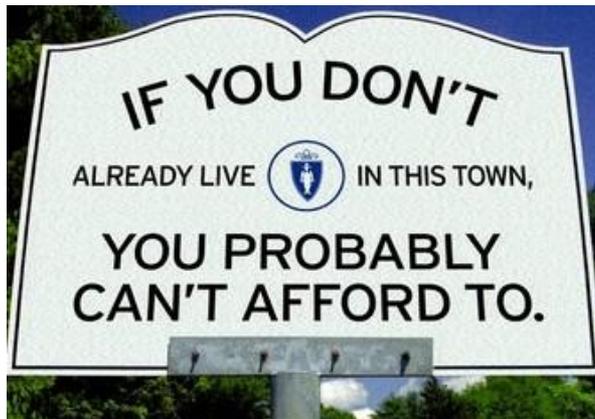


# Chapter 61A Purchase Option



241 Boxboro Road  
Informational Meeting

# Stow Municipal Affordable Housing Trust (SMAHT)

- ▶ Purpose is to provide for the preservation and creation of affordable housing in the Town of Stow for the benefit of low- and moderate-income households
  - ▶ Established by ATM in 2005
  - ▶ Operating procedures and authority of the Trust are defined in Section 18 of Stow's General Bylaws, approved 2006
  - ▶ Governance updated in 2008 and 2011 to restrict broad powers of the original statute
- 

# SMAHT Activities

- ▶ Advocate for housing issues
  - ▶ Coordinate with other Town departments and committees
  - ▶ Housing Production Plan = 5-year plan
  - ▶ Affordable housing inventory monitoring
    - Preservation
    - Affordability safeguard program
    - By MetroWest Community Development
  - ▶ Housing grant program
  - ▶ Pre-development loan program
  - ▶ Development of Town-owned property
- 

# Affordable Housing in Stow



# Affordable Housing Background

- ▶ Massachusetts housing goal:  
>10% of total living units “affordable”  
(MGL Chapter 40B)
- Affects every one of the 351 municipalities in MA
- ▶ Stow: 2500 units as of 2010, 10% = 250 units
- ▶ Currently at 179 units (71 needed) = 7.16 %
- ▶ 2020 number projection: 2950 units and 116 additional affordable units to reach 10%
- ▶ Stow can gain “Safe Harbor” by building ~13 units/year

# Affordable Housing Background

- ▶ Stow is part of the Boston HUD Area
  - Median Household Income: \$98,100 (household of 4)
  - “Moderate” household limit (80% MHI): \$73,050
  - Current Stow households
    - 670 (28%) moderate income or below
    - 220 at moderate level (9.4%) (50–80% AMI)

U.S. DEPARTMENT OF HUD 06/22/2016  
STATE: MASSACHUSETTS

	----- 2016 ADJUSTED HOME INCOME LIMITS -----							
PROGRAM	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON
<b>Barnstable Town, MA MSA</b>								
30% LIMITS	17850	20400	22950	25450	27500	29550	31600	33600
VERY LOW INCOME	29750	34000	38250	42450	45850	49250	52650	56050
60% LIMITS	35700	40800	45900	50940	55020	59100	63180	67260
LOW INCOME	47550	54350	61150	67900	73350	78800	84200	89650
<b>Boston-Cambridge-Quincy, MA-NE HUD Metro FIM</b>								
30% LIMITS	20650	23600	26550	29450	31850	34200	36550	38900
VERY LOW INCOME	34350	39250	44150	49050	53000	56900	60850	64750
60% LIMITS	41220	47100	52980	58860	63600	68280	73020	77700
LOW INCOME	51150	58450	65750	73050	78900	84750	90600	96450

# Stow Demographics

- ▶ Households with members 18 or younger: 5%
    - School enrollment stable
  - ▶ Households with members over 65: +8%
  - ▶ Median household income: \$138,000
  - ▶ 90% of housing is single-family homes
  - ▶ 25% of Stow survey respondents are cost burdened: pay more than 30% of annual income for housing
- 

# “Affordable Housing”

## Who needs it?

- ▶ People who grew up in Stow and can't afford to move here now
- ▶ Most Town employees
- ▶ Fixed-income residents
- ▶ Elders who wish to downsize
- ▶ People who aspire to live in a community like ours

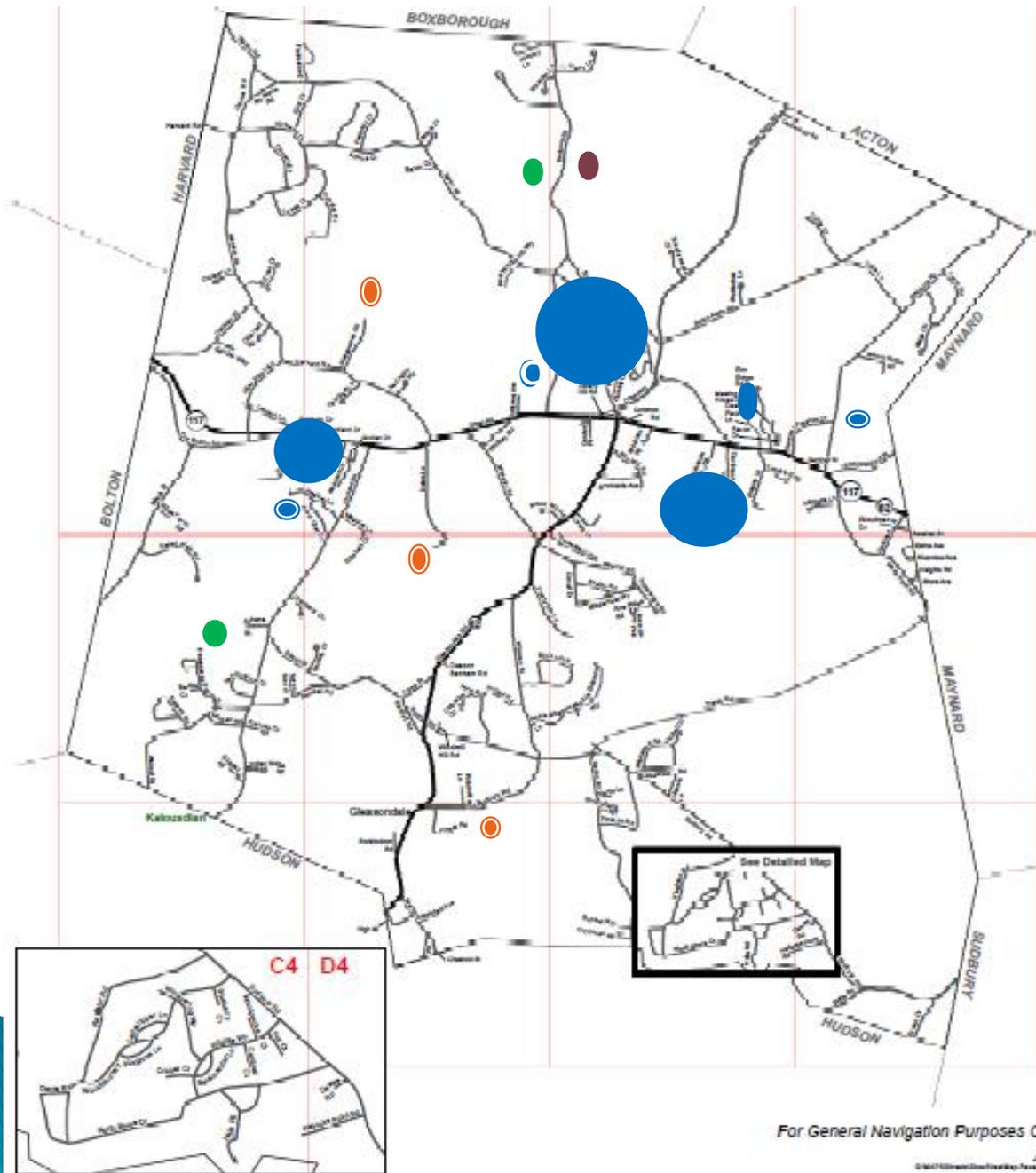
## Who lives there?

- ▶ Teacher
- ▶ Police Officer
- ▶ Firefighter
- ▶ Physical therapist
- ▶ Auto mechanic
- ▶ Non-profit staff
- ▶ Paralegal assistant
- ▶ Administrative assistant
- ▶ Truck driver
- ▶ Radiology technician
- ▶ Librarian
- ▶ Carpenter
- ▶ Massage therapist

# Current Real Estate Market

- ▶ Current buildable lot value: ~\$207,000
  - ▶ Stable values for many years
- ▶ Current median home price ~\$455,000
  - ▶ House values doubled since 1970s
- ▶ Affordable home prices (2016 AMI)
  - 1 bedroom, 2 people : \$ 155,000
  - 2 bedroom, 3 people : \$ 176,000
  - 3 bedroom, 4 people : \$ 199,000

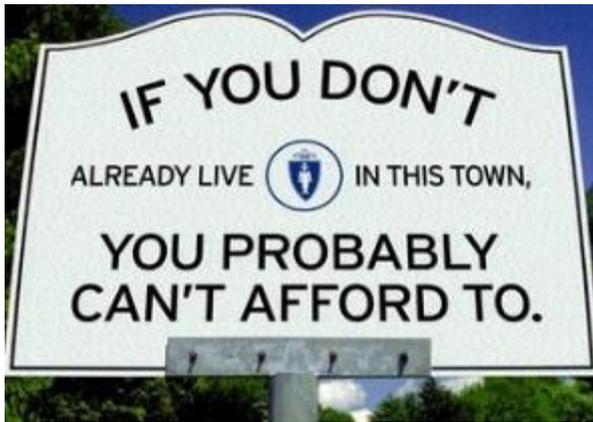
A home with a low current price does not count as “affordable” for the 10%. It must be **subsidized** and recognized by the Department for Housing & Community Development (DHCD) on their Subsidized Housing Inventory (SHI)



Existing affordable housing  
 Permitted affordable housing  
 Potential affordable housing  
 (Planning Board has been  
 approached for development -  
 IZ)  
 241 Boxboro Road

# MGL Chapter 61 Program

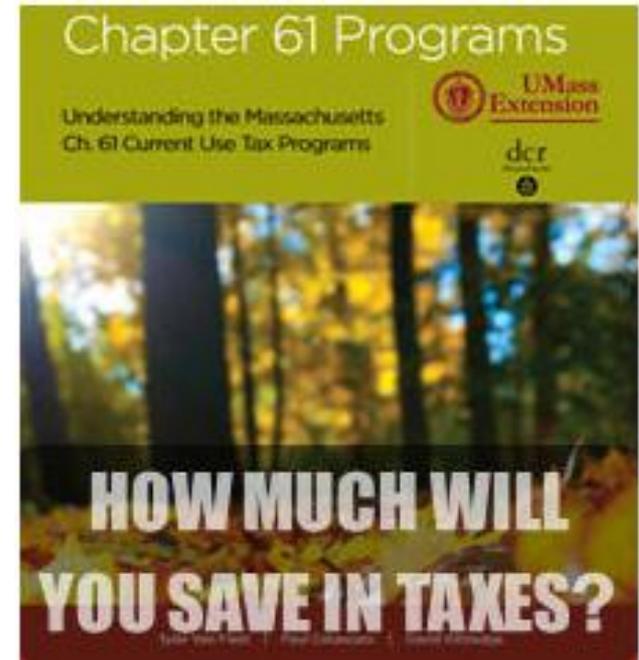
Temporary Tax Reduction



# What is Chapter 61?

## **Temporary** Land Protection Measure

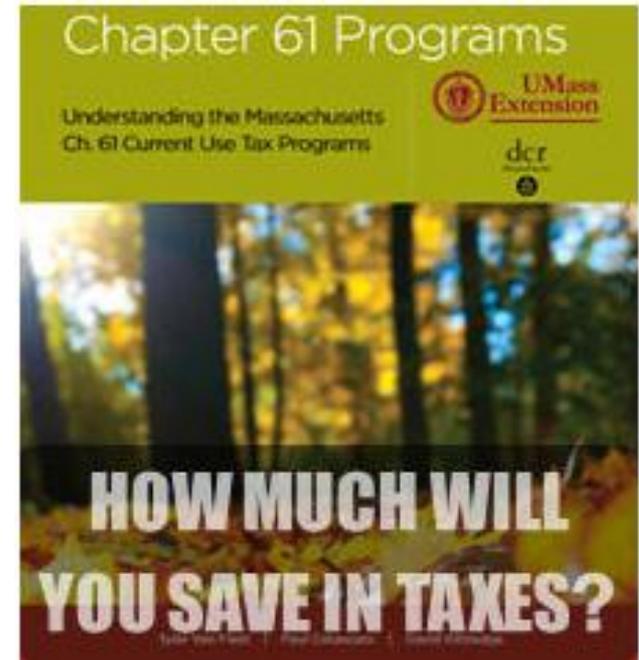
- ▶ Originated in 1941, updated to add uses (1973, 1979)
- ▶ Tax reduction programs for the land owner
- ▶ Designed to encourage preservation of farmland and forests within Massachusetts



# What is Chapter 61?

## Temporary Land Protection Measure

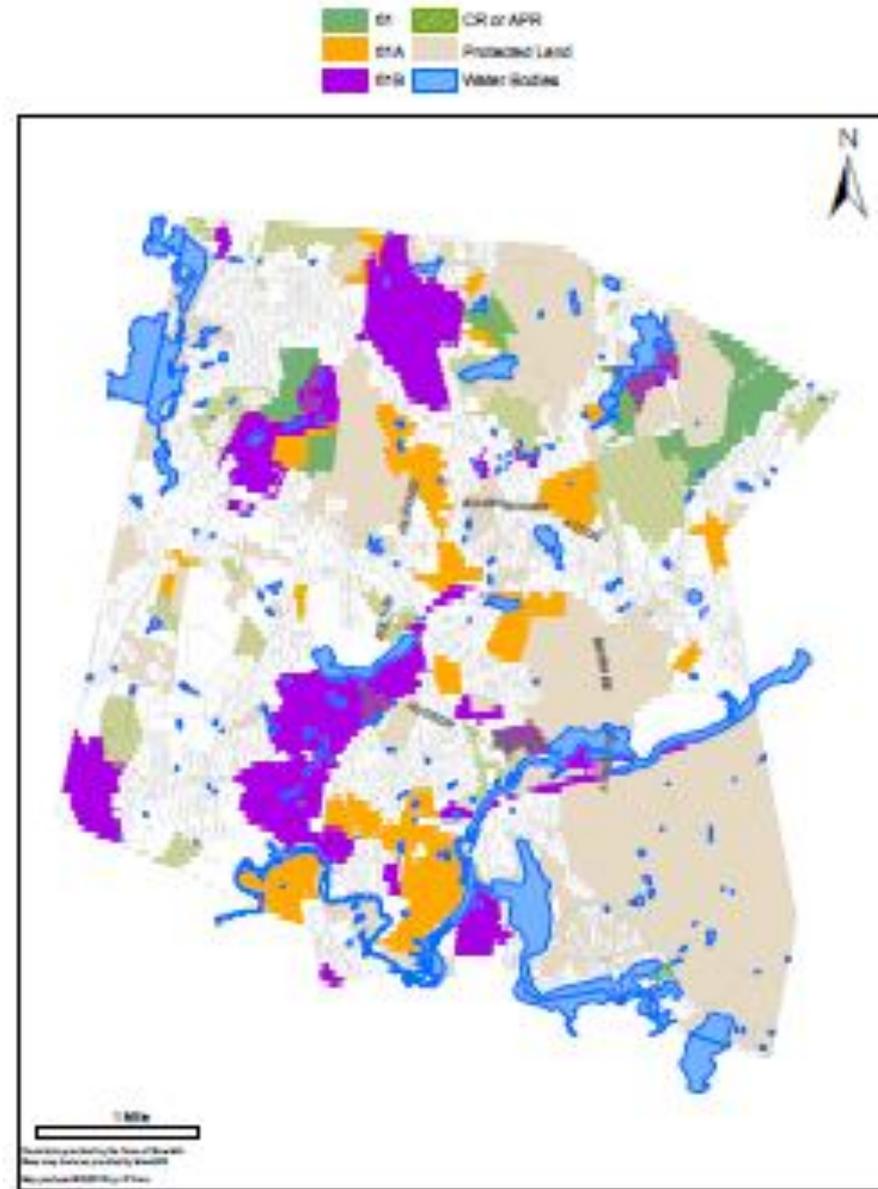
- ▶ Liens required, owner pays registry recording and release of lien fees
- ▶ Gives municipalities a right of first refusal to acquire land in Chapter 61 programs
  - *Trigger.*
    - Sold/converted to residential, commercial, or industrial purposes
  - 120 days to exercise right of first refusal
  - Must meet a bona fide offer for sale



# Stow Chapter 61 Land

~50% of undeveloped land in Stow is in a Chapter 61 program

- Plus 1000 acres of protected conservation land
- Plus 1300 acres owned by U.S. Government and Commonwealth of Massachusetts



# Mass. General Law Chapter 61

Chapter	Chapter Name	Requirements
61	Forestland Act	<ul style="list-style-type: none"><li>• 10+ acres of continuous forestland</li><li>• 10-year forest management plan, certified by Department of Conservation &amp; Recreation (DCR) – State Forester</li><li>• Assessment determined by Farmland Valuation Advisory Commission</li><li>• Classification runs for 10 years, can then recertify or withdraw<ul style="list-style-type: none"><li>• If withdraw, pay penalty (conveyance tax, roll-back tax, 5% interest) if land converts from forestry to another use</li><li>• No penalty if land converts to another Chapter 61 program use</li><li>• Town's right of first refusal extends a full year after the property leaves the Chapter program</li></ul></li></ul>

# Mass. General Law Chapter 61A

Chapter	Chapter Name	Requirements
61A	Farmland Assessment Act	<ul style="list-style-type: none"><li>• For agriculture (raising animals) or horticulture (fruit, vegetables, ornamental shrubs)</li><li>• 5+ acres in farm use for at least 2 years prior to the application</li><li>• May include some “productive” forestland (see Ch 61)</li><li>• Must show sales of farm products equal to \$500 on the first 5 acres each year and \$5 per acre thereafter<ul style="list-style-type: none"><li>• Forest and wetlands must produce \$0.50 per acre</li></ul></li><li>• Farmland Valuation Advisory Commission sets range of values based on agricultural use</li><li>• Runs for 1 year</li><li>• To re-enroll, landowner must file an application by October 1 prior to the next tax year</li><li>• No penalty taxes (conveyance tax, roll-back tax, 5% interest) unless land will be converted to a non-Chapter 61 use</li><li>• Town’s right of first refusal extends a full year after the property leaves the Chapter program</li></ul>

# Mass General Law Chapter 61B

Chapter	Chapter Name	Requirements
61B	Recreational Land Act	<ul style="list-style-type: none"><li>• Open space and recreational land</li><li>• 5+ acres in natural, wild, open, pastured, or landscaped condition</li><li>• 5+ acres of forestland under a certified forest management plan to preserve wildlife and other natural values (water, clean air, rare species, etc.)</li><li>• 5+ acres of recreational land</li><li>• Runs for 1 year</li><li>• Assessed at recreational use value but may not exceed 25% of full and fair cash value</li><li>• To re-enroll, landowner must file an application by October 1 prior to the next tax year</li><li>• No penalty taxes (conveyance tax, rollback tax, 5% interest) unless land will be converted to a non-Chapter 61 use</li><li>• Town's right of first refusal extends a full year after the property leaves the Chapter program</li></ul>

# How Can You Protect Land Permanently?

- ▶ **Conservation Restriction**
  - ▶ **Agricultural Preservation Restriction**
  - ▶ **Donate** or **sell** land to a local or regional land trust
  - ▶ Purchase land with **Community Preservation Act** funds, specifically for open space or recreation
  - ▶ **Deed Restriction** also controls use and development of land but for a limited period of time
- 

# Owner's Acknowledgement of Rights and Obligations

- ▶ Each Chapter 61 program has its own form
  - ▶ Qualifications
  - ▶ Applications
  - ▶ Lien annual taxation
  - ▶ Municipal option to purchase
  - ▶ Penalty tax appeals and abatements
- 

# Town's Legal Obligation

- ▶ Must waive or exercise option to purchase any classified land when the owner notifies of plans to sell or convert Chapter 61 land to residential, commercial, or industrial use
- ▶ Must respond within 120 days after the day following the latest date of deposit in the United States mail
- ▶ If the Town wants to exercise the option, it must meet the price in the bona fide offer
  - Cannot renegotiate, must step into the contract term by term
  - Cannot extend the 120 days unless the landowner agrees
  - Cannot address unclassified land
- ▶ If the Town waives option, the original lien stays in place for 5 years after the sale to ensure rollback taxes are captured should deal stall

# Town's Right of First Refusal

- ▶ Conservation Commission, Open Space Committee, and Recreation Commission regularly review and prioritize Chapter 61 lands
  - SMAHT has been advised by Town Counsel NOT to do this
  - SMAHT must respond to opportunities as they arise—strategy in its updated Housing Production Plan
- ▶ Landowner must notify Town when all or a portion of Chapter 61 land is being converted to a nonqualifying use
  - Certified mail or hand delivered
  - Board of Selectmen, Board of Assessors, Planning Board, Conservation Commission, and State Forester
  - Must include bona fide offer to purchase the land or, if converted, an option for the Town to purchase the land at full and fair market value based on an impartial appraisal
  - **Proper notice** is required to trigger the 120-day option

# Proper Notice

*The 120-day period does not start until the landowner complies with the notification procedures. Proper notice to the municipality must include:*

1. A statement of intent to sell or convert.
2. A statement of proposed use of the land.
3. The location and acreage of land as shown on a map drawn at the scale of the Assessor's map in the city or town in which the land is situated.
4. The name, address and telephone number of the landowner.
5. In the case of an intent to sell the land for another use, a certified copy of an executed purchase and sale agreement specifying the purchase price and all terms and conditions of the proposed sale, which is limited only to the property classified under the Chapter. To be a bona fide offer, the purchase and sale agreement may not be dependent upon potential changes to current zoning or conditions or contingencies relating to the potential for, or the potential extent of, subdivision of the property for residential use, or the potential for, or the potential extent of, development of the property for industrial or commercial use.
6. Any additional agreements or a statement of any additional consideration for any contiguous land under the same ownership, and not classified under the Chapter, but sold or to be sold contemporaneously with the proposed sale.
7. In the case of an intent to convert the land to other use, the landowner must also provide to the municipality the name of the landowner's attorney (if the landowner has retained an attorney).

# Proper Notice

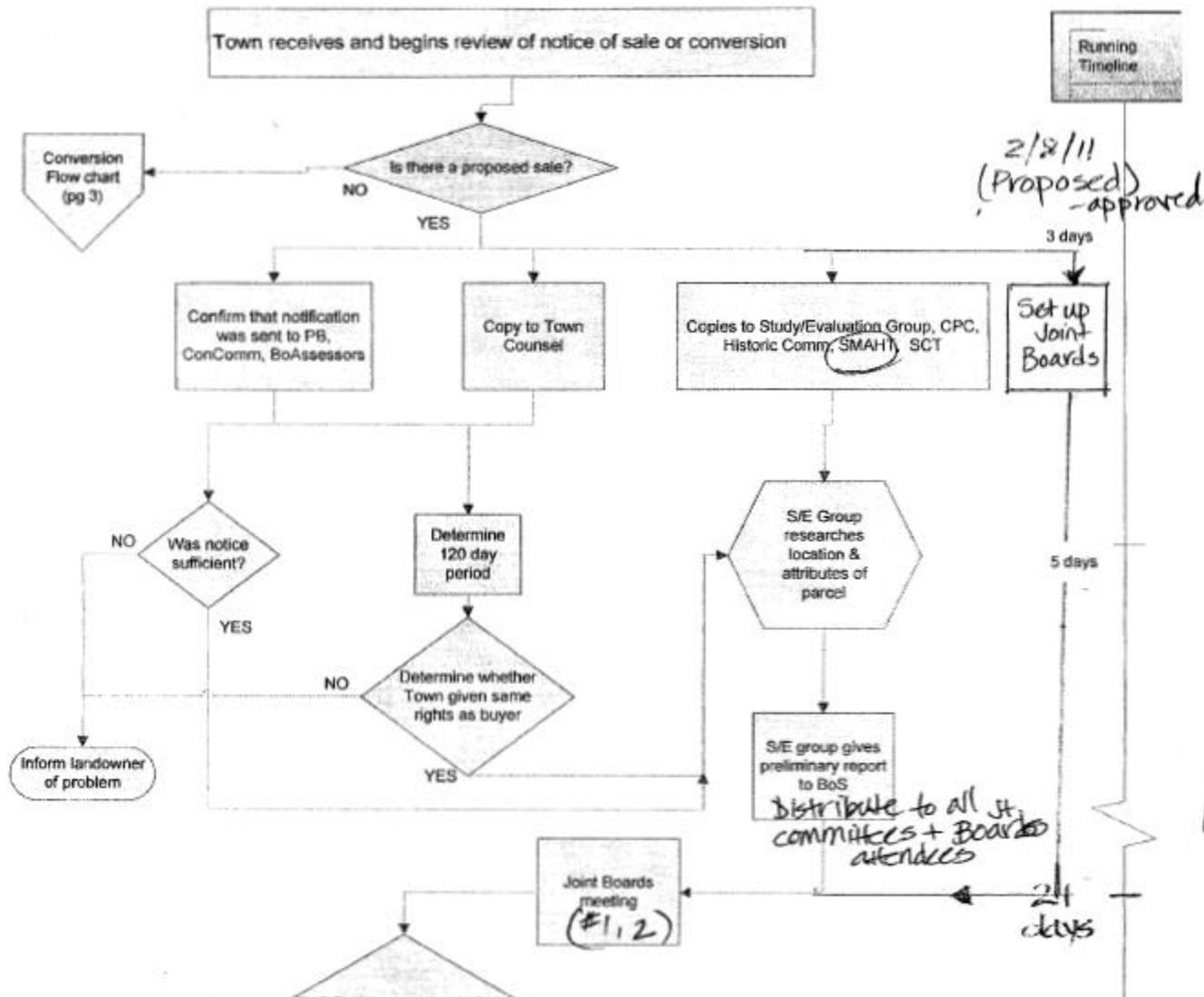
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7. In the case of an intent to convert the land to other use, the landowner must also provide to the municipality the name of the landowner's attorney (if the landowner has retained an attorney).

# Proper Notice Kicks Off Stow's Chapter 61 Process

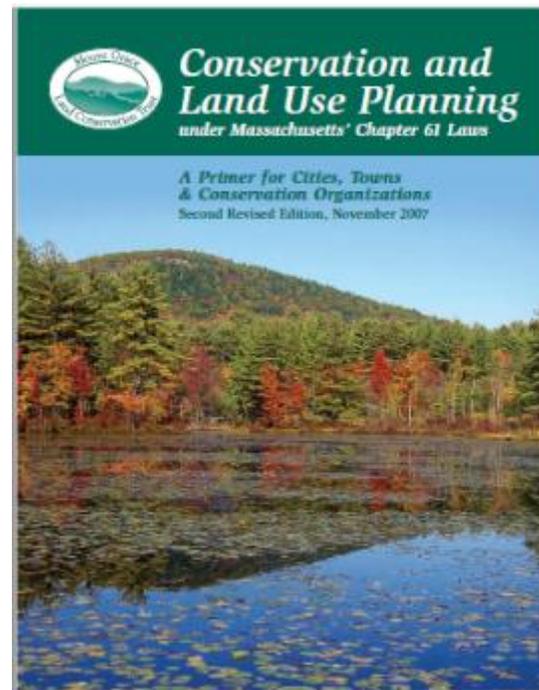
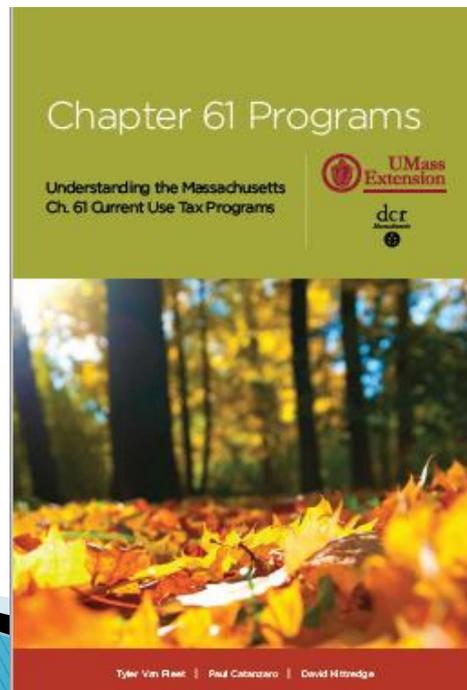


# For More Information

- ▶ [Massachusetts General Law Chapter 61](#)
  - ▶ [Massachusetts Forest Tax Program Chapter 61](#) (Department of Energy and Environmental Affairs)
  - ▶ [Reduce Your Property Taxes Under Chapter 61](#) (Massachusetts Forest Alliance)
  - ▶ [Chapter 61 Resources](#) (Sudbury Valley Trustees)
- 

# Even More Information

- ▶ [Chapter 61 Programs](#) (masswoods.net)
- ▶ [Conservation and Land Use Planning under Massachusetts Chapter 61 Laws](#) (Mount Grace Land Conservation Trust)



# Stow Chapter Land Procedure

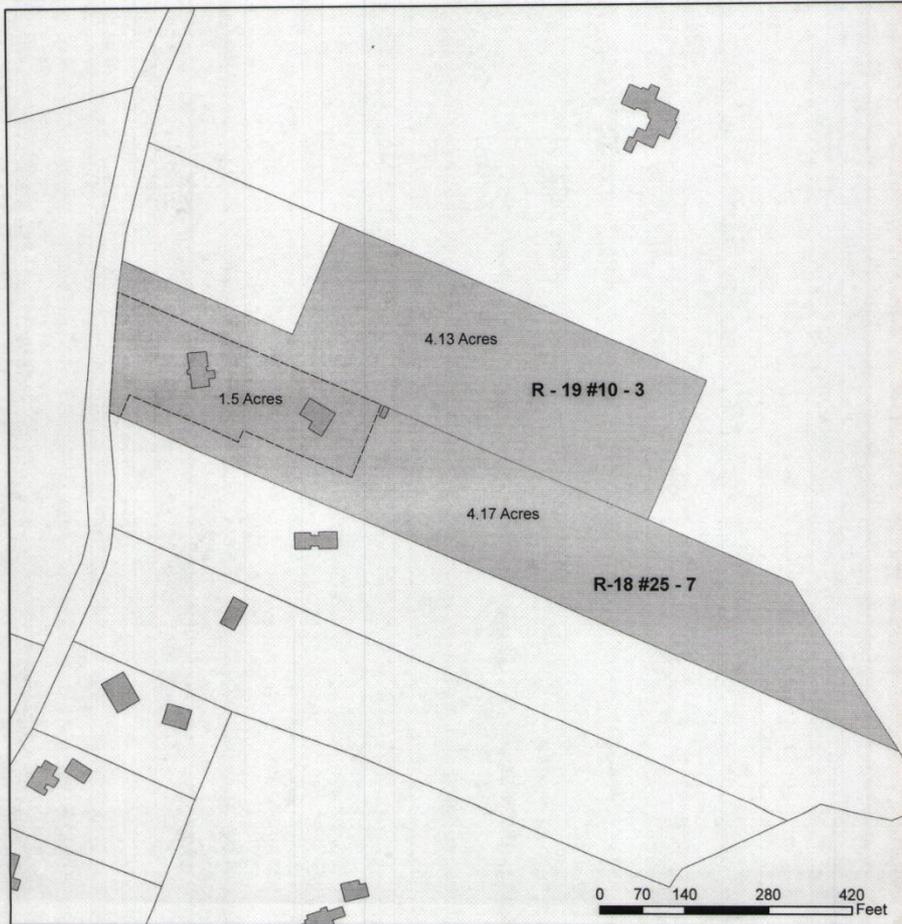
- ▶ Quick Response Team
  - Gathers data on parcel & distributes
- ▶ Selectmen notify departments and committees
  - Is there interest in the parcel?
    - i.e. open space, recreation, housing, municipal needs
  - Does the parcel represent a good value for Stow?
  - Is potential funding available or possible?
- ▶ Due diligence
  - Is the land suitable for the stated purpose?
  - Look for deal-breakers
  - Engineering studies if required
  - Other relevant studies when required (wetlands)
- ▶ Public meetings
  - Joint boards
  - Public Hearing
  - Town Meeting, if required

Town of Stow | Planning Department

241Boxboro Road Chapter 61A Withdrawal



-  241 Boxboro Not in Chapter
-  Land Subject to Right of First Refusal
-  Existing Parcel Lines



Two Parcels:

R-19 #10-3 4.14  
acres \$140,000

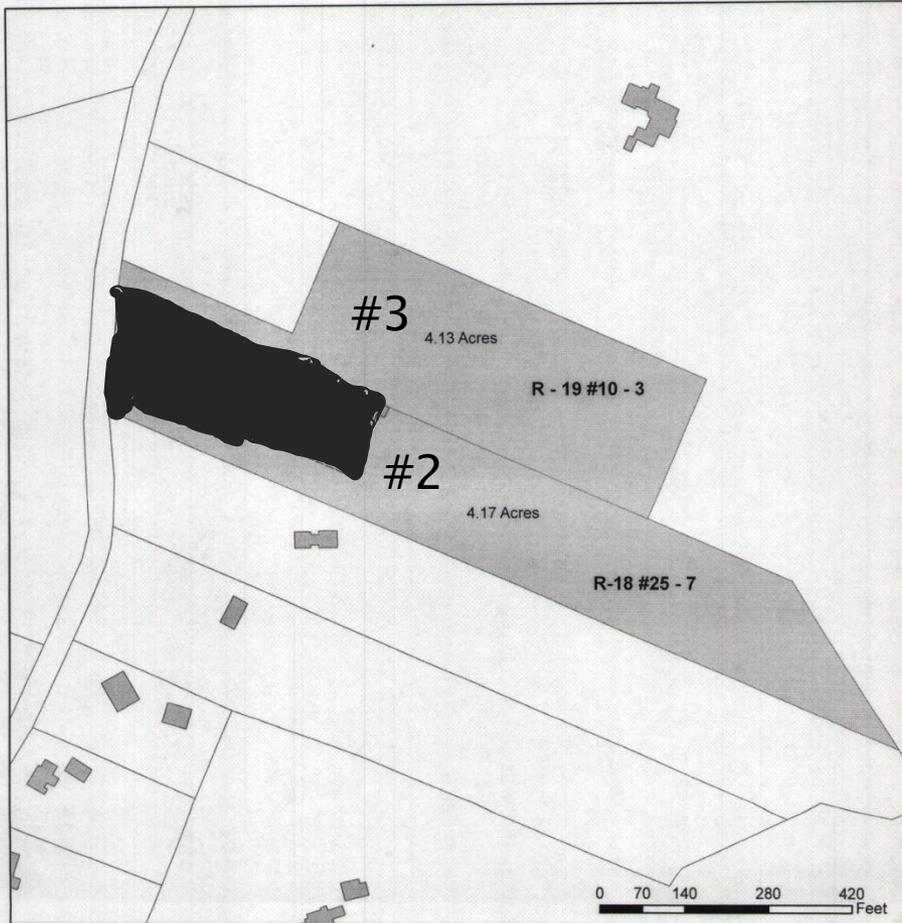
R-18, #25-7  
4.17 acres  
(5.7 acres total)  
\$40,000

Town of Stow | Planning Department

241Boxboro Road Chapter 61A Withdrawal



-  241 Boxboro Not in Chapter
-  Land Subject to Right of First Refusal
-  Existing Parcel Lines



Two Parcels:

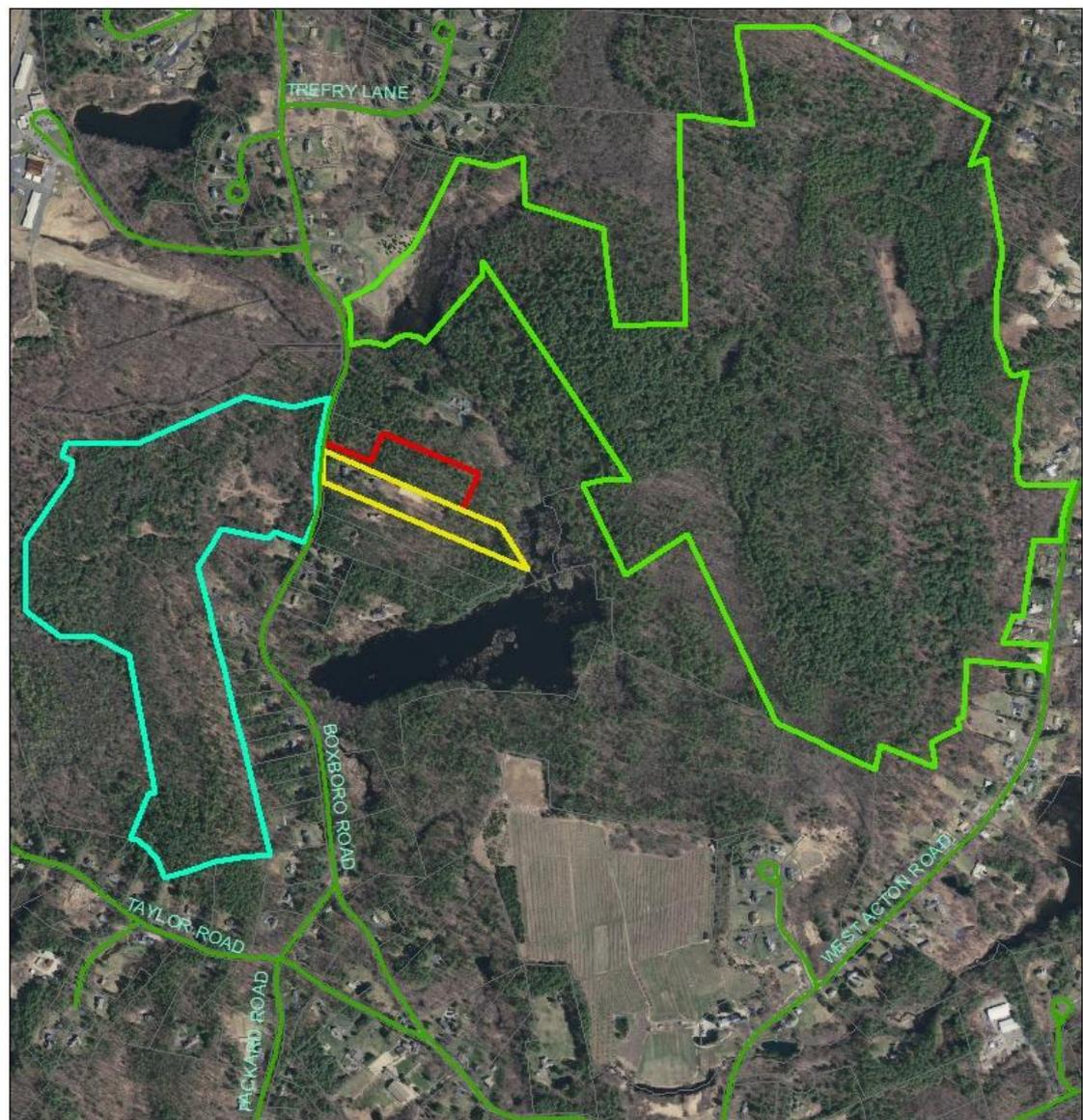
R-19 #10-3 4.14  
acres \$140,000

#3

R-18, #25-7  
4.17 acres  
(5.7 acres total)  
\$40,000

#2

# Area Overview



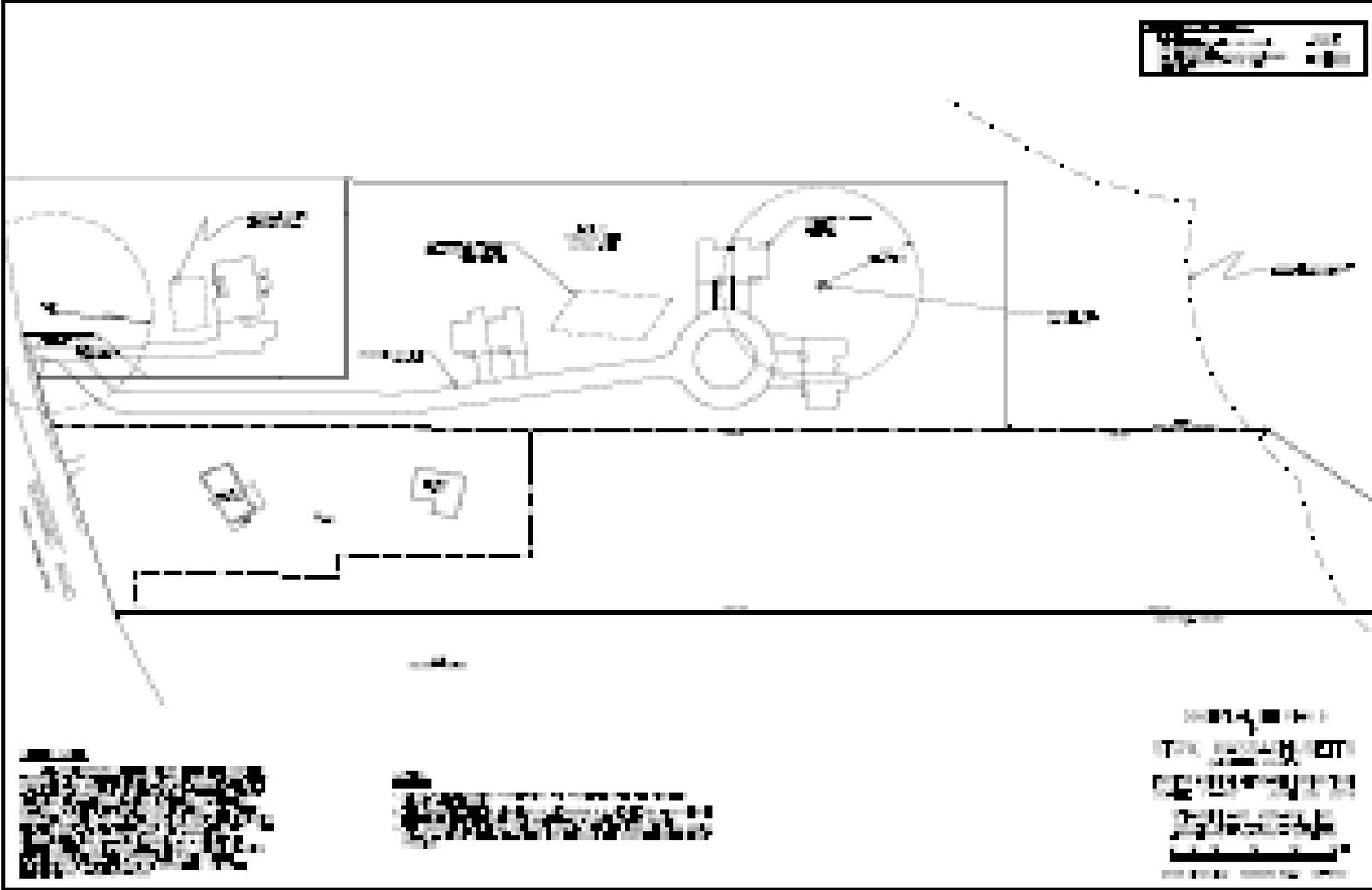
7.20.2016  
Town of Stow  
Planning Department



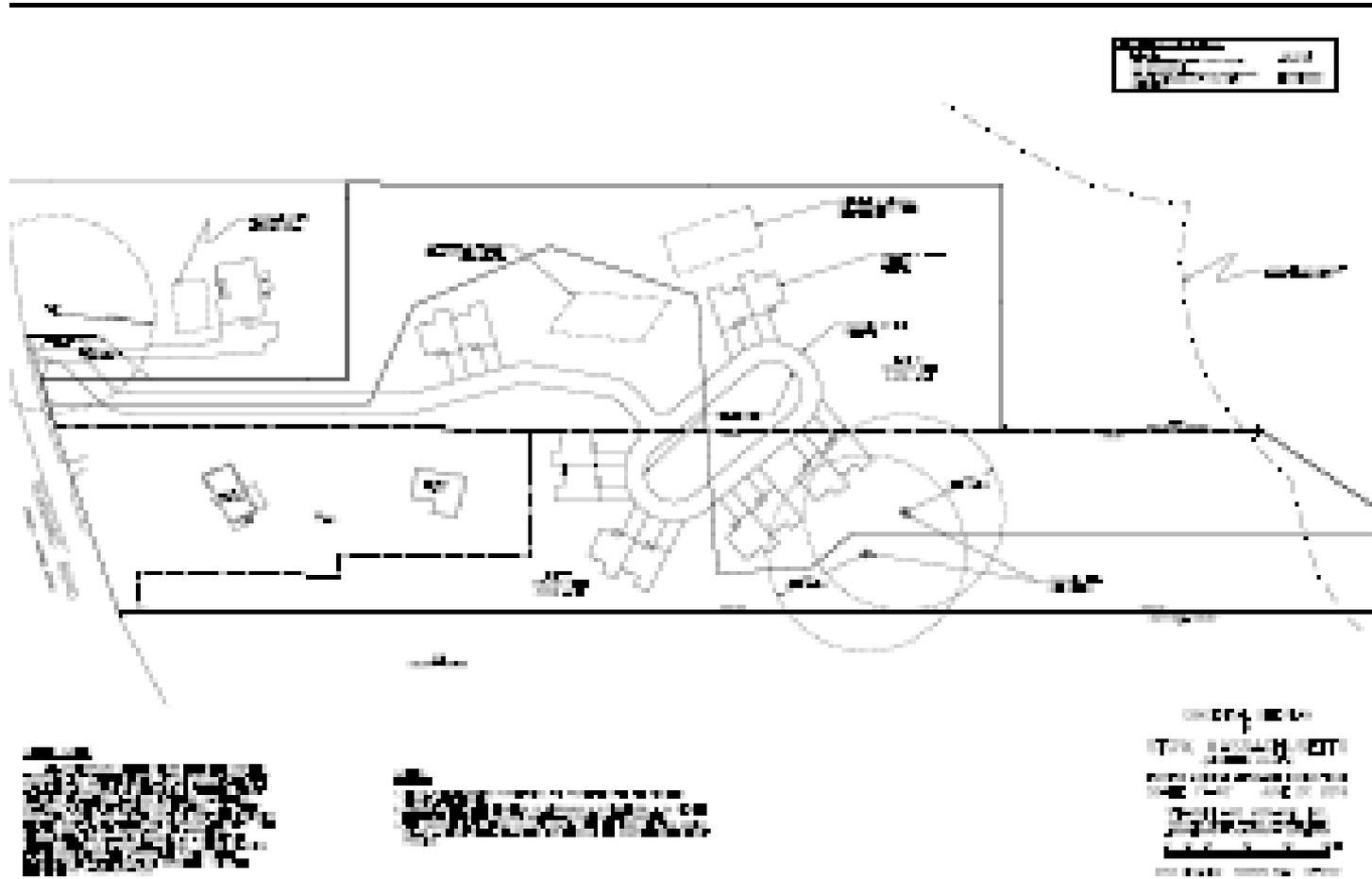
-  Proposed AAN
-  241 Boxboro Rd
-  Hammerhead Lot
-  Flag Hill Open Space

Source: MassGIS, Town Assessor's Data  
Cartographer: Valerie Oorthuys

# Concept Plan: Parcel #3



# Concept Plan: Both Parcels



# Possible Home Types



# Questions about 241 Boxboro Road & Housing

- ▶ Why are you trying to use 241 Boxboro Road for affordable housing?
  - ▶ Why didn't the Town buy large Chapter 61 parcels, such as the Minute Man parcel for affordable housing?
  - ▶ Why can't we save this land for open space forever?
  - ▶ Wasn't this land supposed to be protected for open space and conservation use?
  - ▶ Why do you want to decrease the value of the abutting properties?
  - ▶ Affordable housing is important for Stow, but not here and not now. Why are you proposing this parcel at this time?
- 

# Questions about 241 Boxboro Road & Housing

- ▶ How much housing are you going to put here?
  - ▶ Aren't you restricted to what the Planning Board approved for a hammerhead lot?
  - ▶ Would a new affordable housing development on this parcel have to use the easement over the abutting property for access?
  - ▶ Will you put in a new road over the easement?
  - ▶ Putting affordable housing here will increase traffic. We have enough traffic as it is.
- 

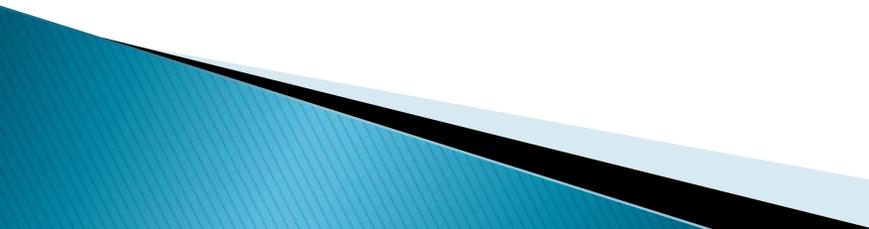
# MGL Chapter 40B

- ▶ Program to address statewide affordable housing shortage
  - Also known as “Comprehensive Permit Law”
- ▶ Projects can obtain permits that would normally violate zoning laws IF  $\geq 25\%$  of units are affordable
  - For rental housing, all units count toward SHI
  - For ownership, only affordable units count
- ▶ The Zoning Board of Appeals (ZBA) cannot deny permit outright, unless
  - Community is certified as complying with its Housing Production Plan, or if
  - At least 10% of all housing units are on the SHI

# MGL Chapter 40B

- ▶ The ZBA may place conditions on project
  - Height
  - Density
  - Site plan
  - Utility improvements
  - Cannot make the development economically unfeasible
- ▶ Various permits still required:
  - Major thoroughfare access
  - Wastewater disposal permits (Title 5)
  - State and local building codes & permits
  - Wetlands protection
- ▶ Permit applicants must agree to
  - Restrict profit to  $\leq 20\%$  for ownership developments
  - Restrict profit to  $\leq 10\%$  per year for rental housing
  - Obtain project approval from state/federal agency

# “Friendly” 40B

- ▶ Any use beyond current permitting would require a Comprehensive Permit
  - ▶ Focus on exemplary proposal
  - ▶ Enhance neighborhood, protect sensitive areas
  
  - ▶ Recommend working subcommittee to develop a proposal that would balance needs
    - Citizen members – near neighbors and others
    - Design input
    - Technical expertise
    - Planning Board
    - SMAHT
- 

# Funding

- ▶ Community Preservation Committee (CPC) voted to support purchase of landlocked parcel (#2) and associated costs
  - Use unreserved funds (housing or open space)
  - 4.17 acres contiguous to Flagg Hill
- ▶ Hammerhead lot (#3) could be purchased with SMAHT funds
  - Advisory votes from Board of Selectmen & Finance Committee
  - Town Meeting not required
  - Can be resold and proceeds used for affordable housing only
- ▶ Use of CPA funds would constrain potential resale

# Potential Subsidy Levels

- ▶ Subsidy = Land Cost/unit + (Build cost – Unit Price)
  - 2 Bedroom, 2 people (\$250,000 – 176,000 = \$74,000)
  - Land Cost = ~\$200,000 (Purchase + Closing costs)
- ▶ 2 Units
  - \$100K land = \$174,000 /unit
- ▶ 4 units
  - \$50K land = \$124,000 / unit
- ▶ 6 units
  - \$33K land = \$107,333 / unit

# Summary

- ▶ Excellent value for developable land
  - Most Chapter 61 land beyond our means
  - Fraction of cost for other alternatives
- ▶ No major impediment found so far
  - Percolation satisfactory on Parcel #3
  - Appropriate well setbacks
  - Ledge found, but not pervasive
  - Can support multiple unit development
  - Difficult road access
    - Frontage meets access requirements
    - Can resolve during the permit application process