

ARTICLE X: Amend Zoning Bylaw Sections 5.4 Active Adult Neighborhood Overlay District, 8.6 Phasing of Growth, and 8.7 Independent Adult Living Residences

To see if the Town will vote to amend the Zoning Bylaw by amending Sections 5.4, 8.6, and 8.7 to read as stated below in sections A, B, and C of this article; and further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Zoning Bylaw; or to take any other action relative thereto.

(Planning Board)

A) Amend Section 5.4 by deleting section 5.4.21:

~~5.4.21 ACTIVE ADULT NEIGHBORHOODS constructed under a Special Permit issued in accordance with this Section are exempt from Section 8.6, Phasing of Growth.~~

B) Delete Section 8.6 in its entirety:

~~8.6 Phasing of Growth~~

~~Over the past decade, the Town of Stow has been subject to extensive growth that has strained its ability to govern. With this point in mind, the purpose of this Section is to ensure that future growth occurs in an orderly and planned manner that allows the Town time for preparation to maintain high quality municipal services for an expanded residential population while allowing a reasonable amount of additional residential growth during those preparations. The citizens of Stow insist on, take pride in, and enjoy a reputation for such high quality and reliable municipal services. Several key municipal services, including human services and schools, are currently or may soon be under considerable strain. This Section will relate the timing of residential development to the Town's ability to provide services.~~

~~In addition, this Section also proposes to encourage certain types of residential growth which reflect the values of the Town as previously expressed in its policies and appropriations.~~

~~8.6.1 Regulations:~~

~~8.6.1.1 Beginning on the effective date of this Section, no building permit for construction of projects involving four or more residential units shall be issued unless in accordance with the regulations of this Section.~~

~~8.6.1.2 DWELLING UNITS shall be considered as part of a single development if located either on a single parcel or contiguous parcels of land which have been in the same ownership at any time subsequent to the date of adoption of this Section.~~

~~8.6.1.3 All newly authorized residential units for which individual or several building permits have been issued pursuant to the Massachusetts State Building Code, 780 CMR shall count toward the growth rate limit of 35 DWELLING UNITS defined in Section 8.6.2.1 of the Zoning Bylaw.~~

~~8.6.2 Planned Growth Rate~~

~~8.6.2.1 This Section shall take effect beginning on the date of adoption by Town Meeting (December 12, 1988). Beginning on this date of adoption, the applicable permit~~

~~granting authority (Planning Board, Zoning Board of Appeals or BUILDING INSPECTOR) shall not approve any residential development which would result in authorizations for more than 35 DWELLING UNITS over a 730 consecutive day (two year) period unless (a) specifically exempted (the project has less than four residential units); or (b) it is duly authorized in a development schedule.~~

~~8.6.2.2 — Once a development schedule is approved, building permits shall be issued in conformity with that schedule. Once authorized by the development schedule, said building permits shall be issued even if the 35-unit limit has been reached.~~

~~8.6.3 — Development Schedule — Building permits for new DWELLING UNITS shall be authorized only in accordance with the following schedule:~~

# of New Units in Development	Maximum DWELLING UNITS per Year*
1 — 24	4
25 — 29	5
30 — 46	6
47+	up to 15%

~~* — Number of units in the development for which building permits may be authorized each year beginning on the anniversary date of issuance date of the first building permit for the development. In instances where the calculated numbers are less than whole numbers, they will be rounded down to the nearest whole number.~~

~~8.6.4 — Modification to Schedule — The following modifications to the development schedule found in Section 8.6.3 shall be allowed by the Planning Board (for Definitive Subdivision, ANR, and special permits) or Zoning Board of Appeals (for special permits) as part of the approval of any development. Points assigned in each category are to be cumulatively totaled to determine the modification to the schedule based on the Modification to Schedule Table found in Section 8.6.4.7.~~

~~8.6.4.1 — Affordable Housing~~

~~1. Any development which includes 25 to 100% of its units for low and/or moderate income people and which is subsidized by federal, state or local programs, or proposed by the Stow Housing Authority, or by a non-profit or limited dividend partnership, or any development which includes non-subsidized housing units priced to be affordable to people whose income is equal to or less than 120% of the median income for Stow and which provides that the mix of affordable and market rate housing built in any one year is equivalent to the overall mix for the entire development, and which further provides that resale restrictions are established by the developer which ensure that the affordable units remain affordable for a period of thirty years, shall be exempt from the Planned Growth Rate in Section 8.6.3 and shall be allowed in accordance with the following schedule:~~

# of New Units	DWELLING UNITS/ Year*
1-50	100%
51-80	up to 50%
80+ total units	up to 33%

	Points Assigned
2. Any development that meets the criteria found in Section 8.6.4.1, but which includes 10% to 24% of its units for low and moderate income people.	20
3. Any development that includes no affordable units that meet the criteria in Section 8.6.4.1.	-10

8.6.4.2 — Open Land/Farmland:

	Points Assigned
1. Provision of open land/parkland, as part of any development. For the purposes of this provision "usable land" shall be defined as in Section 8.5.4 and "open land" shall be defined as in Section 8.5.8.	
(1) — Open land consisting of 4,000 to 4,999 square feet of usable land per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	10
(2) — Open land consisting of 5,000 to 5,999 square feet of usable land per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	15
(3) — Open land consisting of at least 6,000 square feet or more usable land area per DWELLING UNIT which is protected from future development through deed restrictions and/or protective covenant, and including provisions for renewal.	20
(4) — Improved open land that meets the defined recreation needs of the Town of Stow as defined by Open Space Plan and deeded to the Town of Stow (Add 5 points to the applicable category above.)	
(5) — No usable open land.	-10
2. Protection and retention of farmland according to the following impacts on working farms:	
(1) — Development of agricultural land, defined as land classified prime, unique or of state or local importance by the USDA, SCS or land characterized by active agricultural use as defined by Chapter 61A of the Mass. General Laws.	-30
(2) — Provision of a permanent 100-foot buffer zone as a deed restriction, including a FENCE and screening vegetation from the property boundary of a working farm.	10

8.6.4.3 — AQUIFER Protection:

	Points Assigned
1. Development in the Aquifer Protection Overlay District	
(1) — Average LOT size less than two acres.	-30

(2) Average LOT size two acres or more.	-15
--	----------------

~~8.6.4.4 Planned Conservation Development Any proposed approval under Section 8.5 will be subject to the following schedule provided that the OPEN SPACE is deeded to the Town:~~

# Units in Development	Maximum DWELLING UNITS per Year*
1-11	8
12-33	9
34-66	30%
67-99	19 units or 26%
100+	25 units or 22%

~~* Number of units in the development for which building permits may be authorized each year beginning on the anniversary date of the issuance date of the first building permit for the development. In instances where the calculated numbers are less than whole numbers, they will be rounded down to the nearest whole number.~~

~~8.6.4.5 Infrastructure:~~

	Points Assigned
1. Any development which commits to completing all roads and utilities prior to issuance of building permits during the first year of the total project.	30
2. Any development that commits to completing all roads or utilities (one or the other) prior to issuance of building permits.	15
3. Any development which commits to completing all roads and utilities during years one to three of the project.	5
4. Any development which commits to completing all roads and utilities after the third year of the project.	-15

~~8.6.4.6 Other The Planning Board (Definitive Subdivision, Approval Not Required and special permits) and Zoning Board of Appeals (special permits) may grant up to a total maximum of 40 points after making the relevant findings based on submitted documentation and giving due consideration to the following:~~

- ~~1. Ability of the Town to adequately serve the proposed development with STREETS, utilities, drainage, educational and protective services.~~
- ~~2. The amelioration of development impacts, such as through lower densities, preservation of natural or agricultural resources, preservation of scenic views, or other approaches approved by the Planning Board.~~
- ~~3. Other arrangements which will provide for or reduce the cost of public services and facilities such as child care, health care, elder services, disabled services, recreation, transportation or water conservation.~~

4. ~~Provision of housing needs for diverse population groups.~~
5. ~~Commitments to improve town facilities.~~
6. ~~Site design which responds to, incorporates and protects natural features such as vegetation, topography, water courses and views, or which is designed to respond to the character of the neighborhood.~~
7. ~~Housing and site features that emphasize safety aspects such as sidewalks, school bus stops or fire protection systems.~~

8.6.4.7 ~~Development Schedule Modification Table~~ Points accumulated under Section 8.6.4.1 through 8.6.4.6 shall be totaled and the total shall modify the development schedule in Section 8.6.3 according to the following table.

Development Schedule										
Point Total										
# of Units	-30	-29 to -15	-14 to -1	0	1 to 5	6 to 12	13 to 20	21 to 28	29 to 36	37+
1-24	1	2	3	4	5	5	6	7	8	9
25-29	2	3	4	5	6	6	7	8	10	11
30-46	3	4	5	6	7	8	9	10	12	13
47-76	9%	10%	13%	15%	18%	21%	25%	30%	35%	40%
77-106	8%	7 units or 9%	12%	11 units or 14%	17%	20%	19 units or 23%	22 units or 27%	26 units or 31%	30 units or 35%
107+	8 units or 7%	9 units or 8%	12 units or 11%	14 units or 13%	18 units or 16%	21 units or 18%	24 units or 20%	28 units or 23%	32 units or 27%	37 units or 30%

8.6.5 ~~Requirements:~~

- 8.6.5.1 ~~All Definitive Subdivision, Approval Not Required and Special Permit applications include a proposed development schedule by the applicant.~~
- 8.6.5.2 ~~Development schedules as proposed or modified shall be approved by the appropriate body (Planning Board or Zoning Board of Appeals), shall be recorded at the Middlesex County Registry of Deeds, and shall have no effect until recorded. The schedule shall specify the earliest date that each unit/LOT may become eligible for the issuance of a building permit.~~

8.6.6 ~~Zoning Change Protection~~

~~The protection against zoning changes as granted by Section 6 of Chapter 40A, Mass. General Laws, shall, in the case of a development whose completion has been constrained by this Bylaw, be extended to the minimum time for completion allowed under this Bylaw.~~

C) Amend Section 8.7 by deleting Section 8.7.7.6:
--

~~8.7.7.6 INDEPENDENT ADULT UNITS constructed under a Special Permit issued in accordance with this section are exempt from Section 8.6, Phasing of Growth.~~

Planning Board Summary

The Planning Board recommends deletion of the Phasing of Growth bylaw, as it would not hold up to legal review, has never resulted in slowing the rate of development in Stow, and blocks the Town from accessing specific grant funds through the State. Although the Phasing of Growth bylaw was adopted in 1988 during a period of rapid growth, even the largest housing developments in Stow have not triggered the need for phasing of growth as outlined in the bylaw. The Planning Board recognizes there are large developments on the horizon, yet as a Comprehensive Permit, the developer of Stow Acres could reasonably request a waiver from this bylaw and Active Adult Neighborhoods such as The Cottages at Wandering Pond off Athens Street are already exempted under the current Zoning Bylaw. The inclusion of a Phased Growth bylaw has previously disqualified Stow from Housing Choice Designation, which would allow Stow to become eligible for capital grants through the Department of Housing and Community Development.