

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: May 6, 2014
SUBJECT: BA District 100-seat Zoning Amendment

Introduction

The Town Council has referred to the Planning Board a request by The Good Table, a restaurant located at 527 Ocean House Rd, to increase the maximum size of a restaurant in the Business A (BA) District from 80 seats to 100 seats. The Planning Board held 2 workshops on the amendment, reviewed property characteristics in the Business A District, discussed the advisability of a restaurant seat cap and reviewed how the BA District design requirements would integrate with a cap increase. The amendment will be reviewed in compliance with Sec. 19-10-3, Zoning Ordinance Amendments.

Procedure

This is a special meeting called by the Planning Board Chair.

Discussion

At the April 15, 2014 meeting, the Planning Board set for public hearing a proposal to keep the current 80 seat limit for restaurants in the BA District.

The Planning Board has worked on this amendment at three meetings. The referral from the Town Council requested consideration of expanding the current limit of 80 seats to 100 seats to accommodate an existing business known as The Good Table. After reviewing regulations in other communities, discussing the merits of a seat cap and the impact of this potential change on both BA Districts, the Planning Board agreed to a draft amendment that would increase the seat cap to 100 seats.

At the April 15th meeting, the Planning Board learned that The Good Table was operating with more than the 75 seats allowed under its existing Site Plan approval. Board members expressed frustration with a violation of the existing ordinance and the potential for expanding violations. The meeting concluded with the Planning Board removing the 100 seat amendment.

A public hearing on the BA District restaurant seat cap of 80 is set for Thursday, May 22nd. The Planning Board may want to direct staff to advertise for public

hearing the original proposal to increase the seat cap to 100 seats. While the Planning Board's frustration with an individual enforcement action is understandable, the Planning Board's responsibility and role is to take a broader, long-term view of overall appropriate activities in the Business A District.

Is a 100-seat restaurant generally consistent with a "neighborhood business district?" Before learning of the violation, the Planning Board was moving in the direction that 100 seats can be appropriate. Evidence of The Good Table operating with 100 seats without significant impact to the neighborhood suggests that 100 seats may be reasonable, as long as Site Plan Review by the Planning Board occurs before expansion.

The original draft amendment follows:

SEC. 19-6-5. BUSINESS DISTRICT A (BA)

A. Purpose

The Business A District is comprised of neighborhood business districts in which the business uses are geared to the needs of nearby residents rather than a large scale, regional destination center. The district requirements seek to promote (i) business vitality, (ii) pedestrian connectivity between the business district and the adjacent residential areas, (iii) a mix of commercial and housing uses, (iv) high quality design that is pedestrian friendly, compatible with, and protects the integrity of the adjacent residential neighborhood, and (v) an efficient use of the land within the district for business uses. The Business A district regulations recognize that the BA District in the Shore Road area and the BA District in the Ocean House Road area are individually distinctive and may require different treatments, which are specified herein. **(Effective July 8, 2009)**

D. Standards

1. Performance Standards

- g. Restaurant, including delicatessen, ice cream parlor, and sit down restaurant, size shall be limited to no more than ~~10080~~ seats. **(Effective July 8, 2009)**

Motion for the Board to Consider

BE IT ORDERED that, based on the proposed text and the information presented, the BA District restaurant seat Zoning Amendment specifying an increase from 80 to 100 seats be tabled to the regular May 22, 2014 Planning Board meeting, at which time a public hearing will be held. This BA District amendment replaces the BA District materials designated for public

hearing at the April 15, 2015 Planning Board meeting