust Members and the Chair so Declares

6. Purpose 6: To Consider the Purchase, Exchange, Lease, or Value of Real Property Regarding 31 Dartmouth Street, where an Open Meeting May have a Detrimental Effect on the Negotiating Position of the Affordable Housing Trust Members and the Chair so Declares

XI. Adjourn

AGENDA PROTOCOL

For all Town of Nantucket Boards, Committees, Commissions, Work Groups, Councils and Trusts (herein collectively referred to as "Committees" in this document)

Roberts Rules: Town of Nantucket Committees follows Roberts Rules of Order to govern its meetings as per the Town Code Charter.

Public Comment: Public Comment is to bring matters of public interest to the attention of the Committees. At the Committee's discretion, matters raised under Public Comment may be directed to Town Administration and/or appropriate departmental staff, or may be placed on a future agenda, allowing all viewpoints to be represented before the Committee takes action, if any. Except in emergencies, the Committee will not normally take any other action on Public Comment in its sole discretion.

To facilitate that any individual who wishes to provide Public Comment has the opportunity and to ensure the ability of the Committee to conduct its business in an orderly fashion, the following rules and procedures are adopted consistent with the United States Constitution and the Massachusetts Declaration of Rights.

> The agenda for regular Committee meetings will include a Public Comment period at the beginning of the meeting unless there is more urgent business for the Committee to take up first. This time is reserved for speakers to address the Committee on matters that are not related to any other Agenda item. If a speaker wishes to address the Committee on a matter that is related to another Agenda item, the Chair will accept public comment when that Agenda item is reached during the meeting.
>
> All speakers are encouraged to present their remarks in an orderly and peaceable manner, without disruption to other speakers.
>
> All remarks will be addressed through the Chair of the meeting.
>
> The Chair of the meeting may not interrupt speakers who have been recognized to speak, except that the Chair reserves the right to terminate speech which is not protected under the United States Constitution and the Massachusetts Declaration of

Rights because it constitutes true threats, incitement to imminent lawless conduct, or engages in conduct that disrupts other speakers.

Each speaker may not exceed three (3) minutes during any Public Comment portion of the meeting.

Disclaimer: Public Comment is not a time for debate or response to comments by the Committee. Comments made during the Public Comment period do not reflect the views or positions of the Committee. Because of free speech principles, the Committee does not have authority to prevent all speech that may be upsetting and/or offensive made during the Public Comment period.

Unanticipated Business: Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting may be brought up for discussion in accordance with the Open Meeting Law.

Public Participation: The Committee welcomes valuable input from the public at appropriate times during the meeting with recognition from the Chair at their sole discretion. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Committee Members may have questions on the clarity of the information presented. The Committee will hear any staff input and then deliberate on a course of action.

Committee Report and Comment: Individual Committee Members may have matters to bring to the attention of the Committee during a meeting. If the matter contemplates action by the Committee, Committee Members will consult with the Chair and/or appropriate Town officials or employees in advance and provide any needed information by applicable Committee deadlines and/or schedule the matter for a future Committee meeting. Otherwise, except in emergencies, the Committee will not normally take action on Committee Comment.

Approved: March 27, 2024

APPROVAL OF THE AUGUST 6TH MEETING MINUTES

NANTUCKET AFFORDABLE HOUSING TRUST

~~ MEETING MINUTES ~~

TUESDAY, August 6, 2024.

Remote Meeting via Zoom– 12:30pm

Trust Members: Brian Sullivan (Chair), Abby De Molina, Meg Browers, Forest Bell, Shantaw Bloise-Murphy, Penny Dey, Tom Dixon

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ATTENDING MEMBERS: Forest Bell, Tom Dixon, Meg Browers, Abby De Molina, Brian Sullivan and Penny Dey
STAFF IN ATTENDANCE: Kristie Ferrantella (Housing Director), Ellis Ramos(Housing and Real Estate Office Manager) Rachel Field (Property Manager for the Town), Lee Smith (Town Counsel)
SPEAKERS IN ATTENDANCE: Judi Barrett (Barrett Planning, LLC) , Stephen Maury(13 /13A Woodland Drive developer)

I. Call to Order
Brian Sullivan called this meeting to order at 12:38 p.m.

II. Approval of Agenda – ACTION

III. Public Comments for Items Not Listed on the Agenda
Kristie Ferrantella welcomed Abby De Molina to the Affordable Housing Trust Fund.
Penny Dey thanked Dave Iverson for all his years of service on the Affordable Housing Trust.

IV. Approval of Minutes – ACTION
• July 30, 2024
Penny Dey made a MOTION to approve the meeting minutes for the July 30 meeting. Meg Browers seconded this motion.

ROLL CALL of those participating:

1. Forest Bell – Aye
2. Meg Browers – Aye
3. Tom Dixon – Aye
4. Penny Dey – Aye
5. Abby De Molina – Aye
6. Brian Sullivan – Aye

V. Announcements
• Housing Department review of Strategic Plans - Housing Goals at Select Board Meeting on August 7, 2024, at 5:30 p.m.
Kristie Ferrantella said that this has changed since posting the agenda. She was originally supposed to present the update on housing strategic plan goals to the Select Board at the July meeting, but that got delayed due to Vinyard Winds. She said they rescheduled it for the 7th, and that got delayed once again. When it gets rescheduled, she will make sure to let the Trust members and the public know.

VI. Election of Officers – DISCUSSION/ACTION
• CHAIR
• CO-CHAIR

Penny Dey made a MOTION to nominate Brian Sullivan as the Chair of the Affordable Housing Trust. Tom Dixon seconded this motion.

ROLL CALL of those participating:

1. Meg Browers – Aye
2. Penny Dey – Aye
3. Tom Dixon – Aye
4. Abby De Molina – Aye
5. Forest Bell – Aye
6. Brian Sullivan – Aye

Brian Sullivan was elected Chair of the Affordable Housing Trust Fund.
Meg Browers volunteered to be the Vice-Chair of the Affordable Housing Trust.
Penny Dey also volunteered to be the Vice-Chair of the Affordable Housing Trust.

Brian Sullivan took a vote by roll call of those in favor of Meg Browers being the Vice-Chair of the Trust.

ROLL CALL of those participating:

1. Abby De Molina – No
2. Meg Browers – Aye
3. Tom Dixon – No
4. Forest Bell – No
5. Penny Dey – No
6. Brian Sullivan – No

Brian Sullivan took a vote by roll call of those in favor of Penny Dey being the Vice-Chair of the Trust.

ROLL CALL of those participating:

1. Abby De Molina – Aye
2. Meg Browers – No
3. Tom Dixon – Aye
4. Forest Bell – Aye
5. Penny Dey – Aye
6. Brian Sullivan – Aye

Penny Dey was elected Vice-Chair of the Affordable Housing Trust Fund.

VII. Discussion of a Deputy Housing Director Position – DISCUSSION/ACTION
Kristie Ferrantella said that housing is number one on the strategic plan for the Select Board. She said the office has been growing as they've focused on affordable and municipal housing, advocacy efforts around the Transfer Fee, and other projects. She said when she stepped into this role, it was very apparent that she needed some support in this position.

Kristie Ferrantella said that she had a discussion with the Town Manager and the Finance Department about hiring a Deputy Housing Director, but there will be several years before Town Administration has the funds for this position. She said that Brian Turbitt's recommendation was to ask the Trust to allocate a portion of the $6,500,000 override towards funding this position. She has spoken with Lee Smith and John Georgio about how this may work, and they are still figuring out the mechanics. The idea at the moment is that the Trust would give the Town a grant to cover the employment expenses for this person to assist the Housing Office with all its projects.

Kristie Ferrantella said she wanted to bring this request for funding before the Trust. She has a job description that has been approved by the union, and she is going through all the due diligence.

Tom Dixon made a MOTION to approve the request for funding for the Deputy Housing Director position as presented by Kristie Ferrantella. Forest Bell seconded this motion.

ROLL CALL of those participating:

1. Forest Bell – Aye
2. Meg Browers – Aye
3. Penny Dey – Aye
4. Tom Dixon – Aye
5. Abby De Molina – Aye
6. Brian Sullivan – Aye

VIII. Presentation by Stephen Maury on a Proposal for a Housing Development at 13 and 13A Woodland Drive – DISCUSSION

Stephen Maury said that as a preliminary matter he wanted to clarify that this is not a proposal, but just a discussion that he also intends to have with other audiences to see if this is moving in the direction of a proposal that could be supported by the community at large. He said the goal in his pursuit of this property for the past two years has been to align with the Housing Production Plan, which identified these two sites (13 and 13A Woodland Drive) as suitable locations to explore for housing development. He said he is looking to produce community housing for first responders, firefighters, teachers, healthcare professionals, and the police. He mentioned that he has spoken with attorneys and while it's not easy to restrict property to certain occupations, there are ways to do so.

Stephen Maury shared a presentation with the Trust, including quotes from the Police Chief, Fire Chief, School Superintendent, and other community members seeking housing support from the Town. He said he will bring this to the September Town Meeting in the form of two articles: one zoning article and one sewer map change proposal article. He intends to engage in a discussion about whether this is the type of housing development that the community can support.

Stephen Maury shared a GIS map of the sites in question and said they are cleaning up the site to make it suitable for housing development. They are working on traffic circulation and other details, but those discussions will occur later at the Planning Board level. He clarified that the intention is not to connect the Richmond development to Skyline Drive, but there is an option to have traffic circulate from Harvey Road and a bit of Clay Street into the property, which is within the rights of these private property owners and the Town of Nantucket.

He shared a slide with a picture of the entrance of the development on Woodland Drive, noting that there is an open space planned for public green space. He said this is a small-scale development, from one story to one and a half stories, compared to the Trustworthy Sachem's Path, and parking is around each pocket neighborhood. He said the development will have 40 units, including one-, two-, and three-bedroom units, which is the maximum achievable under the R5 zoning with the Flex development slots. He mentioned that granting those bonus slots is at the purview of the Planning Board, HDC, and sewer negotiations, among other things he is still working out. He plans to record a deed restriction on the property that any dwellings would be limited to year-round occupancy, which would take effect upon the zoning change. It’s too soon to say if it could limit affordability because of the timing of construction.

Forest Bell asked Stephen Maury how he intends to give essential workers the “first look” at the development and how he would prevent others from having the first look. Stephen Maury said that initially, he thought he could restrict the sale of the units to people holding certain occupations, but he was advised that this might create liability for them and future owners when they sell the property. By “first look,” he meant advertising in places where people holding those occupations would see it before others and possibly even place an offer.

Brian Sullivan asked Stephen Maury about the level of affordability he is discussing: is it 100% AMI or below, or accessible and attainable up to 240% AMI? Stephen Maury said that under the current terminology, "accessible and attainable" would be more appropriate.

Penny Dey said that she applauds what he is trying to do but would support it if it were in an area that didn’t require a zoning change. She also asked why 13A is zoned R20 and 13 is zoned LUG2. Stephen Maury explained that there were title concerns in the past with the 13A section, so it was pulled out from the original subdivision, and the property owner never added it back in.

Some discussion followed.

Abby De Molina said that this was reviewed by the Planning Board as one of the articles, and they recommended taking no action, as did the Finance Department. She said although she appreciates what he wants to do, making a large zoning change is something the community is not comfortable with at this time.

Some discussion followed. Abby De Molina mentioned that since the Planning Board recommended taking no action, it would take a 2/3 vote to pass at the Annual Town Meeting. However, if someone makes a positive recommendation at Town Meeting, it could pass by majority vote because it is a housing article and Nantucket is a Housing Choice community.

Stephen Maury clarified that the Planning Board’s recommendation was to not adopt, meaning that if the article did not pass, it could not be presented again for two years.

Some discussion followed.

Feedback from Community Members

Suzanne Daub said that she has lived on Skyline Drive for 40 years and that most of the residents are year-round residents. She said they have been surrounded by issues over the past few years that they were not expecting. The residents of these neighborhoods would want to hear more about traffic circulation, how the sewer will affect them, whether the proposed green space will be maintained, and how many cars they are expecting with the density of 40 units.

Arthur Gasbarro said it has been made very clear that the intent is good, but the site is not appropriate. It’s in the Country Overlay District and lacks proximity to public transportation. He said that if the Trust were to support this, the access is to Woodland Drive, which means a lot of traffic will be dumped onto Old South Road and Surfside Road. The conversation about traffic needs to happen before any decision is made.

Mathew Peel said that he sits on the Surfside Neighborhood Association, which voted unanimously against this development. He commends the effort but agrees with others that this is not the right site for it.

Meghan Perry highlighted concerns about dense developments and whether it's best for the community. She said that these specific properties were brought to two members of the Affordable Housing Trust a few years ago, and they said at that time it was not of interest, so she finds it odd that it would be of interest now.

Brian Sullivan clarified that when the property was brought to the Trust, the purchase price was deemed too expensive for development and considering all the other issues.

Jay McConnell said he has lived on Woodland Drive for over 30 years, with about 12 houses on the street, totaling approximately 24 to 50 cars. Adding the proposed 40 homes would add another 100 cars, according to the 100 parking spots shown in the proposal. He said more cars would eventually spill onto Skyline Drive, which recently had updates due to PFAS. He mentioned that the roads in that area are not meant to handle that much traffic, there are no sidewalks, and Airport Road is not paved, so it's unsafe for year-round kids to ride their bikes. He said if the town wants to create the housing it says it needs, it should create the infrastructure to support it.

Brian Sullivan thanked Stephen Maury for the presentation and said that the Trust would follow up with thoughts and questions in the future.

IX. Year-Round Deed Restriction Pilot Program – DISCUSSION/ACTION

Kristie Ferrantella said this has been on the agenda for several months as they are trying to finalize the guidelines for the year-round deed restriction pilot program. She said there was a lot of feedback from the July 9 meeting where they addressed a significant number of questions from the community. Judi Barrett worked them into a new version of the guidelines, and now she is looking for final feedback.

Judi Barrett asked, "Why exclude blood relatives from the program?" She said Kristie's spreadsheet indicates that most programs do, but she thought the Trust was not comfortable with that decision.

Brian Sullivan said that at this moment they will hold it out of the pilot program because they received feedback from the Finance Department to postpone it for now.

Penny Dey said she understands keeping it out of the pilot program but wouldn't completely rule it out for the future.

Judi Barrett asked if local businesses could apply for the program, and they said that as long as the tenant is a year-round employee with a year-round lease.

Judi Barrett's next question was, "Can developers apply if they are building homes for sale or rent for local workers?" Brian Sullivan said they would like to keep that out of the pilot program because they are focusing more on individual owners.

Some discussion followed.

Judi Barrett asked if homeowners would get the appraisal, or if the Trust would do it. She said the Finance Director suggested the Town should get an independent appraiser.

Penny Dey said they should keep it as easy as possible for homeowners, and getting and paying for an appraisal could be a stumbling block for some of them.

Some discussion followed.

Brian Sullivan suggested that the application could include an estimate value from homeowners versus a licensed appraisal value, giving homeowners the opportunity to establish the value for themselves.

Judi Barrett asked if the Trust would be managing the program in-house. Kristie Ferrantella said the Housing Office would manage the pilot program.

Some discussion followed.

Judi Barrett asked if the deed would restrict future developments on the site or if the homeowner could request that. Brian Sullivan said these are unique scenarios, and if the deed restriction is on the property, it would remain on the property. If additional units are created within the zoning, the restriction would apply to those units as well.

Judi Barrett asked if the Trust wants to keep it at one restriction per homeowner. Brian Sullivan said yes, since they are looking to support individual property owners rather than someone with multiple units.

Judi Barrett asked if the Trust would consider a different resale value that prevents the price from being dependent on interest rates. She mentioned that Truckee and California have programs that allow for a 3% increase. Brian Sullivan said his initial reaction is not to deviate from the EOHLC model at this time. The board agreed with Brian Sullivan.

Some discussion followed.

Kristie Ferrantella said the next steps would be for Judi Barrett to finalize the guidelines, and once ready, she will distribute them to the Trust members. Similar to the RFP process, there will be an application for homeowners going through the Finance Department. She asked the Trust if they would like this added to the August 20 meeting with the final guidelines.

Brian Sullivan said yes, if that is the fastest way to proceed.

Some discussion followed.

X. Other Business
• Next Meeting:

- August 20, 2024
- September 17, 2024

Penny Dey suggested changing the September 17 meeting because it is the same day as the Special Town Meeting. Kristie Ferrantella said she will check with Town Administration if there is a Zoom option available for September 10. The Board agreed to change the September 17 meeting to September 10.

XI. Board Comments
No Board comments.

XII. Executive Session, Pursuant to MGL C. 30A § 21(A)
• Purpose 6: To Consider the Purchase, Exchange, Lease, or Value of Real Property Regarding 8C Thirty Acres Lane, where an Open Meeting May have a Detrimental Effect on the Negotiating Position of the Affordable Housing Trust Members and the Chair so Declares.

• Purpose 6: To Consider the Purchase, Exchange, Lease, or Value of Real Property Regarding 21 Fairgrounds Road, where an Open Meeting May have a Detrimental Effect on the Negotiating Position of the Affordable Housing Trust Members and the Chair so Declares.

• Purpose 6: To Consider the Purchase, Exchange, Lease, or Value of Real Property Regarding 71 Surfside Road, where an Open Meeting May have a Detrimental Effect on the Negotiating Position of the Affordable Housing Trust Members and the Chair so Declares.

Tom Dixon made a motion to adjourn open session to move to executive session, not to return to open session, for the purpose of considering the purchase, exchange, lease, or value of real property where an open meeting may have a detrimental effect on the negotiating position of the Affordable Housing Trust Members, and the Chair so declares. Penny Dey seconded this motion.

ROLL CALL of those participating:

1. Penny Dey – Aye
2. Tom Dixon – Aye
3. Meg Browers – Aye
4. Forest Bell – Aye
5. Abby De Molina – Aye
6. Brian Sullivan – Aye

XIII. Adjourn
This meeting was adjourned at 2:34 p.m.

AFFORDABLE HOMES ACT UPDATE

AFFORDABLE HOUSING ACT SIGNED INTO LAW

On August 6, 2024, Governor Healey signed the $5.16 billion Affordable Homes Act into law, addressing housing challenges across Massachusetts. Notably, the bill introduces a Seasonal Communities Designation, acknowledging the unique housing issues faced by municipalities, like Nantucket, with substantial seasonal economies and vibrant vacation home markets.

The Affordable Homes Act includes several new policies

Legalizing accessory dwelling units (ADUs) by right.

Implementing eviction record sealing protections.

Establishing a foreclosure mediation pilot program.

Creating an Office of Fair Housing.

Streamlining the use of state-owned land for housing.

Creating a Seasonal Communities Designation.

Key benefits for Seasonal Communities

Establishing a year-round housing trust fund without the home rule process.

Acquiring year-round housing occupancy restrictions to support the development of a middle-income year-round housing market.

Acquiring and developing housing units specifically intended for public employees and artists.

Increasing the residential property tax exemption up to 50% for primary homes of year-round residents.

Adopting bylaws or ordinances enabling the construction of tiny houses and units on undersized lots, designated as year-round housing.

The bill did not include the Local Option Real Estate Transfer Fee, a critical funding source for Nantucket, which we will continue to strongly advocate for to ensure sustainable funding for affordable housing initiatives.

An Act Relative to the Affordable Homes Act

August 13, 2024

On August 6, 2024, the Governor signed into law Chapter 150 of the Acts of 2024, "An Act relative to the Affordable Homes Act" (the "Act"), which amends the Zoning Act, G.L. c. 40A, in significant ways. This eUpdate highlights certain significant provisions. Due to the Act's emergency preamble, all of the below changes are now law, except for the new ADU requirements in Section 8 of the Act, described below, which will take effect on February 2, 2025, 180 days following the date on which the Act was enacted.

1. Accessory Dwelling Units

One of the most significant provisions of the Act is the creation of a statewide definition of Accessory Dwelling Units ("ADU") and the establishment of uniform rules governing the creation of ADUs. The Act will soon make Accessory Dwelling Units "as of right" every city and town. The new provisions in the Act supersede any inconsistent local bylaws already in existence, although the ADU "as of right" provision will not be in effect until February 2, 2025, 180 days following the date on which the Act was enacted into law.

(a) New Definition of ADU. Section 7 of the Act replaces the definition of Accessory Dwelling Unit found in G.L. c. 40A, § 1A. Specifically, the Act:

- Removes the ability of cities and towns to impose owner occupancy requirements on ADUs or their principal dwellings;
- Affirms the ability of municipalities to regulate, or prohibit short-term rental of, ADUs; and
- Clarifies that the square footage reference in the definition applies to gross floor area.

Municipalities may consider reviewing their zoning bylaws or ordinances to determine whether the existing definition of an ADU is inconsistent with the new definition.

(b) ADUs As of Right. Section 8 of the Act amends G.L. c. 40A, § 3 to allow ADUs as of right in single-family residential zoning districts subject only to reasonable regulations including, but not limited to, site plan review, dimensional setbacks, restrictions on the bulk and height of structures, and restrictions on and prohibition of short-term rental ADUs. Specifically, Section 8 prohibits zoning bylaws and ordinances from:

- Imposing owner occupancy requirements for either the ADU or the principal dwelling; and
- Imposing parking requirements in excess of one parking space per ADU, except that, when an ADU is located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, no parking spaces may be required.

Section 8 does provide, however, that a special permit may be required for more than one ADU, or rental thereof, in a single-family residential zoning district. The Act authorizes the Executive Office of Housing and Livable Communities ("EOHLC") to issue guidelines or promulgate regulations relative to "as of right" ADUs, although it is uncertain whether, or when, EOHLC may take such action.

As noted above, Section 8 of the Act, providing for ADUs as of right in single-family residential zoning districts, will not take effect until February 2, 2025. Prior to that date, inconsistent municipal zoning bylaws or ordinances will remain in effect and be applicable to the permitting of ADUs. After February 2, 2025, however, zoning bylaws or ordinances inconsistent with Section 8, or enforcement thereof, may be subject to challenge. Cities and towns may wish to take advantage of this delayed effective date to consider revising existing bylaws or ordinances conflicting with Section 8.

2. Merger of Lots Under Common Ownership

Section 10 of the Act preserves the buildable status of certain lots owned in common by exempting them from the doctrine of merger. When two nonconforming lots come into common ownership, case law provides that the two lots will "merge" to eliminate or reduce the zoning nonconformities. Section 10 of the Act amends G.L. c. 40A, § 6 by prohibiting the merger, for zoning purposes, of adjacent lots under common ownership if, at the time of recording or endorsement, the lots:

(i) conformed to then existing requirements of area, frontage, width, yard or depth, where each such lot has not less than 10,000 square feet of area and 75 feet of frontage; and

(ii) are located in a zoning district that allows for single-family residential use.

As a condition of receiving this new protection from the merger doctrine, and, in turn, the increase in value afforded to buildable lots, Section 10 requires that any single-family residential structure constructed on a lot protected by Section 10's new exemption shall not exceed 1,850 square feet of heated living area, shall contain not less than 3 bedrooms and shall not be used as a seasonal home or short-term rental. In creating these rules, the General Court is converting qualifying lots to buildable status while simultaneously imposing permanent restrictions that could, it appears, create a permitting environment favorable to development of so-called "starter homes".

3. Zoning Appeals

(a) Particularized Injury for Standing. Section 11 of the Act revised G.L. c. 40A, § 17 limiting the types of appellants who will be eligible to establish standing to challenge local zoning determinations. Specifically, Section 17 requires that a complainant who is not an original applicant, appellant or petitioner in a zoning matter at the local level must "sufficiently allege and must plausibly demonstrate that measurable injury, which is special and different to such plaintiff, to a private legal interest that will likely flow from the decision through credible evidence." The requirement that appellants demonstrate a particularized injury establishes a higher standard for persons seeking to file lawsuits challenging zoning decisions.

(b) Higher Bonds Authorized for Appeals. Section 12 of the Act further revised G.L. c. 40A, § 17 by empowering judges to require plaintiffs to post sureties or cash bonds of not more than $250,000, rather than $50,000 when appealing a decision approving a special permit, variance or site plan. The bond, intended to secure the payment of, and to indemnify and reimburse, damages, costs and expenses incurred in such an action, can be imposed if the court finds that the harm to the defendant or to the public interest resulting from delays caused by the appeal outweighs the financial burden of the surety or cash bond on the plaintiffs. The court must consider the relative merits of the appeal and the relative financial means of the plaintiff and the defendant. Notably, if a court finds bad faith or malice in the filing of a complaint, the bond may then be increased further to include costs and reasonable attorneys' fees.

4. Veteran Preference for Affordable Housing

The Act inserts a new G.L. c. 40A, § 18, which allows a municipality, in specific circumstances, to negotiate with a housing developer or residential development owner to include a preference for affordable housing for low- or moderate-income veterans. This option is available only to municipalities that permit or adopt:

- inclusionary zoning;
- incentive zoning;
- a density bonus ordinance or bylaw; or
- a housing production plan submitted to EOHLC.

The so-called veteran preference can include up to 10 percent of the affordable units in a particular development. Importantly, the preference will not affect a municipality's ability to receive credit for affordable housing purposes, such as inclusion on the Subsidized Housing Inventory ("SHI").

It is critical to recognize that municipal zoning bylaws or ordinances will need review on a case-by-case basis to determine the impacts of the Act, if any. Where the scope of this law is far reaching, and where it is anticipated that further guidance may be issued by the EOHLC, we expect that additional analysis will be needed. We will, of course, monitor any developments and inform you of the same.

Please contact Attorney Amy E. Kwesell (akwesell@k-plaw.com) or your KP Law attorney at 617.556.0007 with any specific questions.

SPECIAL TOWN MEETING
HOUSING ARTICLE

ARTICLE 9: Zoning Bylaw Amendment: Apartment Community

PLANNING BOARD: Moved to take NO ACTION

FINANCE COMMITTEE: Supports Planning Boards motion

Purpose: To allow the planning board the ability to issue a special permit for an apartment community for year-round housing in any zoning district except for Commercial Industrial District (CI) and Moorlands Management District (MMD). This is to incentivize the creation of year-round and relatively accessible housing opportunities with higher density and lower price points.

- Minimum lot size 10,000 sq ft
- 100% of the units have to be owner occupied. No leases less than 1 year.
- 25% restricted to 240 AMI or below
- Short term rentals prohibited.

YEAR-ROUND DEED RESTRICTION PILOT PROGRAM

Nantucket Affordable Housing Trust Fund
Pilot Year-Round Housing Restriction Program Guidelines

The Nantucket Affordable Housing Trust (NAHT) is offering a pilot program to create year-round housing as described in these Program Guidelines. The purpose of this program is to provide housing stability, security, and affordability for people living or working year-round on Nantucket. Toward that end, the NAHT will offer a financial incentive to Nantucket property owners to place a permanent deed restriction limiting the sale or rental of their homes to year-round resident residents of Nantucket. The NAHT will hold the deed restriction, in perpetuity, on behalf of the Town of Nantucket.

The NAHT has determined that investing public funds in this program is necessary for the quality of life in Nantucket and the well-being of its residents. Due to Nantucket's international recognition as a desirable place for owning a seasonal or vacation home, there is not enough housing that is both affordable to and available for purchase or rent by people who make the town a true community: those who work for the Town and other employers on the island, the small businesses that provide services to year-round residents, seasonal residents, and visitors, and the civic volunteers and retired residents who live here full-time.

Today, the Town of Nantucket and other local employers have job vacancies they cannot fill due to the shortage of reasonably priced housing available for purchase or rent. Although participation in the Nantucket Year-Round Housing Pilot Program is not limited to people who currently work full-time in Nantucket, it is designed to create year-round housing opportunities now to provide housing for the island's current and future workforce.

During the effective period of Pilot Program period, the AHT's total investment in year-round restriction purchases shall not exceed $2,000,000.

Basic Program Requirements

Program Administrator
Nantucket Affordable Housing Trust (NAHT)

Eligible Participants
Applicants must meet the following requirements in order to be eligible to participate in the Program:

1. Existing or prospective year-round property owners with a total household income not exceeding the household income limits established by the AHTF; and
    - A Nantucket Employee as defined in these Guidelines; or
    - Currently a Year-Round Resident of Nantucket and contributing to the Nantucket community by serving on a town board/committee, volunteering with a local non-profit or community-based organization, participating in the town's art/cultural scene, or providing a similar benefit to the community; or
    - A Year-Round Resident unable to work or who does not have a work history due to qualifying for disability as defined by the Americans with Disabilities Act (ADA).
2. The owner of a Nantucket Employer Establishment, provided the unit will be occupied by a Nantucket Employee as defined in these Guidelines and the employee occupies the unit under a year-round lease.

Year-Round Resident
In this program, year-round resident means a household living in Nantucket for a minimum of 10 months in any 12-month period.

Nantucket Employee
The term “Nantucket Employee” includes any of the following:

- A year-round resident employee working on Nantucket who works at least 30 hours per week, on average, on an annual basis or earns 75% of his or her income and earnings by working for a Nantucket employer establishment; or
- A year-round resident who derives income from self-employment whose business is in Nantucket, or
- A non-resident who has accepted a full-time job offer from a Nantucket employer establishment and is searching for housing in Nantucket.

For purposes of this definition, a person who works primarily on a “remote” basis shall not count as a Nantucket Employee. Remote work is a flexible work arrangement in which an employee, under a written remote work agreement, is scheduled to perform work at an alternative worksite and is not expected to perform work at the employer’s worksite on a regular and recurring basis.

Nantucket Employer Establishment

A public, non-profit, or private employer whose place of business is in Nantucket and where paid employees provide services or conduct commercial or industrial operations on Nantucket.

Nantucket Year-Round Housing Deed Restriction

The Program requires a deed restriction to be recorded with the Nantucket County Registry of Deeds or, if registered land, filed with the Nantucket Registry District of the Land Court, to preserve the land and building(s) thereon as a year-round residence. The restriction can be sold to the AHTF by existing property owners or created during the acquisition of a property by a year-round resident. Existing homeowners would be able to collect a certain percentage of their current equity by placing a year-round restriction on their property.

Term of Restriction

The deed restriction is perpetual and runs with the property and all future resale transactions. The property must remain the primary residence of the Eligible Participant and any future buyer. Eligible Participants agree to recertify their eligibility as an Eligible Participant annually.

Maximum Household Income

Year-round residents occupying a deed-restricted property shall have total household income that does not exceed 240 percent of the Nantucket County Area Median Income (AMI) Limits, adjusted for size, established by the U.S. Department of Housing and Urban Development (HUD). The following chart contains the maximum household income limits that apply to the program.

2024 Income Limits

Household Size	50% AMI	100% AMI	175%	240% AMI
1	$53,600	$107,200	$187,600	$257,280
2	$61,250	$122,500	$214,375	$294,000
3	$68,900	$137,800	$241,150	$330,720
4	$76,550	$153,100	$267,925	$367,440
5	$82,700	$165,400	$289,450	$396,960
6	$88,800	$177,600	$310,800	$426,240

*Calculation of 100%, 175%, and 240% AMI is based on the 50% income limits set annually by the U.S. Department of Housing and Urban Development (HUD).

Income eligibility shall be determined by the NAHT or the NAHT's designated agent.

Maximum Affordable Purchase Price of The Property

The maximum affordable purchase price refers to the price affordable for a year-round resident household whose income does not exceed the Maximum Household Income. In no event shall the resale price of a deed-restricted home exceed the home's market value. Based on 2024

Income Limits at 240% AMI, the maximum affordable purchase price for a single-family dwelling is approximately $1.2 million and for a condominium, approximately $912,000. The maximum affordable purchase price will fluctuate based on prevailing interest rates and other factors.

Incentive for Increased Affordability

The Program Administrator may provide additional funding to a first-time homebuyer in the form of a purchase price buydown to create a year-round unit affordable to Eligible Participants with annual household income not exceeding 175% AMI. The buydown assistance will be secured by an affordable housing deed restriction that incorporates all the provisions of the Nantucket Year-Round Resident Deed Restriction in addition to a resale price capped at an amount affordable to households with income not exceeding 175% AMI.

Eligible Properties

Eligible properties shall include detached single-family homes, condominiums, townhouses, or duplexes taxed as residential real estate in the Town of Nantucket, not encumbered by any other restriction, right of first refusal, or any type of land use regulatory restriction that would conflict with the purposes of the Nantucket Year-Round Housing Program. For homes with an existing mortgage, the mortgage lender will be required to accept a subordination agreement establishing the Year-Round Restriction as the superior claim against the property.

Occupancy Requirement

An Eligible Participant must occupy the deed-restricted year-round unit as their primary residence, i.e., living and working in Nantucket at least 10 months in any 12-month period, or if retired, living in Nantucket at least 10 months in any 12-month period. The occupant may be the property owner or a tenant as long as the occupant is a Year-Round Resident and an Eligible Participant as defined in these Guidelines.

Short-Term Rental Prohibition

No dwelling unit on a deed-restricted year-round property shall be used as a short-term rental as defined in Chapter 123 of the Town of Nantucket Code.

AHTF Payment

The AHTF's payment for a year-round deed restriction shall be the minimum necessary to achieve the Program's purposes but in no event more than 20 percent of the market value of the home.

Annual Recertification

The Occupant of a year-round restricted unit must certify their eligibility as a Year-Round Resident annually.

Future Resale

The Program Administrator shall approve all future buyers. A waitlist of Eligible Participants will be maintained by the AHTF.

Application; Processing

Application may be made by:

- The current property owner/year-round resident who wishes to convey a year-round deed restriction to the AHTF, subject to a negotiated payment;
- The year-round resident/homebuyer who is negotiating a purchase-and-sale ((P&S) agreement with an owner willing to accept payment for the restriction at the point of sale.

The Program Administrator will review and render a decision within 21 business days of receipt of a complete application from an Eligible Participant. Upon notification of approval, the Eligible Participant will execute a deed restriction purchase agreement with the AHTF.

Other

The following conditions and limitations shall apply to the Program:

1. Existing property owners interested in participating in the Program should consult with a qualified financial advisor or an attorney about the potential tax or estate implications of conveying a year-round deed restriction to the AHTF.
2. The Eligible Participant may not own any other residential real estate at the time of purchase or for the period during which the Eligible Participant owns the property.
3. Inter-family transfers of a dwelling that is subject to a Year-Round Deed Restriction are expressly prohibited.
4. Property with an existing Right of First Refusal is not eligible for the Program.
5. The Eligible Participant owning a deed-restricted dwelling may rent other dwellings on the restricted property provided the other dwellings are also rented to year-round residents as that term is defined in these Program Guidelines.
6. Applications may be denied based on the physical condition of the proposed property, location within a coastal zone or floodplain, concerns with the purchase agreement, or a determination that the deed restriction purchase is not in the best interest of the Town.
7. These Guidelines are subject to change and changes are binding upon the applicant.
8. The availability of funding from this Program is subject to appropriation by Nantucket Town Meeting and housing market conditions.

Application
Nantucket Year-Round Housing Restriction Program

Applicant Information:

9. Applicant's Name:

First Name	Last Name

10. Present Address:

Street and Street Number		
Town	State	Zip

Email	Phone

11. Are you currently employed on Nantucket?

☐ Yes ☐ No

12. If not, which if the following applies to you, the Applicant:

☐ I have accepted a full-time, year-round job on Nantucket and I am looking for housing

☐ I am an existing year-round resident and I plan to continue living in my home as a year-round resident after the deed restriction is approved by the Town and recorded with the Nantucket County Registry of Deeds

☐ Other (please explain):

13. What entity is or will be your full-time employer, if applicable? Please provide employer name, address, and contact information:

Property Information:

14. Address of Nantucket Property to be Year-Round Restricted

____

Street and Street Number

____

15. Unit Type:

☐ Single-Family
☐ Condominium
☐ Townhouse
☐ Duplex
☐ Single-Family with additional units on the property, e.g., accessory or tertiary dwelling units
☐ Other (Explain):
____
____

16. Characteristics:

Number of Bedrooms:	
Number of Bathrooms:	
Number of Parking Spaces:	
Heating System/Fuel:	

Applicant Type:

17. Do you own this property or are you purchasing it?

☐ Existing owner ☐ Purchaser

18. If you are the Purchaser, have you entered into a Purchase and Sale Agreement?

☐ Yes ☐ No

19. If yes, what is the Contract Price?

$
____

20. If yes, by what date do you need a decision?

____

21. If you are the existing property owner, is there a mortgage or other lien against the property?

☐ Yes ☐ No

Please explain:

____

____

22. Is there a Right of First Refusal on the property?
☐ Yes ☐ No

23. Is there an existing Homeowners Association?
☐ Yes ☐ No

24. Do you intend to live on the Property as a year-round resident of Nantucket?
☐ Yes ☐ No

Applicant Signature:
I/we certify that all information and statements provided in this Application are complete and truthful, and that I am providing or will provide the documentation required for the Program to review and act on this Application.

Applicant's Signature	Date

Additional Information Required:

Application must be accompanied by the following documentation in order to be considered a complete application:

Evidence demonstrating that you are an existing year-round resident (e.g., property tax bill, utility bill showing the property address and ownership, purchase and sale agreement if application is submitted by prospective homebuyer):

- Documentation of Nantucket employment, where applicable
- Affidavit signed by the property owner, certifying that there are no known code violations on the property
- Appraisal prepared by a qualified appraiser with a current license from the Massachusetts Board of Registration of Real Estate Appraisers. The Affordable Housing Trust reserves the right to commission an independent appraisal of the property.
- Documentation of Annual Household Income, including all adult members of the household
- Most recent federal income tax returns (two years), including Form 1040 and all associated forms and schedules
- Pay stubs
- Bank statements demonstrating regular income
- Documentation (e.g., determination letters) for other sources, such as Social Security, SSDI
- Verification letter for pension or annuity