

## DRAFT EXISTING LAND USE

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### Key Findings

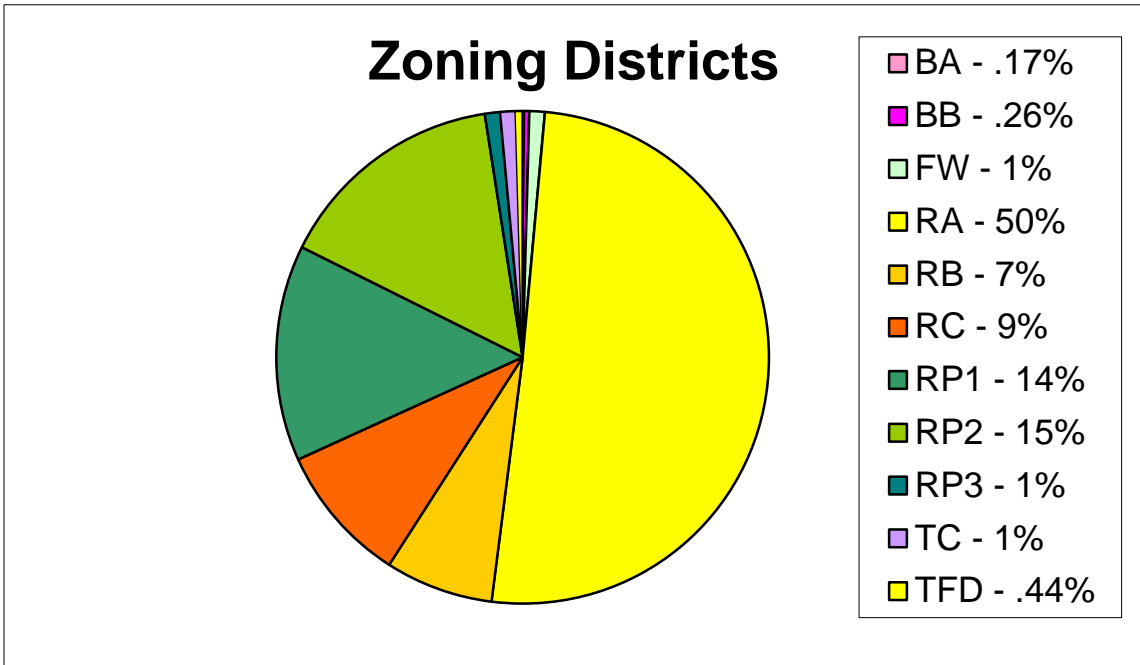
- 65% of the town is zoned residential district.
  - 30% percent of the town is zoned resource protection.
  - 2% of the town is zoned commercial.
  - From 2008 to 2017, 160 new homes, excluding teardowns, were constructed, resulting in an average of 16 homes per year.
  - The rate of residential development has declined as the amount of buildable land continues to shrink.
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### Land Use Regulations

The Town of Cape Elizabeth has regulated land use by zoning ordinance since 1938. The current zoning ordinance has been deemed consistent with the current comprehensive plan and includes Shoreland Zoning regulations that the Maine Department of Environmental Protection has found consistent with mandatory shoreland zoning. The zoning ordinance includes the following districts:

- Residence A (RA)
- Residence B (RB)
- Residence C (RC)
- Town Center (TC)
- Business A (BA)
- Business B (BB)
- Business C (BC)
- Fort Williams Park (FWP)
- Resource Protection 1 (RP1)
- Resource Protection 1 Buffer Overlay (RP1 buffer)
- Resource Protection 2 (RP2)
- Resource Protection 3 (RP3)
- Town Farm (TF)
- Shoreland Performance Overlay
- Great Pond Watershed Overlay
- Tower Overlay
- Special Event Facility Overlay

The portions of the town assigned to each zoning district are represented in the following pie chart.



Approximately 50% of the town is located in the low-density RA District. The RB District, a designated growth area, comprises 7%. The RC District, a compact residential district and infill growth area, comprises another 9%. A total of 65% of the town is located in residential districts.

The next largest block of zoning districts is the Resource Protection Districts. The RP1 District, which is the most restrictive zoning district, comprises approximately 14%. Combined with the RP2 District (15%) and RP3 District (1%), almost 1/3 of the town is located in resource protection districts (30%).

The commercial districts, which include the TC, BA, BB, and BC, account for less than 2% of the town land area.

Two prominent town open spaces, Fort Williams Park and the Town Farm, each have a specialty zoning district and together account for less than 1.5% of the town land area.

The chart below summarizes the dimensional requirements for residential development by district. It should be noted that the town has embraced cluster development, which emphasizes preservation of open space, since the 1980's. The chart includes reduced lot sizes allowed when lots are clustered and 40% - 45% of the land area in new development is set aside as permanently protected open space. Additional density is also allowed when public sewer is provided.

<b>Dimensional requirements in Zoning Districts for residential uses</b>							
<b>Zoning District</b>	<b>Min lot size</b>	<b>Rd frontage</b>	<b>Side Setback</b>	<b>Rear Setback</b>	<b>Clustered Minimum Lot Size</b>	<b>Clustered/ sewered Minimum lot size</b>	<b>Minimum lot size Multiplex</b>
<b>RA</b>	80,000 sq. ft.	125'	30'	30'	30,000 sq. ft.	30,000 sq. ft.	10 acres
<b>RB</b>	80,000 sq. ft.	125'	30'	30'	20,000 sq. ft.	10,000 sq. ft.	10 acres
<b>RC</b>	20,000 sq. ft.	100'	20'	20'	n/a	7,500 sq. ft.	5 acres
<b>Town Center</b>	7,500 sq. ft.	50'	15'	15'			0
<b>BA</b>	15,000 sq. ft.	0'	25'	25'			0

The Zoning Ordinance is the workhorse of land use regulations. In addition to establishing and regulating zoning districts, Site Plan review regulations are located in the Zoning Ordinance. Any non-residential structure triggers site plan review. The Site Plan Review regulations were reorganized and updated in 2016. Transfer of Development rights provisions are also included in the Zoning Ordinance, and have been revised in 2015 to create density bonus for sending growth away from farm fields.

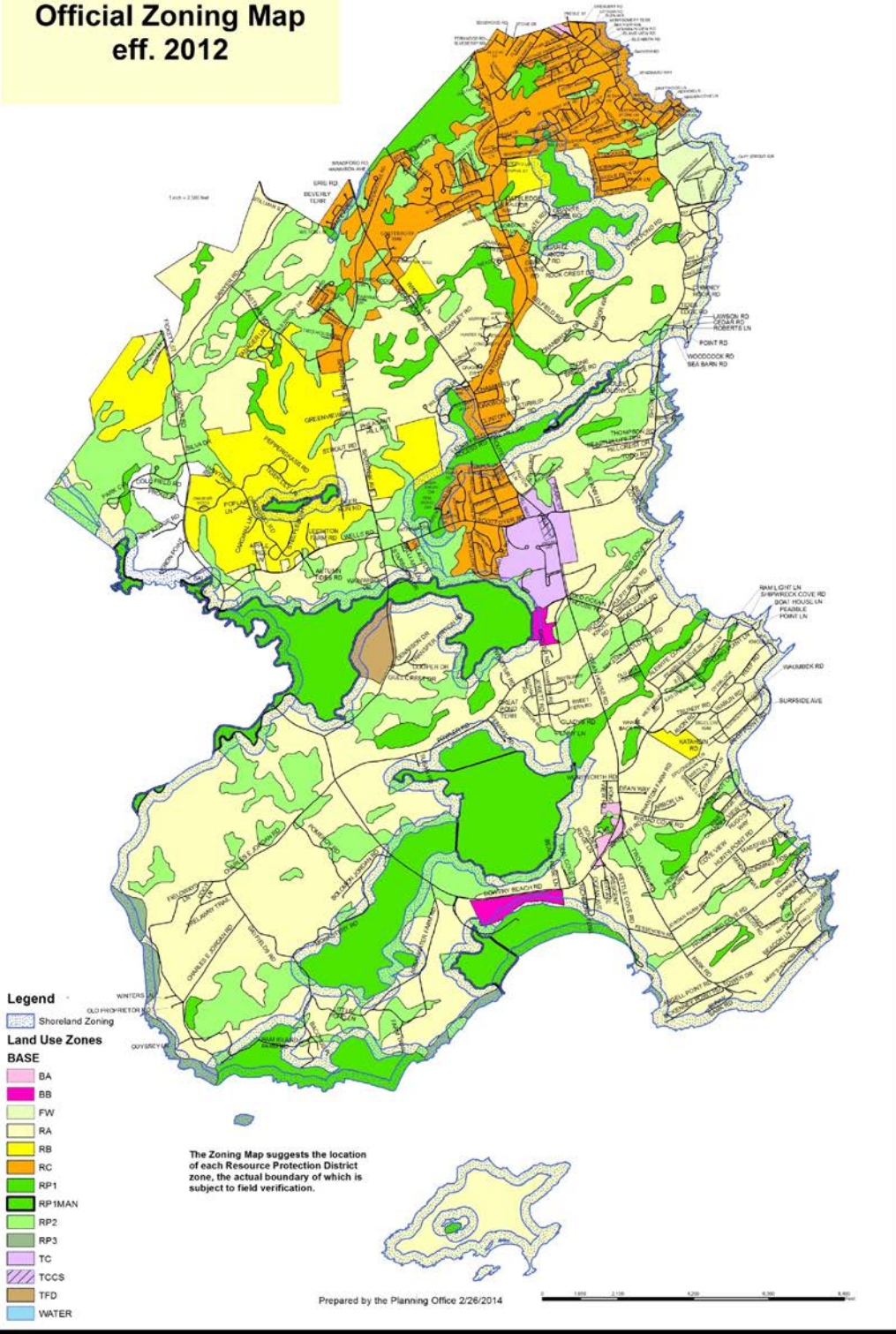
The Zoning Ordinance includes special purpose performance standards for the following activities:

- Earth materials removal
- Archaeological and historic resources
- Great Pond watershed
- Home day care and day care facility
- Boat Repair
- Agriculture
- Tower and antenna
- Wind energy system
- Short term rental
- Special event facility

Performance standards have been used, mostly in concert with site plan review, to manage land uses by establishing use specific standards. Often, the standards provide for non-residential activities in residential districts.

In addition to the Zoning Ordinance, land use regulations include the Subdivision Ordinance (overhauled in 2015 as one of the 2007 Comprehensive Plan recommendations) and Floodplain regulations (Article 6-6 of the Town Code of Ordinances).

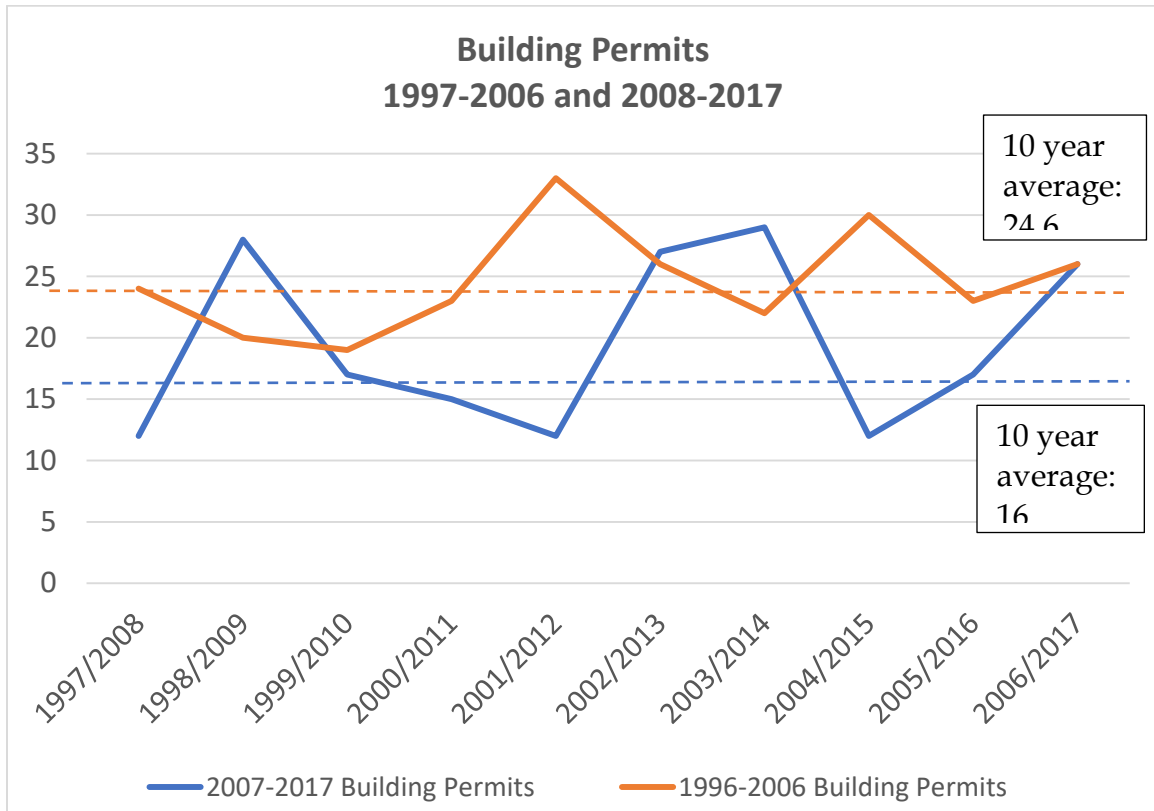
# Town of Cape Elizabeth Official Zoning Map eff. 2012



## Development from 2008 - 2017

Analysis of development trends in the previous 10 years is required by the State comprehensive plan rule and is also useful in predicting future trends. From 2008-2017, a total of 194 dwelling units were constructed, resulting in an average of 19.4 homes per year.

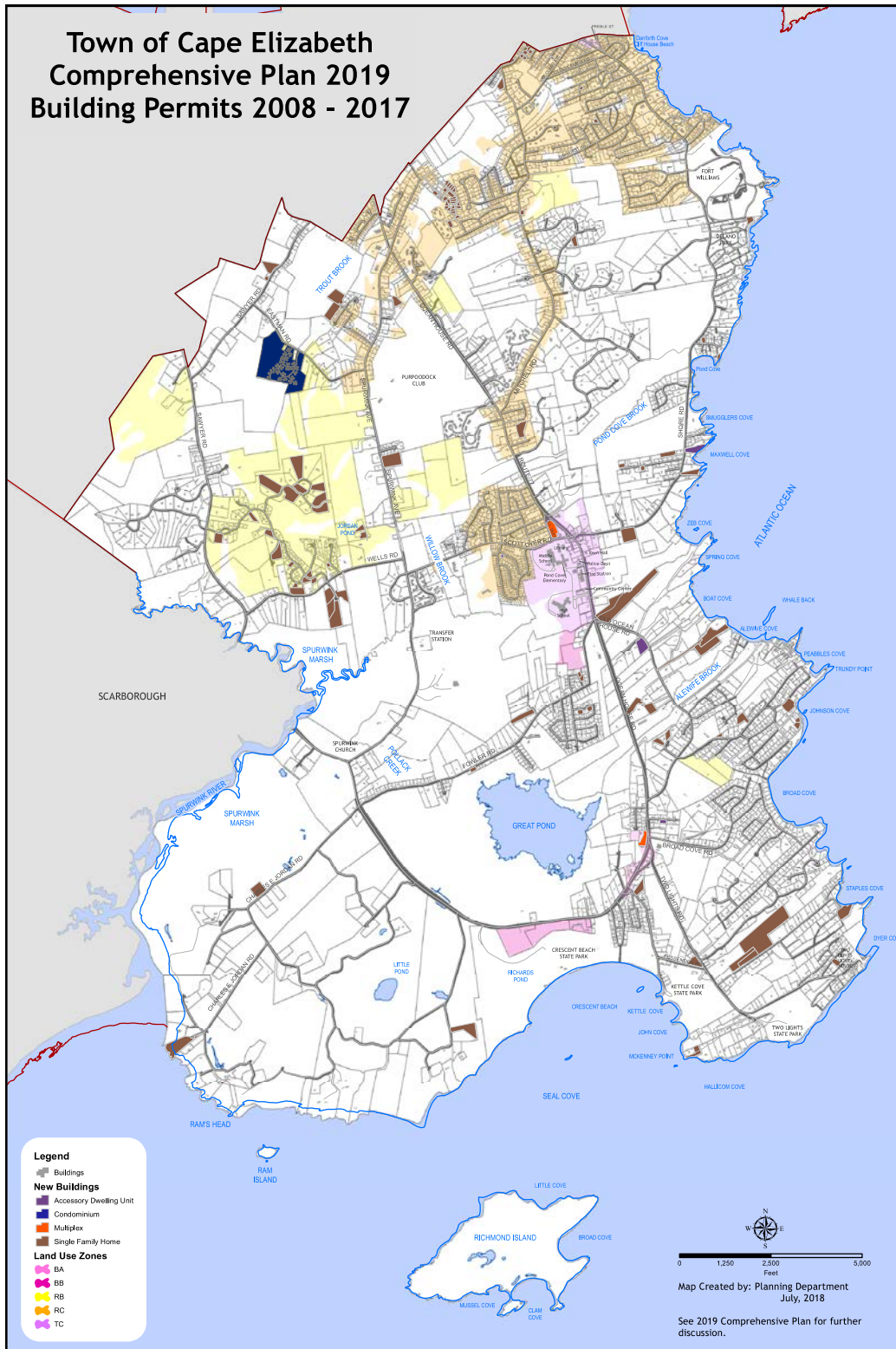
Of the 196 homes, 34 were replacements for existing structures that were removed to construct a new home (teardown). It may be interesting to note that the 2007 Comprehensive Plan identified teardowns as a growing trend, which has been the case. Because teardowns are replacing existing homes, it is reasonable to remove them from the new homes constructed total, resulting in 160 new homes. This is an adjusted average of 16 homes per year from 2008-2017.



Source: Town of Cape Elizabeth Code Enforcement Office Building Permits

When compared with the 10-year planning period associated with the 2007 Comprehensive Plan, the rate of growth in Cape Elizabeth has declined an average of 8 homes per year. This is reasonable as the amount of buildable land continues to shrink, combined with the amount of land that is unbuildable due to natural resource constraints.

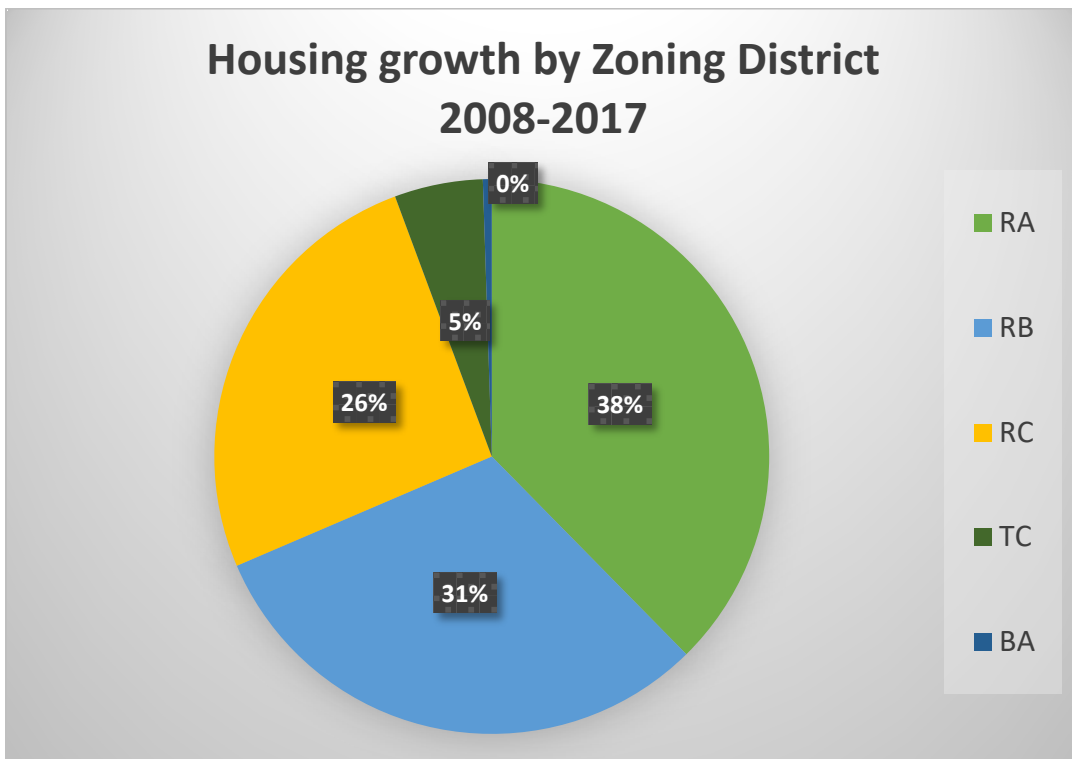
# Town of Cape Elizabeth Comprehensive Plan 2019 Building Permits 2008 - 2017



## Where Growth occurs

So, where is new development locating in relation to zoning districts/growth and rural areas? When new development occurs, existing regulations direct new development to growth areas as much as possible while still respecting private property rights. Designated growth areas are the RB district, the RC district, the Town Center and BA districts. The Building Permit map depicts new growth by lot. The map shows rural areas as white background. The growth areas (RB, RC, TC, BA) are shaded. Larger color blocks indicate growth areas.

During the ten year planning period (2008-2017), 62% of new residential development occurred in the RB, RC and TC districts. This compares to approximately 60% of new development located in these districts from 1998-2006. The RA District, considered the town's rural area, experienced 38% of new development from 2008-2017. Therefore, current land use regulations are successfully directing the majority of new development into designated growth areas, however, over 1/3 of new development is located in rural areas.



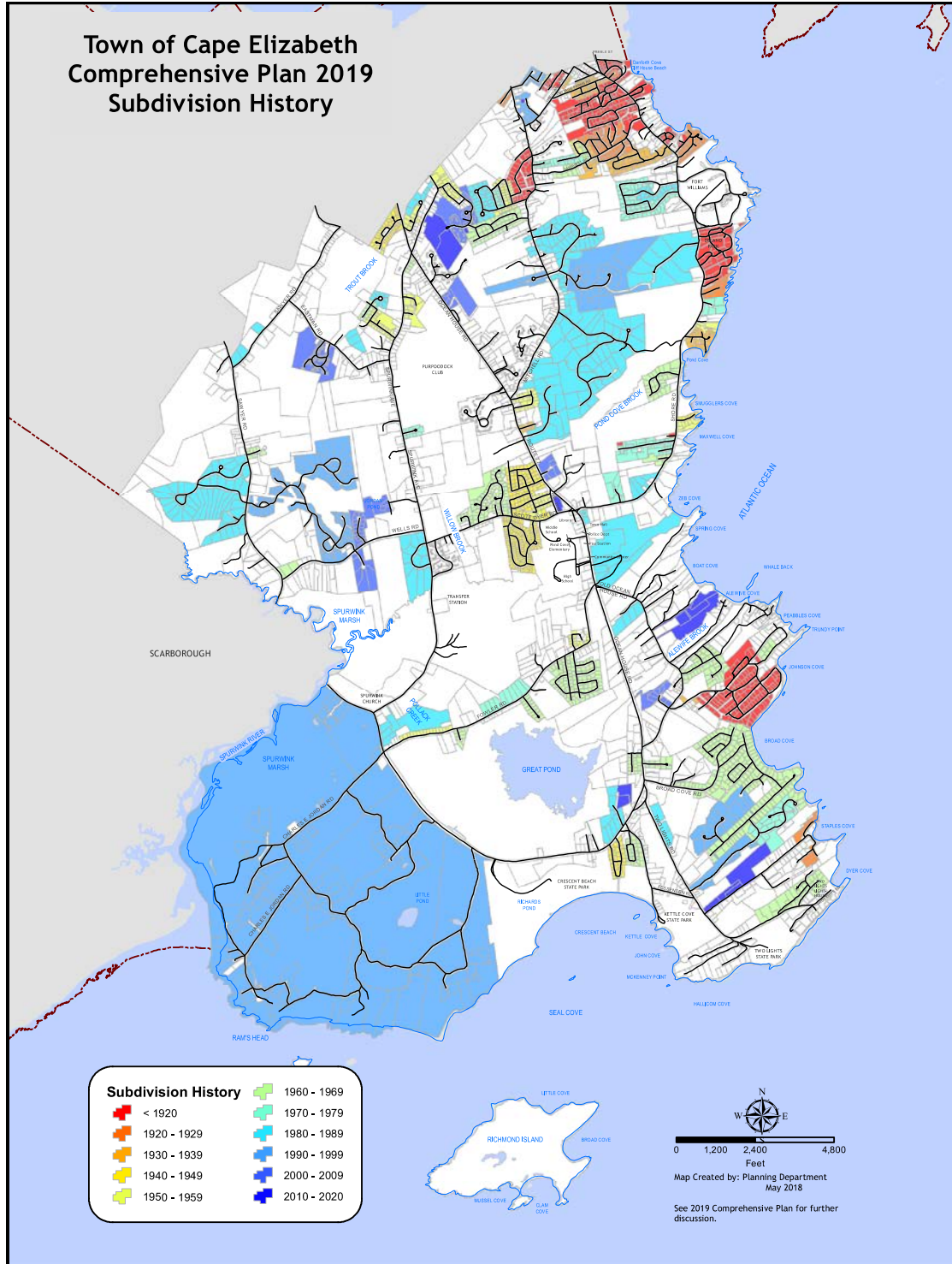
*Source: Town of Cape Elizabeth Code Enforcement Office Building Permits*

## How is development occurring?

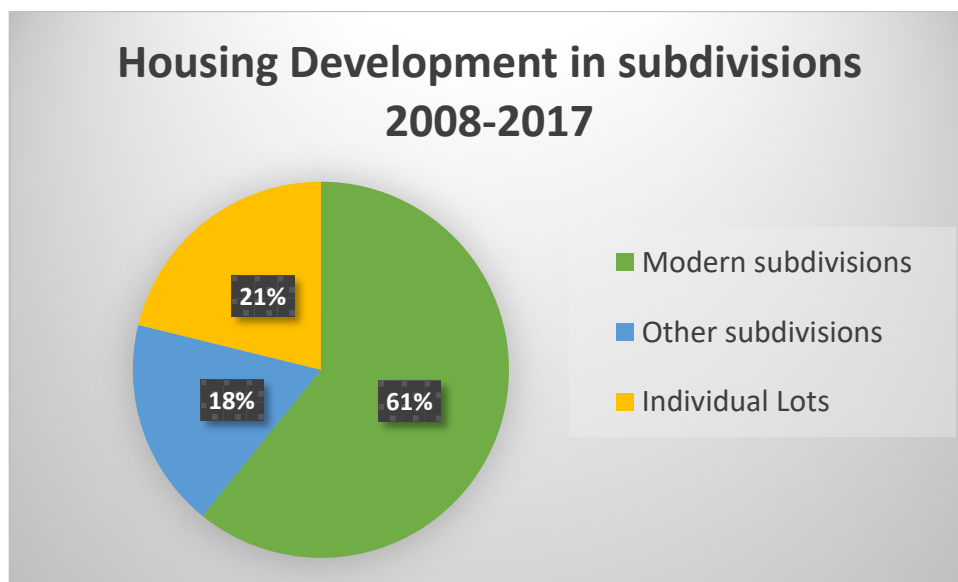
Virtually all Cape Elizabeth neighborhoods are the product of subdivisions. The map below depicts subdivisions dating back to the beginning of the 1900's, when Cape Elizabeth was a desirable summer vacation home spot for Portland residents.



# Town of Cape Elizabeth Comprehensive Plan 2019 Subdivision History



Consistent with development trends for the past century, most new residential homes are constructed on subdivision lots. About 1/5 of new homes (21%) are constructed on lots that have been created without a subdivision review process. There is also an indication that more development on "infill" lots is occurring, suggested by the amount of new construction (18%) on lots created more than 20 years ago. Directing new development to existing infill lots is a recommendation of the 2007 Comprehensive Plan. As the inventory of infill lots is used up, it is reasonable to expect more pressure to create new subdivisions and lot splits. (Modern subdivisions include Cross Hill, Hamlin St, Whaleback Ridge, Leighton Farms, Autumn Tides, Blueberry Ridge, Eastman Meadows, Cottage Brook and Hill Way).

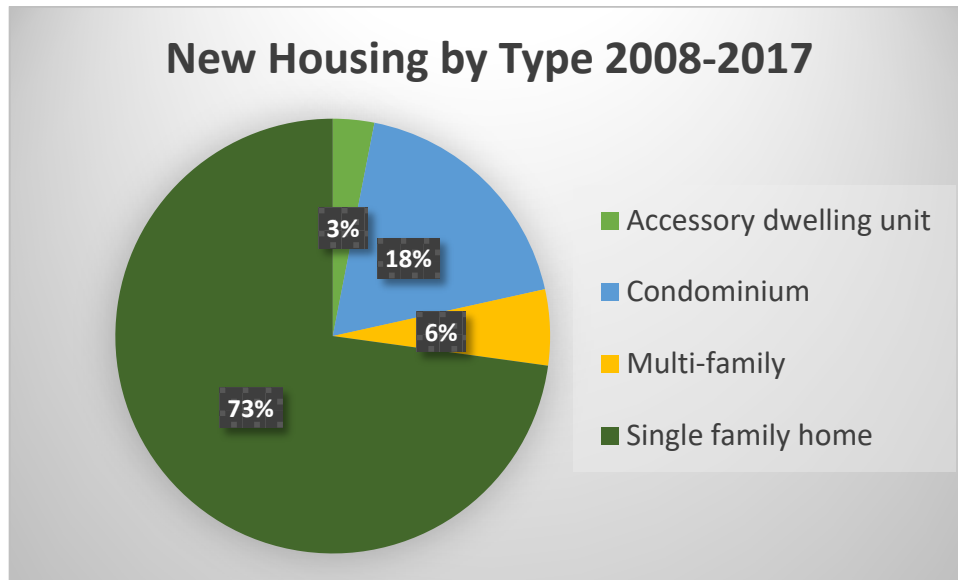


Source: Town of Cape Elizabeth Code Enforcement Office building permits

Any trend to increase lots splits outside of the subdivision review process should be concerning. The town has rigorous subdivision review regulations that produce neighborhoods with permanently protected open space (most accessible to public), properly constructed town roads that provide adequate emergency access and utilities that protect public health, safety and welfare. Neighborhoods created through subdivision review tend to yield more valuable property and also include some affordable housing.

#### What kind of development is constructed?

Almost all new construction in Cape Elizabeth is residential housing. Most of that housing is single family homes (73%). During the recent planning period, some diversification of the housing stock has occurred, which is a recommendation of the 2007 Comprehensive Plan.



*Source: Town of Cape Elizabeth Code Enforcement Office Building Permits*

The 2007 Comprehensive Plan noted that demographic changes, mostly the growth of the 55+ age group, suggested that some increase in multiplex housing would best meet the needs of Cape's residents. Residential housing developers responded with multiplex housing developments such as Eastman Meadows and Cottage Brook. This contrasts with fewer than 20 multiplex units constructed in the 1990-2006 period. Going forward, the town should again assess what type of housing best reflects the needs of town residents and encourage new development to represent those needs and goals.

#### Expected New Growth

The State Comprehensive Plan rule requires communities to estimate the minimum amount of land needed to accommodate projected new development for the next 10 years. Creating a growth projection should not be confused with establishing a goal to achieve a minimum amount of new development. A growth projection is a planning tool intended to help a community manage the development that would otherwise occur, in a manner that preserves community character to the extent possible. For example, the same number of new homes may be accommodated on a compact parcel served by public sewer and include permanently preserved open space than on a much larger parcel where new homes are scattered across a landscape highly valued by the community.

To recap, adjusted (not counting teardowns) growth from 2008-2017 averaged 16 dwelling units per year. This is a decrease of 8 units per year from the previous planning period. It is reasonable to assume that the annual average will continue

to decline, but by how much? Cape Elizabeth will continue to be a desirable place to live, and pressure will continue for more housing. If we assume that the average growth rate will decline by 50% of the last ten year drop, a proposed annual development rate of 12 units per year may be used to project future growth. This results in a projected growth of **120** new dwelling units from 2019-2028 (not including teardowns).

Where will these dwelling units be built? Is there enough room to accommodate expected new growth in the existing growth areas or will the town need to identify new growth areas? A build-out analysis of existing vacant land has been completed to evaluate how new growth may be accommodated. (build-out analysis is underway)

Excluded from the land area calculation are all built lots that are less than twice the minimum size for the zoning district in which they are located. Other land excluded includes wetlands as depicted on the Official Zoning Map, floodplains, and open space owned by the town, the land trust or state or federal government.

Of the remaining land, a development efficiency was used to predict the number of dwellings that might be accommodated on the lot. Land in the RC and RB has a higher "efficiency" than land in the RA. Overall, the analysis was geared to generate a more conservative estimate of how much land is actually developable.

The build-out analysis indicates that approximately 1000 (estimate) new housing units could potentially be accommodated on the remaining undeveloped land in Cape Elizabeth. If the Sprague Corporation and Purpoodock Club are removed from the calculation, build out is estimated at 570 (estimate) units.

If new development is distributed in proportion to the 2008-2017 period, then the following area will be needed to accommodate development through 2028.

### **Estimated Growth and Land Area to be developed 2019-2028**

Planning Period	New dwelling units	Percentage/ homes located in Growth areas	Land needed for new development (acres)	Build-out analysis land available	Percentage/ homes located in rural areas	Land needed for new development (acres)	Build-out analysis land available
2008-2017	160	62%			38%		
2019-2028	120	74	65	TBD	46	200	TBD

These numbers are gross estimates and subject to the decisions of private property owners. It should be noted that, although the bulk of new development

is expected to be located in growth areas, three times more land will likely be developed in the rural areas to accommodate one-third of the total anticipated growth. These estimates are based on current land use requirements. The town may want to consider additional measures to shift development from rural to growth areas. For example, capital improvement projects are funded without regard to growth areas. The town may want to consider making capital investments in growth areas to influence development location.

#### Commercial (non-residential development)

Commercial development in Cape Elizabeth is miniscule and that trend is generally expected to continue. Less than 2% of the land area of the town is zoned for commercial development. Some commercial activities, such as day care and special event facilities, are allowed in residential districts. There is great sensitivity to locating any commercial activity in a residential district, however, and consequently very little commercial development in residential districts is expected.

Some redevelopment of lots in the Town Center is both encouraged and expected. From 2008-2017, the C-Salt and Cape Chiropractic buildings were completed. One project was a lot redevelopment and a second was new construction on one of the rare undeveloped lots in the Town Center. Commercial development in the BA Districts is almost exclusively limited to redevelopment of existing lots. In the commercial districts, residential multifamily development is encouraged on the upper floors, while the first floor is reserved by ordinance for commercial activities.

In the BB district, major new construction is represented by replacement of existing hotel rooms by the Inn by the Sea.

Any future commercial development is expected to be accommodated within existing commercial districts and major growth is not expected.