



ORDINANCE REVIEW COMMITTEE

Members

Councilor John Thorpe, Chair
Megan Paik, Citizen, Vice-Chair
Councilor Marianne LaBarge
Councilor Jim Nash
Jeff Napolitano, Citizen

MEETING MINUTES

Date: February 22, 2021, Time: 5:30 p.m.

Virtual Meeting

1. **MEETING CALLED TO ORDER/ROLL CALL:** At 5:31 p.m., Councilor Thorpe called the meeting to order. On a roll call, the following members were present: Councilor John Thorpe, Councilor James Nash, Councilor Marianne LaBarge, Member Jeff Napolitano and Member Megan Paik. Also present were City Solicitor Alan Seewald, Office of Planning and Sustainability Director Wayne Feiden and Administrative Assistant Laura Krutzler.
2. **ANNOUNCEMENT OF AUDIO/VIDEO RECORDING**
Councilor Thorpe announced that the meeting was being audio/video recorded.
3. **PUBLIC COMMENT**
Councilor Thorpe opened the floor to public comment.

Jackie Ballance of Northampton informed members that there was a development in her own neighborhood last November that brought to her attention the intersection of sustainable, affordable and equitable housing with city regulations. As a result, she has been learning about building codes, zoning codes and how city government works. At their last meeting, she was very moved by Member Paik's comment about racial discrimination in housing and how housing policy affects disparity in housing accessibility for marginalized communities. Since then, she has been brainstorming with friends and neighbors about possible paths to more equity and affordability in new home construction. She shared a couple of those ideas with them by email. (Ms. Ballance referred to a series of emails to the Ordinance Review Committee: email dated February 7, 2021 with attachment "How Can the Existing "Fit" Ordinance Help to Address New Housing Justice Issues?"; email dated February 18, 2021 recommending Alan Verson's suggestion to cap the size of new single-family homes built through the two-family by right zoning amendment, email dated February 22, 2021 re: Cap idea is just to trigger site plan review, not to deny larger houses and email re: Tiny house development coming to n'ton dated February 19, 2021. See attachments to master version of minutes.)

Applying the 'fit' concept is actually in alignment with the Climate Resiliency and Regeneration Plan's proposed point system for site plan review proposed by their esteemed guest Wayne Feiden. She knows they cannot limit the size of new homes by right but they do have the ability to set a lower size to trigger site plan review, especially if there is a resilience and regeneration point system in place. She is just here to listen and see what she can learn. She hopes the city solicitor can help them find a path that will work to increase affordability, equity and resilience in housing. She is looking forward to the conversation.

There being no further comments, Councilor Thorpe moved to the next item on the agenda.

4. **APPROVAL OF MINUTES OF JANUARY 11, 2021**

Councilor LaBarge moved to approve the minutes. Member Paik seconded.

Member Paik reviewed some changes to the February 1, 2021 minutes which she said she would forward to Mrs. Krutzler. Those minutes are not on the agenda for acceptance, Ms. Krutzler clarified.

For the January 11, 2021 minutes, Member Paik said she gave an impassioned speech which she would summarize since it was not included because she lost her audio while speaking. She reviewed additional changes as follows:

Attorney Seewald questioned how systemic racism directly related to their review of ordinances. She pointed out that the 2020 ordinance review committee was formed in response to an amendment to a council resolution with systemic racism in its title. Because of that, she references this in a paragraph in the executive summary which states, "Although laws are written to be impartial, they may have disparate impacts on marginalized populations. Structural causes of systemic racism may include but are not limited to residential segregation, intergenerational wealth inequity, unequal educational opportunities, barriers to civic participation, implicit bias and discrimination."

This is the reason intergenerational wealth inequality came up so much in their discussion January 11th. She agreed that community education is not their direct objective but said she thinks it is an important indirect objective since everything they do is for public consumption, including their report.

One sentence was dropped. After, "Member Paik wondered if the committee was interested in talking about barriers to civic participation, another structural cause of system racism," she proposed insertion of the sentence, "This was also in the Charter Review Committee's report as a 'Topic for Further Study.'"

Councilor Thorpe suggested Member Paik send the changes to Ms. Krutzler so she could insert them in the minutes in red-faced bold for presentation at the next meeting. Members agreed.

Councilor LaBarge withdrew her motion to approve. Member Paik seconded.

Councilor Nash moved to table action on the minutes until the next meeting after the changes have been made. Councilor Thorpe seconded. The motion passed unanimously 5:0 by roll call vote.

5. **CENSUS DATA ON DISPROPORTIONATELY IMPACTED COMMUNITIES IN NORTHAMPTON**

Discussion with Office of Planning and Sustainability (OPS) Director Wayne Feiden

Director Feiden said he wasn't exactly sure what they wanted so he was going to present a teaser of data. He proceeded to screen-share a Powerpoint presentation. (See attachment to master version of minutes.)

It's really easy to do a simple analysis of straight demographics. Northampton has an older population than the nation as a whole and a more female population even when the population of Smith College is backed out, partly because it is an older population, Director Feiden presented. An older population almost by definition is a more female population but Northampton is still more female even backing out those over 65.

Northampton's population is generally much whiter and much less diverse than other parts of the country. Massachusetts is the whitest section of the country. People in his age group are particularly white while people under 18 are a much more diverse population.

Northampton has a lower homeownership rate than the country as a whole, he continued. That's either a good thing or a bad thing depending on your perspective. In the United States, the most heavily-subsidized program in the country is homeownership because the Internal Revenue Service (IRS) allows people to deduct both mortgage interest and property taxes. There is huge interest in creating home ownership, but home ownership leaves out a lot of the population.

The risk is less the raw number and more the change (the delta). When he first got to Northampton, the city was 51% home owners; the percentage is dropping slowly but it is dropping. They are losing people. They are heavily a city of single-family homes with some condominiumization of rental properties.

Councilor Nash expressed his understanding that, compared to the national average, Northampton is below everybody else in terms of home ownership.

Director Feiden said that is correct because they have more rentals. "We're a college community in part," he confirmed. "The more urban you are, the more rental you are." The rate of home ownership in New York City and Boston is lower, he pointed out. Even though they are a tiny community, they are a city.

Councilor Nash said he hears from people how difficult it is to get an apartment and yet 45% of their housing in Northampton is rental.

12.5% of units are affordable per the state definition of subsidized affordable units, Director Feiden advised.

Northampton has higher retail sales per capita than average around the country. "We're a county seat, so people to the north and west of us in particular come to Northampton and spend their retail dollars," he explained. This is a good part of the economy but also highlights its vulnerability. Whether it's the long-term trend toward Amazon or the short-term COVID trend, this is why Northampton is harder hit than many communities by COVID between college not being in session and its reliance on retail sales. The good news is that people are spending money here but the bad news is it makes [recession] more of a threat.

Also, as far as social equity, retail/service jobs tend to be lower-paying jobs. Northampton has a greater percentage of its work-force in lower-income jobs. They have a lot of people in service sectors.

The \$64,974 median household income for Northampton is higher than the nation as a whole but lower than the rest of Massachusetts, Director Feiden reported. Pre-COVID, pretty consistently median income was on the low end but the unemployment rate was also on the low end. They had a lot of relatively stable

employment so they were less cyclical in good economic times. In bad economic times they were underpaid but had fewer people unemployed. COVID hit them uniquely worse.

The poverty rate in Northampton is lower than most Massachusetts cities and higher than almost every Massachusetts town. With regard to the percentage of cost-burdened renters, half their population - 49.8% of renters - pay more than 30% of income as rent.

22.8% of renters are severely cost-burdened, defined as spending over 50% of income on rent.

People in his world have always talked about 30% of income being cost-burdened and 50% severely cost-burdened. They are seeing more and more focus on income plus transportation costs as opposed to just housing costs because in Boston rent is higher but a person is more likely to take the metro or MBTA. Out here, residents are more likely to have a car, so that may be a more honest evaluation of poverty.

Director Feiden presented statistics for houseless individuals. Relatively recent data collected by Community Action Pioneer Valley (CAPV) indicates that, as of January 2020 (pre-COVID), a total of 136 individuals in Northampton were experiencing homelessness: 102 sheltered (includes 22 children, 6 youth) and 34 unsheltered (includes 2 youth). So, relatively few unsheltered although still a significant number.

Massachusetts is one of the few states in the country where children have a right to housing, so they will have fewer unsheltered children in Massachusetts than in many other states.

Not surprisingly, there is a discrepancy in who is homeless, he confirmed. Whites are only 58% of the homeless population but 88% of the population as a whole. Blacks are 18% of homeless but only 2.3% of total population while Hispanics are 22% of homeless but only 4.5% of total population.

Councilor LaBarge asked the poverty rate in Northampton.

"We're about 15%," Director Feiden reported. There's always a lag in the data. Data comes from the American Community Survey (ACS).

6. EQUITY CONSIDERATIONS ALREADY EMBEDDED IN OPS PLANNING AND COMMUNITY DEVELOPMENT ACTIVITIES

Director Feiden showed a map of impervious area. One of the hot issues these days is where the city discourages and encourages development, he shared. If city officials discourage development in urban areas, it goes out to suburban areas. Not surprisingly, the more rural the area of Northampton, the more paved surface per person. Rural areas are greener with more trees, but people there have bigger driveways, bigger houses and are more likely to have pools, he reported.

Northampton has some data from the city census and other sources that can be broken down into smaller areas. Most data from ACS is city-wide but some data is available in smaller geographies. Some data is confidential. For example, they know where everybody in the city lives, including people under 17. They can publicly map where everyone over the age of 17 lives but can only show those under 17 by precinct, by ward or by census tract.

The city census does not include homeless, Director Feiden said. A point in time survey is done. On a cold day when they can expect as many people to be housed as possible they go out to known homeless

encampments. Actual censuses (2020 U.S. Census, city census and point in time survey) by definition undercount because they don't do any projections for missing people. The American Community Survey is more accurate. A census will absolutely undercount any person that stays far away from social workers.

There is an unbelievable amount of demographic information, but cross tabulations are more difficult, Director Feiden noted. Finding the number of Latinos is easy but finding the number of Latino's that are housing-burdened and restaurant workers is harder. They only get the cross-tabulations that the census department does for them.

The ACS is the best source of cross tabulations out there, he confirmed.

Members asked questions and offered comments.

Councilor LaBarge asked what is meant by two or more races.

Director Feiden explained that the U.S. census used to require people to choose one category. They decided it doesn't reflect what America is, so they started allowing people to choose more categories, such as Black Pacific Islander, etc. 4.2% of the population is saying, 'I am some combination.'

Obviously, race is an artificial construct, he observed. Hispanic and Latino are not consider races. White alone is the dominant population.

The ACS is pretty easy to use to extract information from.

He showed a slide entitled, "The Great Gatsby Curve." They often think about wealth creation; i.e. – the amount of median income - and focus on inequities. Other countries that are richer or poorer have more of a difference between the richest and the poorest. Northampton is actually not that bad; it has less inequity than the United States as a whole. It doesn't have a huge underclass (15% of the population is below the poverty line) or a huge class of people earning more than a million dollars, so there is less inequity.

The next slide featured significant acts or actions in the history of structural racism, such as the Naturalization Act of 1790, which limited citizenship for new residents to whites. When they refer to structural racism, they are talking about policies in place for many years which treat different groups differently. As an example, he highlighted the first zoning case to go to the Supreme Court, the Village of Euclid vs. Ambler Realty. In that case, zoning was upheld because Supreme Court Justice Sutherland opined that "often [an] apartment house is a mere parasite...to take advantage of open space and attractive surroundings created by the residential character." He thought of apartment homes and renters as 'parasites.'

Director Feiden presented the five aspects of equity the planning department tries to pay attention to: distributional equity, structural equity, procedural equity, intergenerational equity and cultural equity. It shows up in odd ways. Northampton is negotiating with Amherst and Pelham for community choice aggregation, a system where communities purchase electricity jointly. Members were debating voting rules, and Pelham proposed 'one town, one vote.' Northampton representatives pointed out that this would not necessarily represent Northampton. Pelham responded that the core principle is equity, so its okay because they were going to represent equitable interest. But in looking at the list, it is clear it doesn't really represent procedural equity, since white middle-class people shouldn't really be representing the positions of everybody else in the community. This becomes the test they put policies to.

The last slide presented zoning proposals presently in the pipeline, such as two-families by right in all residential districts. This is what equity means in the trenches, he suggested. They know that renters are underrepresented, so they balance that by providing two-family homes to give renters opportunities. They know there is not enough affordable housing, so one of the other packages is granting density bonuses for affordable housing.

He wanted to show that planning activities/proposals are flowing from principles of equity, he indicated.

Members discussed at some length. Director Feiden explained zoning changes in more granular detail. For example, underlying the two-family home proposal is the data point that the median cost of a duplex unit is \$114,000, while the median cost of a single-family home \$334,000, so, on average, two-families are less expensive.

Also, there is a shortage of rentals at every level of the market, Feiden noted. When Old School Commons went on the market (it used to be rentals and was converted to condominiums), Northampton lost a lot of really high-end rentals. They have a shortage of rentals at every level, whether it is for doctors doing their residency at Baystate or service workers, and they need all of them. A lot of people want to rent and they want to serve all parts of the market. On the average, two-family homes are substantially less expensive and their rent is less expensive.

In terms of home ownership, home ownership is at 54%, so roughly 45% of housing is rental, Councilor Nash observed. He expressed his understanding that they are talking about shifting that even further. What percentage are they shifting it towards? He asked. "What's the sweet spot?" he wondered.

From 1950 to 2000, Northampton's population didn't grow by a single person, and it has been in decline for 20 years. He would be happy if they stopped the decline, but they continue to lose units. Some units go condo, for example, Old School Commons went condo. Clarke School condominiums did not go condo and can't because they are getting historical tax credits but, if he had to predict, when those tax credits run out, they will go condo. They continue to have two-families that go single-family. He doesn't really have a target but he wants to stop the decline, he said.

In response to a question from Councilor LaBarge, Director Feiden said average family size at the end of WWII was almost five people and the average dwelling size was about 1,200 square feet. Since WWII, family size has been cut in half and dwelling size has doubled. People are buying larger houses because they can. In Councilor Thorpe's neighborhood, a lot of homes that were once two-families have been converted back to single-families.

The accessory dwelling unit (ADU) project has been fabulously successfully, he reported. It has been successful at creating lower-rent homes but a significant number of those are guest bedrooms which families reserve as living spaces for family members.

One of the biggest challenges of affordable housing generally is that a lot of the costs are in the bathroom and kitchen. He is a big advocate for small homes but the reality is one of the reasons they don't see more of them is they still need a kitchen and bathroom. The savings of going from an 1,800 square foot home to a 1,200 square foot home is not as great as one might think.

Councilor Nash asked what the missing piece is in the housing stock.

According to a housing needs assessment, three-bedroom houses were identified as one of the biggest gaps, Director Feiden said. The homes built by KB Properties between Florence Road and Ryan Road in the 1950's and '60's are 1,200- to 1,400-s.f. units and a lot of them are three bedrooms.

He referred to an opposite data point as a reason for strongly encouraging one bedrooms and efficiencies. They are all sympathetic to people who are homeless on the streets. Their partners have been successful in creating a lot of units for people who are homeless or at risk of homelessness. For all of the complaints about people who are homeless, complaints are almost zero for people who were homeless but are now living in units. It's more expensive to support people who are homeless than to support people in homes. One bedrooms and efficiencies are really important to him for breaking that cycle.

Councilor Nash pointed out that 8.6% of the population identifies as Hispanic or Latinx and this population is underserved, and Director Feiden confirmed this impression. The reality is populations that are more marginal are less likely to participate in city government and are less visible. Members lamented the loss of Casa Latina when it was taken over by CAPV.

7. **JACKIE BALLANCE PROPOSAL FOR APPLYING 'FIT' CRITERIA OF DESIGN STANDARDS FOR RESIDENTIAL DEVELOPMENTS – CH. 350 ZONING, ATTACHMENTS 6, 7 AND 8**

As acknowledged by Jackie Ballance, the city can't legally limit the size of a single-family home, Director Feiden stressed. They think they can incentivize it and so have proposed zoning for half-scale units that would give extra density points for small units. They can't limit size. They have always understood that they have to give people a path to absolute as of right development without site plan approval. Now, if builders are doing over 2,000 s.f. construction for other than a single-family home, they have to go to the Planning Board for site plan approval. They don't look at single-family homes. The same applies here. They don't get to apply site plan criteria to single-family homes unless they're giving 'extra stuff' such as density bonuses.

They continue to add design standards to site plan approval. When the council reduced the lot size in URA and URB, they added additional design standards for two-family homes. They do have some mechanism when there's consensus as a community. The trend in Northampton for 30 years has been to reduce the requirement for special permits, permits boards can say 'no' to. They added site plan approval 32 years ago and have been beefing it up. They are moving less and less toward saying 'no' to projects but instead giving developers conditions of approval.

Under state law, communities have to have at least one substantial use as of right in every zoning district, Attorney Seewald confirmed. They can't condition all uses on special permit. Historically, that use in residential districts is the single-family residence. As stated in his email, the indirect restriction on building size through traditional zoning mechanisms such as setbacks, floor area ratios and lot coverage limitations has the effect of reducing the size of a permissible house but has to be in relation to the size of a lot. He got the response from Jackie Ballance that this not a cap but a trigger for site plan approval. Site plan approval is a process that attaches to uses allowed by right. It is intended to give the board discretion to improve the project but not discretion to deny it. When Northampton moved to site plan approval, it was no longer a cap, it was just a trigger for review so it wouldn't allow the city to limit the size of houses or deny large houses.

As he understood Ms. Ballance's original 'fit' proposal, he had other concerns, for instance, looking at the history of a builder's previous buildings and determining how often they exceed what Zillow has as a value, Attorney Seewald continued. He cautioned that zoning is always about the land use, it's never about the land user. They can't treat builders differently. They never look at who the applicant is, they only look at the land use in the application. Of course, he also has a problem with the idea that Zillow would somehow be an authoritative measure of value.

Director Feiden and he did speak about this and while he has raised issues about it, it does raise some ideas. It's an innovative approach. If the worst that can happen is some judge tells them they can't do this, he's happy to be innovative and see what sticks. Unlike ADU's where the initial dwelling is unrestricted in size and planners are awarding bonus density for a second unit that is restricted in size, this is restricting both dwelling units and, in that sense, would be directly restricting the size of a single-family dwelling. The question of whether the extra unit is an offset that somehow assuages that impermissibility is yet to be determined. He applauds Ms. Ballance's approach and desire to bring down prices and encourage energy efficiency and sustainability but is not sure zoning is a way they are going to be able to do this, at least the way zoning is interpreted in their state right now.

Chilmark has a trigger for site plan approval above a certain threshold but he cautioned that the SJC has treated Martha's Vineyard differently. The SJC has indicated that because it is such a fragile environment and an island, they look at it a little differently. He is aware Chilmark has site plan approval for single-family houses over a certain threshold.

At 6:38 p.m., members noticed that Councilor Nash was no longer present. Ms. Krutzler said he had messaged her to say he had to leave for another meeting.

Councilor Thorpe thanked Director Feiden for joining them.

8. ORGANIZATION/DISPOSITION OF TOPICS ALREADY REVIEWED

- ❖ **Bucket No. 1 – Housekeeping Changes**
- ❖ **Bucket No. 2 - Solicited and Unsolicited Recommendations for Ordinance Changes**
- ❖ **Bucket No. 3 - Ordinances Reviewed for Impact on Marginalized Communities**

Member Paik noted that the Fair Chance Ordinance was discussed on November 30th and she shared with members a toolkit for developing local ordinances but the committee's review/actions are not included on the spreadsheet for Bucket #3. To her recollection, it was referred back to the housing partnership for further study. The discussion was that it may not be appropriate for Northampton.

Councilor Thorpe shared his recollection that states that have implemented it are outside Massachusetts.

Attorney Seewald said he believed they were talking about prohibiting landlords from accessing criminal history. Massachusetts has a state Criminal Offender Record Information (CORI) law. He spent the day studying this very topic because the city has had some public record requests that implicate the CORI law. When first enacted, the only parties that had access to criminal record offender information were law enforcement agencies. It really was at the behest of landlords and employers that it became a tiered system of access. Since 2010, state law has been amended to specifically allow landlords and employers access. He is very concerned about the ability of the city to somehow change or render changes to this

statewide law. CORI laws are the essence of occupying the field. This is a state law that is the same in every city and town.

If the committee really wanted to recommend it to city council and the council wanted to proceed, he would have to consider whether it would engender liability on the part of the city. He would fully expect a landlord to challenge it. "I have grave concerns about its validity because the CORI law is a statewide law that applies equally and the same to every jurisdiction in the state." State legislature has specifically opened it up to landlords in the last decade.

Member Paik confirmed that the cities that have implemented it are definitely not in Massachusetts. Cities mentioned were Seattle, Washington, D.C. and New York City.

Member Napolitano had to leave the meeting.

Member Paik expressed her understanding that another remedy proposed - having a portable screening report - also wouldn't apply in Northampton because they can't really do much to regulate civil relationships. That has been discussed and she doesn't really see it as a recommendation going forward.

Attorney Seewald said he believes at the last meeting there was discussion of collapsing buckets 2 and 3. Members agreed this is a good idea.

He would also love to have people's thoughts on whether any subjects are missing. At one point, they talked about alarm fees, he noted. He wants to make sure none of the members have ordinance proposals that aren't reflected here because he would like to take a stab at a first draft of a final report for the next meeting.

Member Paik asked if they could continue the discussion. Attorney Seewald said yes. At the next meeting, he would like to have everyone agree that this is the universe of ordinances the committee has discussed.

Attorney Seewald said at least one thing was sent to the Planning Board and has not come back yet. Ms. Krutzler said this would be on the Planning Board's next meeting in March.

Ms. Krutzler agreed to send out a condensed list combining Buckets #2 and #3.

Member Paik said she would like to have a fuller discussion of the committee's position on the two-family by right ordinance but would like more members to be present. She asked to put it on the agenda for the next meeting.

9. **ADJOURN**

Councilor LaBarge moved to adjourn. Member Paik seconded. The motion passed unanimously 3:0 by roll call vote with Councilor Nash and Member Napolitano absent. The meeting was adjourned at 7:01 p.m.

EXHIBIT A

List of Documents Reviewed at February 22, 2021 Ordinance Review Committee Meeting:

1. February 22, 2021 Agenda
2. Ordinance Review Committee Meeting Minutes of January 11, 2021
3. Email from Jackie Ballance to Ordinance Review Committee dated February 7, 2021 with attachment "How Can the Existing 'Fit' Ordinance Help to Address New Housing Construction Justice Issues?"
4. Email from Jackie Ballance to Ordinance Review Committee dated February 18, 2021 re: Equity in Housing recommending adoption of Alan Verson's suggestion to cap the size of new single-family homes built as part of Two-Family By Right zoning amendment.
5. Email from Jackie Ballance dated February 22, 2021, subject: Cap idea is just to trigger site plan review, not to deny larger house in response to email from Alan Seewald, Esq. dated February 22, 2021.
6. Email from Jackie Ballance dated February 19, 2021 re: Tiny house development coming to n'ton
7. Powerpoint on census and American Community Survey data presented by Office of Planning and Sustainability Director Wayne Feiden.

HOW CAN THE EXISTING “FIT” ORDINANCE HELP TO ADDRESS NEW-HOUSING CONSTRUCTION JUSTICE ISSUES?



We need more houses like the modest solar-paneled house shown on the left.

We do NOT need more of the prohibitively expensive, over-sized, 80's-style, fossil-fuel-heavy “luxury” homes on the right. These dinosaurs of single-family housing do not meet 21st century sustainable standards.



Citizen Paik spoke eloquently about affordable housing as a key social equity issue at the last meeting of the Committee for Ordinance Review. She wanted to review the changes for the two-family-by-right ordinance in its 10-part glory at the next Ordinance Review meeting. According to Councilor LaBarge, affordable housing seems to be a hot issue in her ward right now also. I also understand that Wayne Feiden is being invited to join you on Feb 22. So in that context I want to offer some thoughts for the Committee’s consideration on Feb. 22.

On Feb 4, 2020, the Order Endorsing the Climate Resilience and Regeneration Plan (“an element of the Sustainable Northampton Plan”) passed the first reading in City Council unanimously. Here’s a excerpt from page 30:

Inequity—whether seen through income, education, access to resources (which surely includes decent affordable housing/JB), access to decision-making, among other avenues—continues to prohibit collective community resilience.

(<http://northamptonma.gov/DocumentCenter/View/16237/Northampton-Resilience--Regeneration-Plan-adopted-by-the-Planning-Board-1282021?bidId=>)

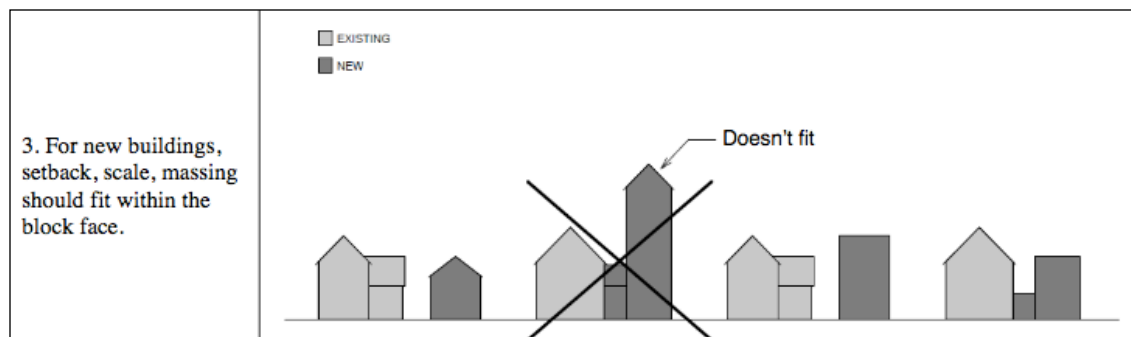
In the face of imminent climate challenges, Northampton needs to hunker down and employ all the adaptation and mitigation measures that we can while insuring justice is part of our process. It is a fact of life that we will need affordable fossil-fuel-free homes for the future. At the same time we need to stop making 80's style luxury houses. They are the real dinosaurs in our existing housing stock, because they are destructive to a just and green future. Zoning can offer both carrots and sticks to encourage equity in housing.

CARROTS currently include these 3 proposed ordinances:

- Two-Family-By-Right changes - read all 10 parts with the links at the bottom of this document. Councilor Nash suggested the Committee could attend the joint City Council & Planning Board review Monday, Feb 8 at 7 pm. Agenda & Zoom link here to make it easy for you: <https://www.northamptonma.gov/AgendaCenter/ViewFile/Agenda/02082021-5409?html=true>
- Ordinance to Create an Incentive for Smaller Houses by Allowing Two Half-Scale Units to Count as a Single-Family for Density Purposes. [Encourages "tiny houses." I think this one is very interesting/jb] - <http://www.northamptonma.gov/AgendaCenter/ViewFile/Item/15997?fileID=140886>
- Ordinance Relative to Affordable Housing, which seems to be aimed at apartments or other multi-unit construction - <https://www.northamptonma.gov/AgendaCenter/ViewFile/Item/15840?fileID=139295>

THE STICK can help stop the building of more fossil-fueled McMansions

The "stick" is already in the Zoning ordinance as part of the residential zoning guidelines that mention "FIT." It only needs to be tweaked and implemented going forward. Northampton Zoning Laws, Chap. 350, attachments 6, 7 & 8, for all residential zoning districts reads: "New homes should consist of units that maintain orientation, rhythm, setback pattern and street frontage green patterns of the surrounding block face." The ordinance includes the illustration below for guidance in deciding whether or not new construction "fits" into its surroundings though it is not currently used in the permitting process.



Link to the entire Zoning Ordinance: <https://ecode360.com/13265306>

There's more to "FIT" than mere appearance, of course. Since the prohibitive cost of home ownership and lack of affordable rentals is a social justice issue, I want to suggest that your committee recommend that the city find a way to require a "FIT" review for new housing construction permit applications that incorporates not only appearance but the three elements of the Sustainable Northampton plan. It would be great for Wayne Feiden to participate in this conversation.



The Climate Resilience and Regeneration Plan emblem features three areas that can be addressed by "FIT" once it has a mechanism for enforcement in the building permit process: Equity, Environment and Economy.

- **EQUITY** Since the 1980s it's gotten harder and harder for kids who grow up in Northampton to be able to afford to live here as adults, whether they are artists or attorneys, white or black or brown, any sexuality or religion. We definitely need more "starter" and "empty nester" homes, plus more affordable rentals.
A FIT review for equity would look at the builder's track record, that is for professional builders and developers, not home owners actually residing on the property. If a builder has a record of consistently building homes of the McMansion type, selling for more than 125% of the Zillow value of the average abutters to the building site, then the permit could be held up pending further information or revisions from said builder. Will the new dwelling(s) be in line with equitable housing goals? If not, deny the building permit.
- **ENVIRONMENT** Environmental sustainability is vital to our survival, of course. There are two elements, construction itself and the impact on the surrounding natural world. New construction must be as fossil-fuel-free as possible. The Resilience and Regeneration Plan proposes regulations for incentives, technical assistance, and energy performance standards for new buildings.
Beyond construction material and method issues, a FIT review for environmental consequences would also need to preserve local flora and fauna. Protection of our trees is a high priority along with safeguarding the areas that border the Mill River which sustains local wildlife. Densification along the river in particular needs to be evaluated for impact. Thoughtful care must go into planning future development, not calculations just to make the fast buck. Proposed cutting of a whole stand of trees, for example, would not pass an Environmental FIT review.

- **ECONOMIC FIT** Ask the City Council how can ordinances (1) support local architects, builders and workers in housing construction? (2) encourage the hiring of local tradespeople in the actual building work? and (3) support local realtors? A project on my own street originates in East Longmeadow; the workers come from around Chicopee and Ludlow; since these houses look to be built from some kind of kit, the materials are not bought locally; even the real estate broker is from the Longmeadow area. This project is an example of taking wealth out of our city and leaving an undesirable development behind. Again, an examination of the builder's previous track record can help determine if their practices are an economic FIT for our city. Individual exceptions can be allowed if other merits outweigh these considerations.

In summary: I request a "Bucket 3"(?) review of the "FIT" element from the zoning ordinance in light of the directives of the newest Sustainable Northampton plan, and suggest the City make use of a "FIT" review for Equity, Environmental Sustainability, Appearance and Economy for every new residential building permit application. I'd hope a panel with a couple Building Commission employees and a couple citizens, volunteers or appointees, could do efficient "FIT" reviews without much fuss or expense if the ordinance describes reasonable criteria.

Respectfully submitted for consideration to the
 Special Committee on the Review of Ordinances, 2020 Review,
 From: Jackie Ballance, Citizen, 35 Warner St.

LINKS to "PROPOSED ZONING CHANGES FOR TWO-FAMILY BY RIGHT"

[20.163 An Ordinance Relative to Two-Family By Right - Amendment to Definitions.pdf](#)

[20.164 An Ordinance Relative to Two-Family By Right - Amendment to URA Table of Use.pdf](#)

[20.165 An Ordinance Relative to Two-Family By Right - MODIFIED Amendment to URB-URC Tables of Use.pdf](#)

[20.166 An Ordinance Relative to Two-Family By Right - MODIFIED2-5-21 Addition of Subsection to Ch. 350-6.pdf](#)

[20.167 An Ordinance Relative to Two-Family By Right - MODIFIED Addition of WSP District Table of Use.pdf](#)

[20.168 An Ordinance Relative to Two-Family By Right - MODIFIED Amendment to SR-RR Table of Use.pdf](#)

[20.169 An Ordinance Relative to Two-Family By Right - MODIFIED Amendment to Projects Requiring Site Plan Approval.pdf](#)

[20.170 An Ordinance Relative to Two-Family By Right - Delete Sections 350-10.10 and 350-10.11.pdf](#)

[20.171 An Ordinance Relative to Two-Family By Right - MODIFIED Amendment to Parking Standards.pdf](#)

[20.172 An Ordinance Relative to Two-Family By Right - Amendment to SC Table of Use.pdf](#)



**City of
Northampton**

Laura Krutzler <lkrutzler@northamptonma.gov>

EQUITY IN HOUSING

Jackie Ballance <jackieballance@comcast.net>
To: "lkrutzler@northamptonma.gov" <lkrutzler@northamptonma.gov>

Thu, Feb 18, 2021 at 10:28 PM

Hi, Laura!

Please FWD this message to members of the Ordinance Review Committee including solicitor Seewald.

To esteemed members of the Ordinance Review Committee:

After the last meeting of your Committee, I wrote with enthusiasm about the possibility of using the city's "FIT" criteria to promote more affordable and equitable housing in Northampton. Since then I've had second thoughts about the difficulties of using that tool.

Last week in a discussion of the new 2-Family-by-Right ordinance, Atty. Alan Verson, a member of the Planning Board, made a simple and elegant suggestion to simply cap the size of new single-family homes as a way to bring down prices. Examination of the city's new Climate Resilience and Regeneration Plan strongly supports Atty. Verson's suggestion.

Some important points the Resilience & Regeneration Plan makes:

- page 22: The energy we use in single-family homes makes up... 18% of our community emissions.
- page 25: Within the city's footprint, increasing building energy efficiency is the most cost-effective way to reduce greenhouse gas emissions... This requires a variety of actions, including... right-sizing new construction to avoid over-building.
- page 49: Encourage housing diversity, smaller residential units that are efficient with resources.
- (page 50 and throughout the document.) Equity cuts across all aspects of this plan.

City Council could cap new single family houses around eleven hundred sq ft, a modest but comfortable size for a family of four based on my own growing-up experience. Anyone who wants or needs something larger can ask for an exception and expect a fair hearing.

Smaller houses cost less simply because they use fewer resources. Lower cost means improved access to home ownership for marginalized groups of people. For example, there's a new "green" Habitat for Humanity 1 BR solar house in Florence, valued by Zillow at \$120,000, which demonstrates that a person of modest means can have chance at home ownership. "Tiny houses" are actually in vogue. I even found a Net-Zero pre-fab house kit online for \$100K. A cap on the size of new single-family homes would be a big step towards lowering the cost of home ownership in our city, and thus towards meeting our climate and equity goals.

I think recommending this ordinance idea to the City Council might be more effective than the "FIT" idea I previously shared. At least one Planning Board member and 2 or 3 Councilors might already be on board, so there's even some chance for success.

Looking forward to Monday evening.
Jackie Ballance
35 Warner St.



**City of
Northampton**

Laura Krutzler <lkrutzler@northamptonma.gov>

Cap idea is just to trigger site plan review, not to deny larger houses

jackieballance@comcast.net <jackieballance@comcast.net>

Mon, Feb 22, 2021 at 11:38 AM

To: Alan Seewald <alan@paradisecitylaw.com>, Laura Krutzler <lkrutzler@northamptonma.gov>, Alex Jarrett <ajarrett@northamptonma.gov>, Gina-Louise Sciarra <glsciarra@northamptonma.gov>, James Nash <jimnashcitycouncil@gmail.com>, John Thorpe <jthorpe@northamptonma.gov>, Karen Foster <kfoster@northamptonma.gov>, "Marianne L. LaBarge" <mlabargeward6@aol.com>, "Michael Quinlan Jr." <mquinlanjr@northamptonma.gov>, Rachel Maiore <rmaiore@northamptonma.gov>, "William H. Dwight" <bdwight@comcast.net>, Megan Paik <megpaik@gmail.com>, Jeff Napolitano <jeff.napolitano@gmail.com>, Alan Seewald <aseewald@northamptonma.gov>

On 02/22/2021 10:14 AM Alan Seewald <alan@paradisecitylaw.com> wrote:

All –

To follow-up on Carolyn's email, M.G.L. c. 40A, § 3 provides "No zoning ordinance or by-law shall regulate or restrict the interior area of a single family residential building..." The SJC has held that this provision prohibits the direct regulation of the size of single-family residences. Many provisions of zoning, including setbacks, lot coverage limits, and floor area ratios, have the indirect effect of limiting the size of the structure that can be built on a particular lot. These traditional zoning provisions all limit the size of single family homes not as a fixed number but in relation to the size of the lot on which the structure is to be built. Based on the statute and case law, my opinion is that Ms. Ballance's proposal to limit all single family residences to a particular square footage would violate § 3.

Alan Seewald

Northampton City Solicitor

One [Roundhouse Plaza](#)

[Suite 304](#)

[Northampton, MA 01060](#)

t: (413) 584-4455

e: aseewald@northamptonma.gov

From: Laura Krutzler <lkrutzler@northamptonma.gov>

Sent: Monday, February 22, 2021 7:32 AM

To: Alex Jarrett <ajarrett@northamptonma.gov>; Gina-Louise Sciarra <glsciarra@northamptonma.gov>; James Nash <jimnashcitycouncil@gmail.com>; John Thorpe <jthorpe@northamptonma.gov>; Karen Foster <kfoster@northamptonma.gov>; Marianne L. LaBarge <mlabargeward6@aol.com>; Michael Quinlan Jr. <mquinlanjr@northamptonma.gov>; Rachel Maiore <rmaiore@northamptonma.gov>; William H. Dwight <bdwight@comcast.net>; Megan Paik <megpaik@gmail.com>; Jeff Napolitano <jeff.napolitano@gmail.com>; Alan Seewald <aseewald@northamptonma.gov>

Subject: Fwd: Tiny house development coming to N'ton

Good morning, Councilors and Ordinance Review Committee members,

I am forwarding this per request of Jackie Ballance, together with Carolyn Misch's response.

Laura Krutzler

Administrative Assistant, Northampton City Council

(413) 587-1210

lkruzler@northamptonma.gov

----- Forwarded message -----

From: **Carolyn Misch** <cmisch@northamptonma.gov>

Date: Sun, Feb 21, 2021 at 8:07 PM

Subject: Re: Tiny house development coming to N'ton

To: Jackie Ballance <jackieballance@comcast.net>

Cc: lkruzler@northamptonma.gov <lkruzler@northamptonma.gov>

Jackie-

I will certainly forward this on. However, just so you know, Alan Verson was speaking about caps for two-family units not single family homes. Again the zoning cannot restrict what happens within or what size or what the layout is of any single family home.

Chris Lee, of Backyard ADU's has come before the Boards on several occasions to get permitting for detached accessory dwellings. Thanks for sharing.

Regards,

Carolyn Misch, AICP

Assistant Director

City of Northampton Office of Planning & Sustainability

210 Main St, Room 11

Northampton, MA 01060

413-587-1287

cmisch@northamptonma.gov

www.northamptonma.gov/plan



On Fri, Feb 19, 2021 at 6:08 PM Jackie Ballance <jackieballance@comcast.net> wrote:

Laura, please share the note & link with the members of the Council, as well as the non-Council members of the Ordinance Review Committee. And I promise not to bother you again for at least another week, maybe more. 🙄

Carolyn, please share this link with the Planning Board members as a follow-up to the last meeting.

To folks who've heard me or Alan Verson plead for a cap the size of single-family home construction, here's a vision of possibilities.

Someone is already planning a community of tiny houses in Florence. Take a look at some of their designs on their website.

<https://backyardadus.com/>

These are perfect starter homes for a single person or a couple, or a retirement home, with net-zero options. This is the future of resilience and regeneration.

Jackie Ballance



**City of
Northampton**

Laura Krutzler <lkrutzler@northamptonma.gov>

Tiny house development coming to N'ton

Jackie Ballance <jackieballance@comcast.net>

Fri, Feb 19, 2021 at 6:07 PM

To: "lkrutzler@northamptonma.gov" <lkrutzler@northamptonma.gov>, "cmisch@northamptonma.gov" <cmisch@northamptonma.gov>

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Jackie Ballance

Northampton has an older population

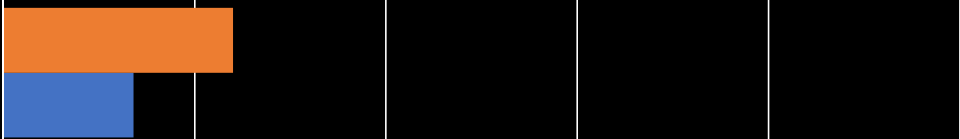
Persons 65 years and over, percent



Persons under 18 years, percent



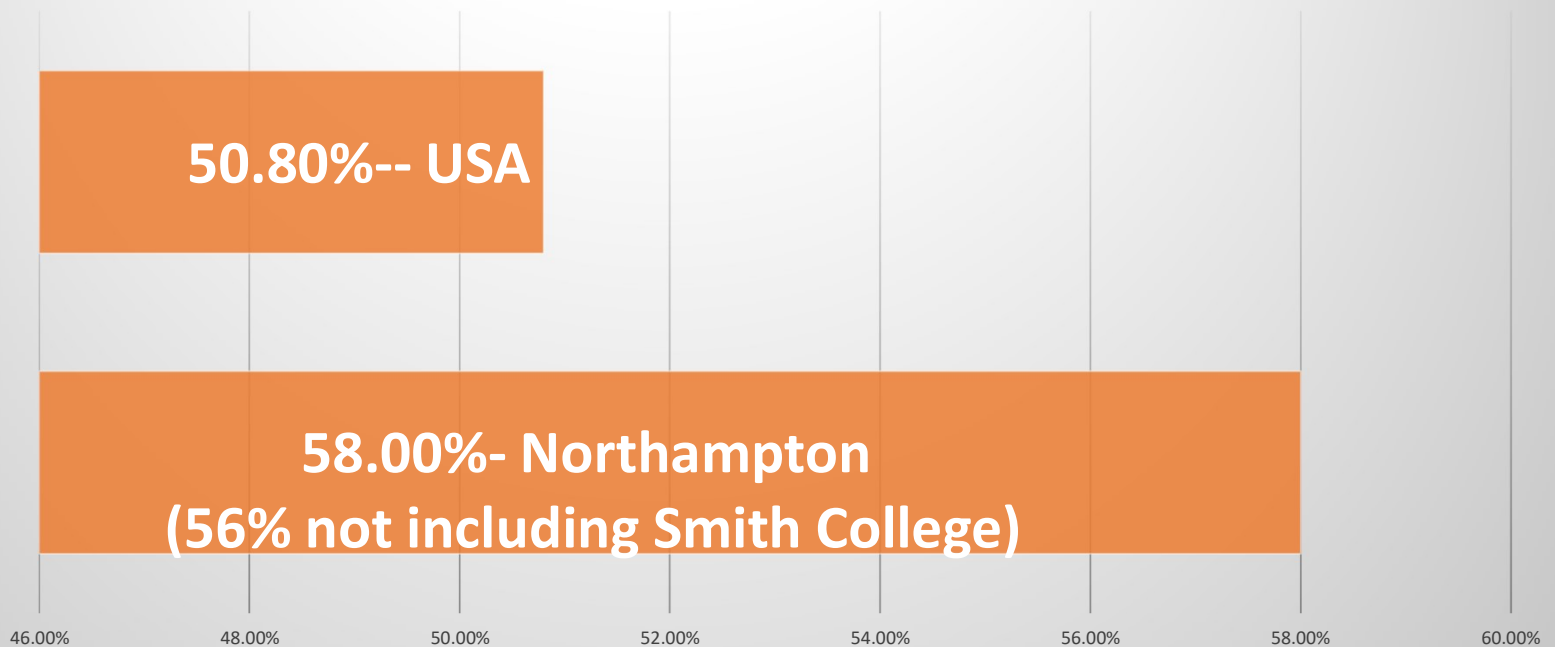
Persons under 5 years, percent



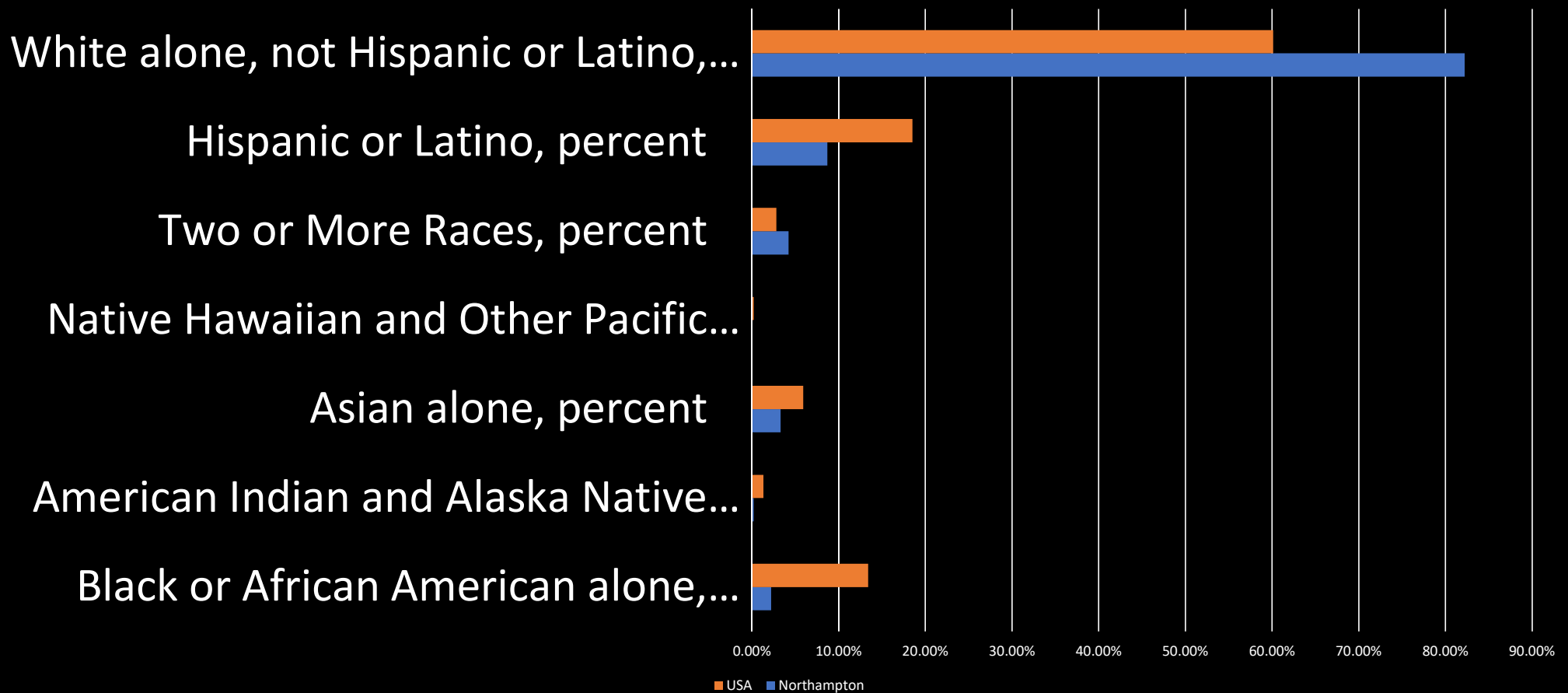
0.00% 5.00% 10.00% 15.00% 20.00% 25.00%
USA Northampton

Northampton has a higher female population

Female persons, percent

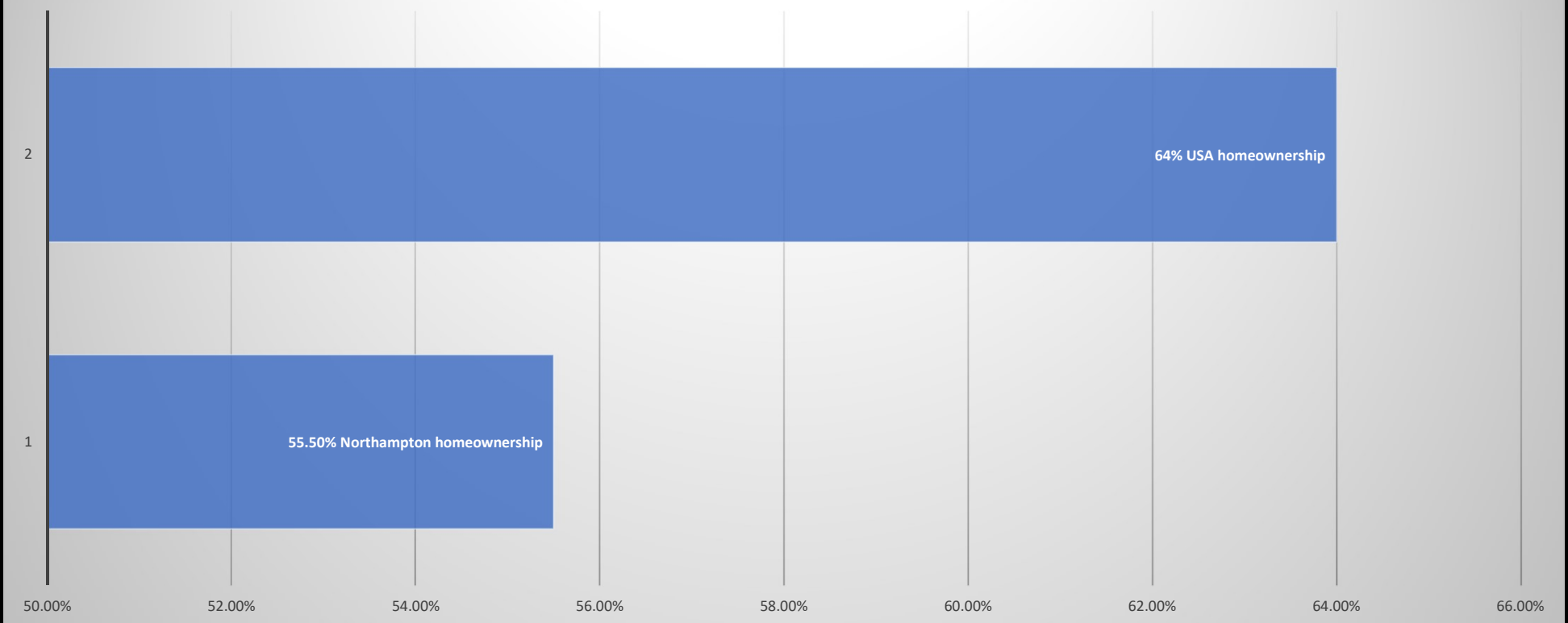


Northampton is whiter than the nation

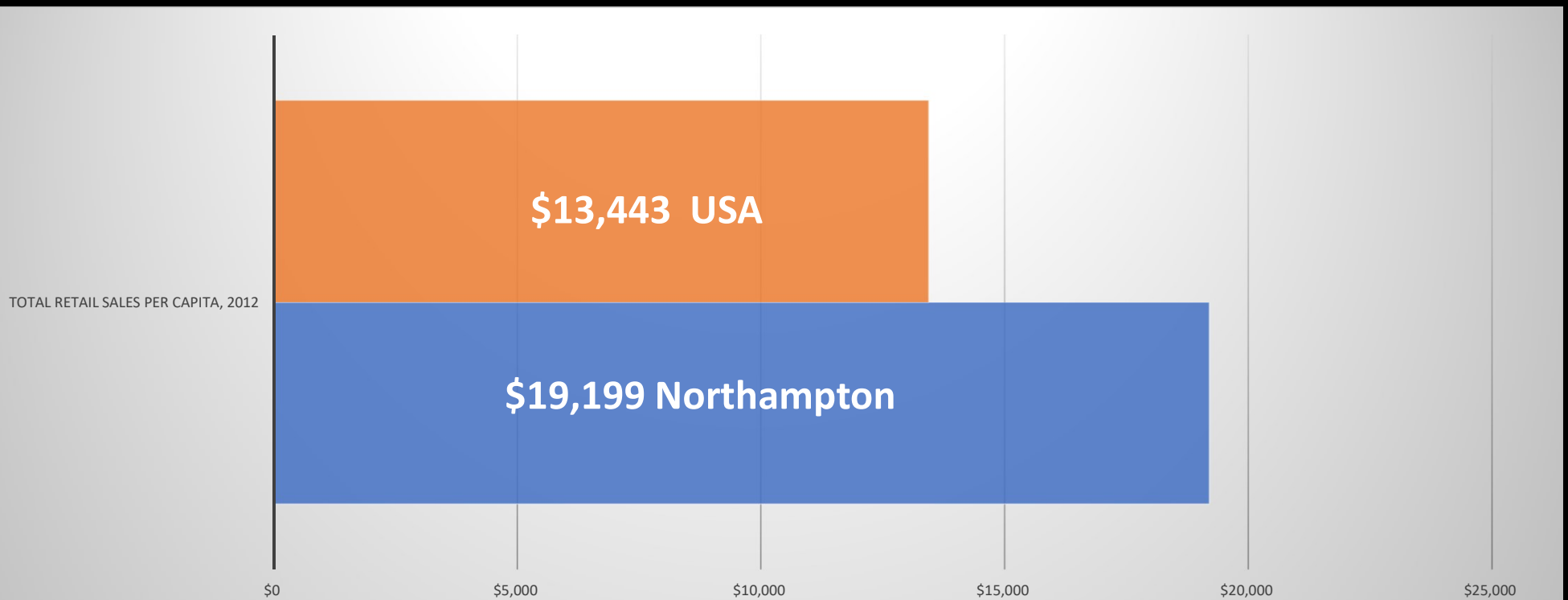


Northampton has lower homeownership than the USA That rate is increasing

Owner-occupied housing unit rate, 2015-2019



Northampton has higher retail sales per capita than US And faces a greater threat from Amazon



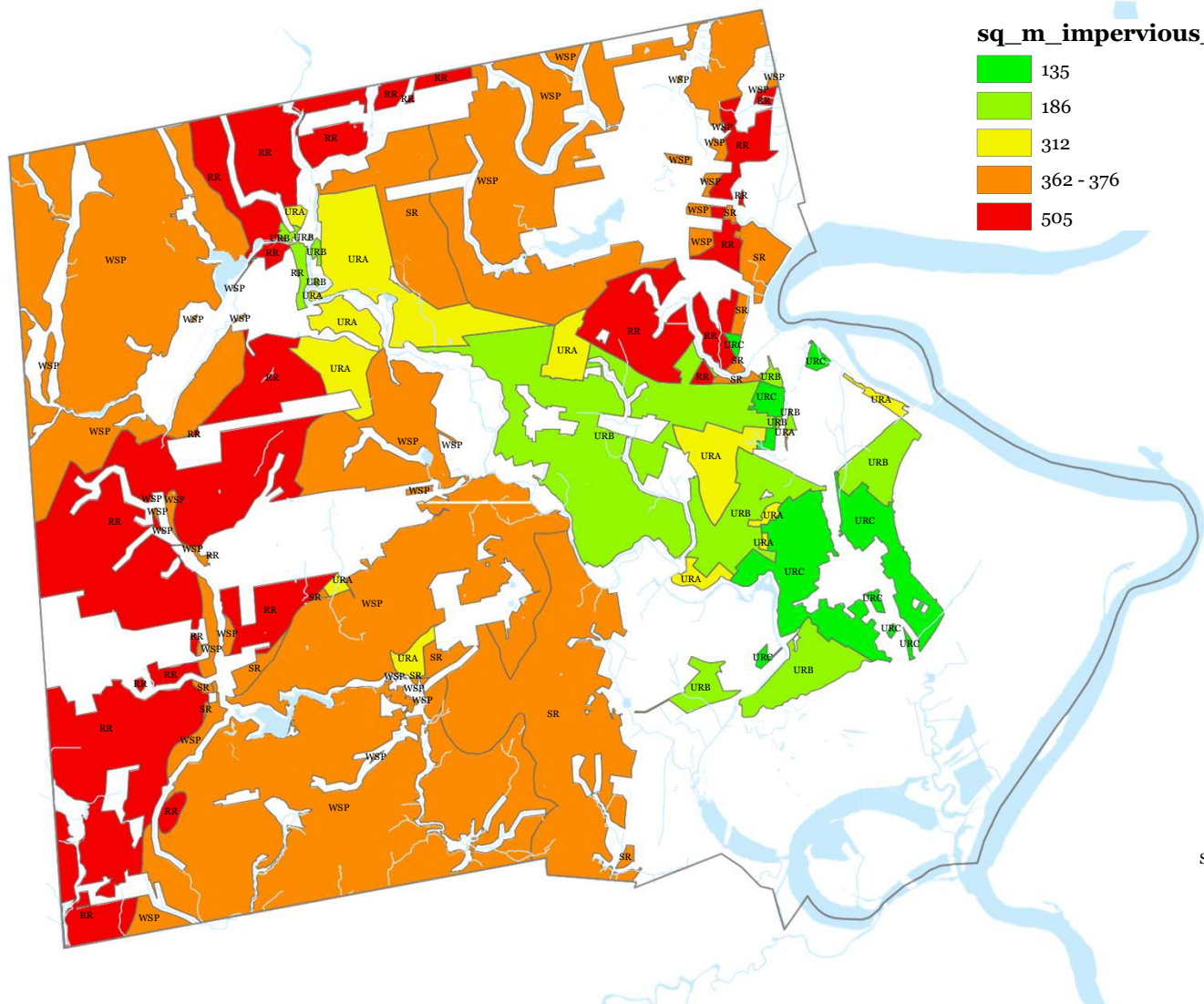
Context: Hampshire County (2017-2018 data) housing OR income challenges

- Median household income: \$64,974
- Median per capita income: \$33,605
- Median gross rent: \$ 1,083
- Poverty Rate 13.8% (US 14.6%)
- % cost-burdened renters 49.8% (>30% income)
- % severely cost-burdened 22.8% (>50% income)

Experiencing Homelessness January 2020 Hampshire County

- Sheltered 102 (includes 22 children, 6 youth)
- Unsheltered 34 (includes 2 youth)

Race Disparities	% general population	% homeless population
White (non-Hispanic)	87.7%	57.7%
Hispanic/Latinx	4.5%	22%
Black/African-American	2.3%	18%



sq_m_impervious_per_capita

- 135
- 186
- 312
- 362 - 376
- 505

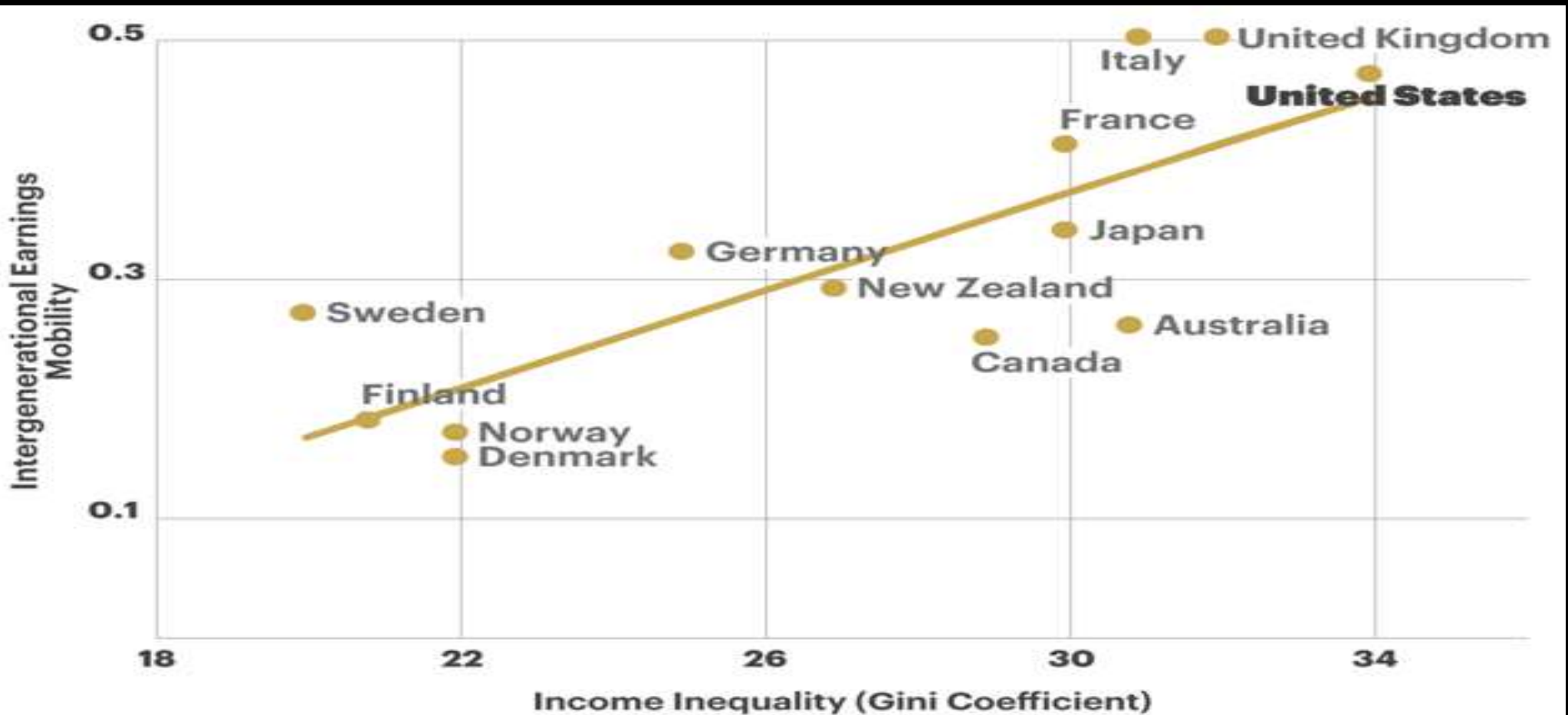
Sources:
 2010 City Census
 MassGIS 30cm imagery

E

Raw Data and American Community Survey

Population estimates, July 1, 2019, (V2019)	28,451	328,239,523
Population estimates base, April 1, 2010, (V2019)	28,560	308,758,105
Population, percent change - April 1, 2010 (estimates base) to July 1, 2019, (V2019)	-0.40%	6.30%
Population, Census, April 1, 2010	28,549	308,745,538
Persons under 5 years, percent	3.40%	6.00%
Persons under 18 years, percent	15.60%	22.30%
Persons 65 years and over, percent	18.00%	16.50%
Female persons, percent	58.00%	50.80%
White alone, percent	88.50%	76.30%
Black or African American alone, percent	2.20%	13.40%
American Indian and Alaska Native alone, percent	0.20%	1.30%
Asian alone, percent	3.30%	5.90%
Native Hawaiian and Other Pacific Islander alone, percent	0.00%	0.20%
Two or More Races, percent	4.20%	2.80%
Hispanic or Latino, percent	8.70%	18.50%
White alone, not Hispanic or Latino, percent	82.20%	60.10%
Veterans, 2015-2019	1,085	18,230,322
Foreign born persons, percent, 2015-2019	7.50%	13.60%

Great Gatsby Curve



Matthew Stewart. June, 2018. "The 9.9 Percent Is the New American Aristocracy." Atlantic

Act or Action	Year	Effect: The American Dream- Equity and Mobility?
Naturalization Act	1790	Limited citizenship for new residents to whites
Indian Removal Act	1830	Remove Native Americans east of Mississippi River to reservations
Black exclusion laws (states)	1840s	Some western states banned African Americans from settling
Homestead Act	1862	Opening western lands to white, displacing native Americans
Black codes (states)	1865	Post-Civil War restricting African Americans' freedom
Jim Crow laws (state, local)	1860s	Established segregation in southern US
Indian Appropriations Act	1871	Severely limited Native American sovereignty (not independent nations)
Chinese Immigration Exclusion	1882	Moratorium on Chinese immigration
Dawes Act	1887	Broke up Native Americans reservations and effectively culture
Bayonet Constitution	1887	Gut Hawaiian monarchy and transfer power to settlers
Village of Euclid v. Ambler Realty	1926	Zoning legal: "often apartment house is a mere parasite...to take advantage of open spaces and attractive surroundings created by the residential character"
Federal Housing Administration Housing Act	1934 1949	For 30 years, most mortgages to non-Hispanic whites for single family homes (redlining)
Social Security Act	1935	Excluded farm and domestic works, excluding 65% of African Americans
Wagner Act	1935	Empowered unions but did not prevent discrimination
E.O. #9066	1941	Internment of West Coast Japanese Americans
Federal Highway Act	1956	Developed the interstate highway system

Equity: ALL residents of our community can thrive...fair and affordable housing...front line communities...accessibility of all kinds...break cycles of repression and disadvantage

- **Distributional Equity:** resources for sustainable development and opportunity...distribution of public goods (windfalls) and undesirable features (wipeouts).
- **Structural Equity:** overcome decades of institutional racism and disparities (e.g. zoning)
- **Procedural Equity:** all populations are represented... yet public hearings about projects are overrepresented with middle class homeowners
- **Intergenerational Equity:** decisions we make today to not rob our children
- **Cultural Equity:** all cultures, not just the majority culture, are treated with respect and dignity and we minimize our bias

	Why Meet the demographic demand in all parts of the market, PLUS	How
2-family homes in all residential districts	<ul style="list-style-type: none"> • Address equity by providing more rentals in each neighborhood • Lower median price • Smaller carbon footprint 	<ul style="list-style-type: none"> • More housing options to meet residents' needs • <u>2-family homes units are smaller size and less costly:</u> <ul style="list-style-type: none"> • Median 1-family homes=1,618 ft²; \$334,059 (n=5,727) • Median unit in 2-family =1,174 ft²; \$114,373 (n=888) • Less infrastructure for 2 units the same lot area as 1-unit • Less Impervious surface per person • Shared walls and roofs reduce energy consumption
Bonus density for deed restricted affordable units	<ul style="list-style-type: none"> • Address equity with more affordable units • Lower cost and burden of creating affordable units 	<ul style="list-style-type: none"> • Eliminates costs and burdens of DHCD Site Eligibility Letter
Bonus density for half-scale homes URB/URC	<ul style="list-style-type: none"> • Address equity by providing more attainable housing • Lower median price • Housing next to urban core supports local businesses • Housing next to urban core reduces parking, driving • Smaller carbon footprint 	<ul style="list-style-type: none"> • More housing options to meet residents' needs • <u>Half-scale units will be smaller and lower cost</u> <ul style="list-style-type: none"> • Median 1-family homes=1,779 ft² • Half-scale maximum = 800 ft²
Expand housing in Central Business and Florence Center	<ul style="list-style-type: none"> • Address equity by providing more rentals • Urban core housing supports local businesses • Urban core housing reduces parking, driving, and carbon footprints 	<ul style="list-style-type: none"> • Increasing units within 15-minute walk of business • Lower car ownership rate: average of 1.7 per dwelling unit in suburban locations down to 0.8 in village centers and adjacent neighborhoods • Median sized dwelling unit in residential districts= 1,880 ft² • Median size dwelling unit CBD and GB= 1,240 ft²
Site Plan Approval	<ul style="list-style-type: none"> • For quality of built environment 	<ul style="list-style-type: none"> • Details of building and site layout (more than # of units)