

AGENDA
SELECT BOARD
April 26, 2022
7:00 p.m.
Town Building & Zoom

The public may attend the Select Board meeting in person or may participate via remote Zoom access.

Join Zoom Meeting

<https://us06web.zoom.us/j/87310784202?pwd=UDRhMTh0aXZlakIxWWhVcEIEZUxMQT09>

Meeting ID: 873 1078 4202

Passcode: 022139

1. Public input
2. Board Members comments
3. Recognition
 - Certificate for Eagle Scout Ethan Henry
 - Certificate for Eagle Scout Drew Abrutyn
 - Citation for Chris and Laura Spear
4. Town Administrator's Report
5. Joint Board Meeting
 - Discussion with members of the Planning Department and the Planning Board on Stow being designated an MBTA Community
6. Discussion and Possible Vote
 - Accept open space deed for Joanne Drive Subdivision
 - Kathy Sferra to discuss the Town's MVP Grant submission for Stow Acres
 - Discuss/Vote on letter of support for acquisition of Stow Acres
 - Review and Approve 2022 Annual Town Meeting Warrant
7. Meeting minutes
 - April 12, 2022
8. Correspondence
9. Adjournment

Posted Friday, 4/22/2022



1:15 p.m.

RECOGNITION

Certificate of Achievement

Presented to

Ethan Henry

in recognition of your achievement of attaining the rank of Eagle Scout

“CONGRATULATIONS Ethan on achieving your goal!!

We are PROUD to have you as a member of our community and appreciate your service project, completed in 2021 at the Leggett Memorial Woodland. The picnic area that you cleared along the hiking path, and the picnic table you built, can be used by individuals and families while they are out enjoying the woods on a hike. These features serve to enhance this conservation area and can be enjoyed for years to come.

We wish you the Best of Luck in the future!”

Stow Select Board

Ellen S. Sturgis, Chair

Cortni Frecha



Megan Birch-McMichael, Clerk

James H. Salvie

April 26, 2022

Certificate of Achievement

Presented to

Drew Abrutyn

in recognition of your achievement of attaining the rank of Eagle Scout

“CONGRATULATIONS Drew on achieving your goal!!

We are PROUD to have you as a member of our community and appreciate your service project at the Kane Conservation Area that was completed in 2021. Your project involved building a 3’ by 30’ boardwalk that crosses over wetlands, protecting the wetlands and connecting to a public trail, and thus enhancing the nature trail for all visitors.

We wish you the Best of Luck in the future!”

Stow Select Board

Ellen S. Sturgis, Chair

Cortni Frecha



Megan Birch-McMichael, Clerk

James H. Salvie

April 26, 2022

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF STOW**

A Proclamation in Tribute to Chris and Laura Spear

On this 26th day of April, 2022, the Stow Select Board hereby expresses its sincere appreciation to Chris and Laura Spear as they prepare to move from Stow after many years' residence here. While Laura has been very active in town government, both Laura and Chris have devoted considerable time and talent to community organizations.

For his part, Chris has been active in Stow Boy Scouts, Stow Conservation Trust's Bike for the Woods, and the Nashoba Rotary Club. Along with Laura, as Rotary Club members, they were major organizers of the Rotary's summertime Wings and Wheels events at Minute Man Air Field. In the last several years, Chris has assisted the Moderator by taking responsibility for the slide presentation computer and projector during Town Meeting.

In town government, Laura served on the Planning Board from 2004 until 2009, and represented Planning on the Community Preservation Committee during those years. She also served on the Lower Village Subcommittee. She went on to serve a term on the Select Board from 2009 until 2012 and represented the Board for the Minuteman Advisory Group on Interlocal Coordination (MAGIC) and the Metropolitan Area Planning Council (MAPC). Since then, she has been a member of the Stow Municipal Affordable Housing Trust (SMAHT), most recently its Vice Chair, and since 2014 has been Deputy Moderator at Town Meeting.

Chris and Laura raised their children in Stow and have immersed themselves fully in school, government, and community life over the years, with spirit and enthusiasm. On behalf of the entire Town, the Select Board wants to thank Chris and Laura and wish them well in all their future adventures.

Meghan Birch-McMichael

Cortni Frecha

James H. Salvie

Ellen Sturgis

JOINT BOARDS

**Planning Board and
Planning Department**

**Stow being designated an
MBTA Community**



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Jennifer D. Maddox, Undersecretary

DRAFT Compliance Guidelines for Multi-family Districts
Under Section 3A of the Zoning Act

1. Overview of Section 3A of the Zoning Act

Section 18 of chapter 358 of the Acts of 2020 added a new section 3A to chapter 40A of the General Laws (the Zoning Act) applicable to MBTA communities (referred to herein as “Section 3A”). Subsection (a) of Section 3A provides:

An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

The purpose of Section 3A is to encourage MBTA communities to adopt zoning districts where multi-family zoning is permitted as of right, and that meet other requirements set forth in the statute.

The Department of Housing and Community Development, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. DHCD promulgated preliminary guidance on January 29, 2021. DHCD updated that preliminary guidance on December 15, 2021. These guidelines provide further information on how MBTA communities may achieve compliance with Section 3A.

2. Definitions

“Adjacent community” means an MBTA community with no transit station within its border or within 0.5 mile of its border.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring occupancy by at least one person age 55 or older.

“Bus service community” means an MBTA community with a bus station within its borders or within 0.5 miles of its border, or an MBTA bus stop within its borders, and no subway station or commuter rail station within its border, or within 0.5 mile of its border.

“Bus station” means a building located at the intersection of two or more public bus lines, within which services are available to bus passengers; provided that a bus station does not include a shelter or other structure without walls and a foundation.

“Chief executive officer” means the mayor in a city, and the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

“Commonwealth’s sustainable development principles” means the principles set forth at <https://www.mass.gov/files/documents/2017/11/01/sustainable%20development%20principles.pdf> as such principles may be modified and updated from time to time.

“Commuter rail community” means an MBTA community with a commuter rail station within its borders, or within 0.5 mile of its border, and no subway station within its borders, or within 0.5 mile of its border.

“Developable land” means land on which multi-family housing units have been or can be permitted and constructed. Developable land shall not include land under water, wetland resource areas, areas lacking adequate water or wastewater infrastructure or capacity, publicly owned land that is dedicated to existing public uses, or privately owned land encumbered by any kind of use restriction that prohibits residential use.

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no legal restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“MBTA community” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.” A list of MBTA communities is attached, including the designation of each MBTA community as a rapid transit community, a bus service community, a commuter rail community or an adjacent community for purposes of these compliance guidelines.

“Multi-family housing” means a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

“Multi-family district” means a zoning district, including an overlay district, in which multi-family uses are allowed by right.

“Rapid transit community” means an MBTA community with a subway station within its borders, or within 0.5 mile of its border. An MBTA community with a subway station within its borders, or within 0.5 mile of its border, shall be deemed to be a rapid transit community even if there is one or more commuter rail stations or MBTA bus lines located in that community.

“Reasonable size” means not less than 50 contiguous acres of land with a unit capacity equal to or greater than the unit capacity specified in section 5 below.

“Residential dwelling unit” means a dwelling unit equipped with a full kitchen and bathroom.

“Unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within the multi-family district, made in accordance with the requirements of section 5.b below.

3. General Principles of Compliance

a. These compliance guidelines describe how an MBTA community can comply with the requirements of Section 3A. The guidelines specifically address:

- What it means to permit multi-family housing “as of right”;
- The metrics that determine if a multi-family district is “of reasonable size”;
- How to determine if a multi-family district has a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code;
- The meaning of Section 3A’s mandate that “such multi-family housing shall be without age restrictions and shall be suitable for families with children”; and
- The extent to which MBTA communities have flexibility to choose the location of a multi-family district.

b. The following general principles have informed the more specific compliance criteria that follow:

- All MBTA communities should contribute to the production of new housing stock.
- MBTA communities with subway stations, commuter rail stations and other transit stations benefit from having these assets located within their boundaries and should provide opportunity for multi-family housing development around these assets. MBTA communities with no transit stations within their boundaries nonetheless benefit from being close to transit stations in nearby communities.
- MBTA communities should adopt multi-family districts that will lead to development of multi-family housing projects of a scale, density and character that are consistent with a community’s long-term planning goals.

- “Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family district that is “reasonable” in one city or town may not be reasonable in another city or town. Objective differences in community characteristics must be considered in determining what is “reasonable” for each community.
- To the maximum extent possible, multi-family districts should be in areas that have safe and convenient access to transit stations for pedestrians and bicyclists.

4. Allowing Multi-Family Housing “As of Right”

To comply with Section 3A, a multi-family district must allow multi-family housing “as of right,” meaning that the construction and occupancy of multi-family housing is allowed in that district without the need to obtain any discretionary permit or approval. Site plan review and approval may be required for multi-family uses allowed as of right. Site plan review is a process by which a local board reviews a project’s site layout to ensure public safety and convenience. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review may not be used to deny a project that is allowed as of right, nor may it impose conditions that make it infeasible or impractical to proceed with a multi-family use that is allowed as of right.

5. Determining “Reasonable Size”

In making determinations of “reasonable size,” DHCD will take into consideration both the area of the district and the district’s multi-family unit capacity (that is, the number of units of multi-family housing that can be developed as of right within the district).

a. *Minimum land area*

Section 3A’s requirement that a multi-family district be a “reasonable size” indicates that the purpose of the statute is to encourage zoning that allows for the development of a reasonable amount of multi-family housing in each MBTA community. A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. A district should not be a single development site on which the municipality is willing to permit a particular multi-family project. To comply with Section 3A’s “reasonable size” requirement, multi-family districts must comprise at least 50 acres of land—or approximately one-tenth of the land area within 0.5 mile of a transit station.

An overlay district is an acceptable way to achieve compliance with Section 3A, provided that such an overlay district should not consist of a collection of small, non-contiguous parcels. At least one portion of the overlay district land areas must include at least 25 contiguous acres of land. No portion of the district that is less than 5 contiguous acres land will count toward the minimum size requirement.

b. *Minimum multi-family unit capacity*

A reasonably sized multi-family district must also be able to accommodate a reasonable number of multi-family housing units as of right. MBTA communities seeking a determination of compliance with Section 3A must provide to DHCD an accurate assessment of the number of multi-family housing units that can be developed as of right within the multi-family district, referred to as the district’s unit capacity.

A compliant district’s multi-family unit capacity must be equal to or greater than a specified percentage of the total number of housing units within the community. The required percentage will depend on the type of transit service in the community, as follows:

Category	Minimum multi-family units as a percentage of total housing stock
Rapid transit community	25%
Bus service community	20%
Commuter rail community	15%
Adjacent community	10%

The minimum unit capacity applicable to each MBTA community is determined by multiplying the number of housing units in that community by 0.25, 0.20, 0.15 or 0.10, depending on the type of service in that community. For example, a rapid transit community with 7,500 housing units is required to have a multi-family district with a multi-family unit capacity of $7,500 \times 0.25 = 1,875$ multi-family units. When calculating the minimum unit capacity, each MBTA community should use 2020 census data to determine the number of total housing units, unless another data source has been approved by DHCD.

When determining the unit capacity for a specific multi-family district, each MBTA community must estimate how many units of multi-family housing could be constructed on each parcel of developable land within the district. The estimate should take into account the amount of developable land in the district, as well as the height limitations, lot coverage limitations, maximum floor area ratio, set back requirements and parking space requirements applicable in that district under the zoning ordinance or bylaw. The estimate must also take into account the restrictions and limitations set forth in any other municipal bylaws or ordinances; limitations on development resulting from inadequate water or wastewater infrastructure, and, in areas not served by public sewer, any applicable limitations under Title 5 of the state environmental code or local septic regulations; known title restrictions on use of the land within the district; and known limitations, if any, on the development of new multi-family housing within the district based on physical conditions such the presence of waterbodies, and wetlands.

If the estimate of the number of multi-family units that can be constructed in the multi-family district is less than the minimum unit capacity, then the MBTA community must change the boundaries of the multi-family district or make changes to dimensional regulations applicable to that district (or to other local ordinances or bylaws) to allow for the development of a greater number of multi-family units as of right.

It is important to understand that a multi-family district’s unit capacity is not a mandate to construct a specified number of housing units, nor is it a housing production target. Section 3A requires only that each MBTA community has a multi-family zoning district of reasonable size. The law does not require the production of new multi-family housing units within that district. There is no requirement nor expectation that a multi-family district will be built out to its full unit capacity.

In some communities, there may be a significant number of multi-family units already existing in the multi-family district; those communities should generally expect fewer new units to be produced in the district, because it is more fully built out. Conversely, there may be some communities with relatively little multi-family housing in its multi-family district; there generally will be more opportunity for new

housing production in those districts in which there is a large gap between unit capacity and the number of existing multi-family units.

6. **Minimum Gross Density**

Section 3A states that a compliant multi-family district must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. DHCD will deem a zoning district to be compliant with Section 3A's minimum gross density requirement if the following criteria are met.

a. *District-wide gross density*

Section 3A expressly requires that a multi-family district—not just the individual parcels of land within the district—must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. To comply with this requirement, the zoning must legally and practically allow for a district-wide gross density of 15 units per acre. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

To meet the district-wide gross density the municipality must demonstrate that the zoning for the district permits a gross density of 15 units per acre of land within the district, “include[ing] land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.” By way of example, to meet that requirement for a 50-acre multi-family district, the municipality must show at least 15 existing or potential new multi-family units per acre, or a total of at least 750 existing or potential new multi-family units.

b. *Achieving district-wide gross density by sub-districts*

Zoning ordinances and bylaws typically limit the unit density on individual parcels of land. To comply with the statute's density requirement, an MBTA community may establish sub-districts within a multi-family district, with different density requirements and limitations for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre.

7. **Determining Suitability for Families with Children**

Section 3A states that a compliant multi-family district must be without age restrictions and must be suitable for families with children. DHCD will deem a multi-family district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions and does not place any limits or restrictions on the size of the units, the number of bedrooms, the size of bedrooms, or the number of occupants.

8. Location of Districts

Section 3A states that a compliant multi-family district shall “be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” DHCD will interpret that requirement consistent with the following guidelines.

a. General rule for measuring distance from a transit station.

To maximize flexibility for all MBTA communities, the distance from a transit station may be measured from the boundary of any parcel of land owned by a public entity and used for purposes related to the transit station, such as an access roadway or parking lot.

b. MBTA communities with some land area within 0.5 miles of a transit station

An MBTA community that has a transit station within its boundaries, or some land area within 0.5 mile of a transit station located in another MBTA community, shall comply with the statutory location requirement if a substantial portion of the multi-family district is located within the prescribed distance. Absent compelling circumstances, at least [one half] of the land area of the multi-family district should be located within 0.5 mile of the transit station. The multi-family district may include land areas that are further than 0.5 mile from the transit station, provided that such areas are easily accessible to the transit station based on existing street patterns and pedestrian connections.

In unusual cases, the most appropriate location for a multi-family district may be in a land area that is further than 0.5 miles of a transit station. Where none of the land area within 0.5 mile of transit station is appropriate for development of multi-family housing—for example, because it comprises wetlands or land publicly owned for recreation or conservation purposes—the MBTA community may propose a multi-family use district that has less than one-half of its land area within 0.5 miles of a transit station. To the maximum extent feasible, the land areas within such a district should be easily accessible to the transit station based on existing street patterns, pedestrian connections, and bicycle lanes.

c. MBTA communities with no land area within 0.5 miles of a transit station

When an MBTA community has no land area within 0.5 mile of a transit station, the multi-family district should, if feasible, be located in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that otherwise is consistent with the Commonwealth’s sustainable development principles—for example, near an existing downtown or village center, near an RTA bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

9. Determinations of Compliance

DHCD will make determinations of compliance with Section 3A upon request from an MBTA community, in accordance with the following criteria and schedule. An MBTA community may receive a determination of full compliance when it has a multi-family district that meets all of the requirements of Section 3A. An MBTA community may receive a determination of interim compliance for a limited duration to allow time to enact a new multi-family district or amend an existing zoning district in order to achieve full compliance with Section 3A.

a. Requests for determination of compliance

When an MBTA community believes it has a multi-family district that complies with the requirements for Section 3A, as set forth in these guidelines, it may request a determination of compliance from DHCD. Such a request may be made for a multi-family district that was in existence on the date that Section 3A became law, or for a multi-family district that was created or amended after the enactment of Section 3A. In either case, such request shall be made on a form required by DHCD and shall include, at a minimum, the following information, which shall be provided in a format or on a template prescribed by DHCD:

General district information

- i. A map showing the municipal boundaries and the boundaries of the multi-family district;
- ii. A copy of those provisions in the municipal zoning code necessary to determine the uses permitted as of right in the multi-family district and the dimensional limitation and requirements applicable in the multi-family district;
- iii. A plan showing the boundaries of each parcel of land located within the district, and the area and ownership of each parcel as indicated on current assessor records;

Location of districts

- iv. A map showing the location of the nearest transit station and how much of the multi-family district is within 0.5 miles of that transit station;
- v. In cases where no portion of the multi-family district is located within 0.5 miles of a transit station, a statement describing how the development of new multi-family housing within the district would be consistent with the Commonwealth's sustainable development principles;

Reasonable size metrics

- vi. A calculation of the total land area within the multi-family district;
- vii. A calculation of the multi-family district's unit capacity, along with a statement describing the methodology by which unit capacity was determined, together with;
 - a. A description of the water and wastewater infrastructure serving the district, and whether that infrastructure is sufficient to serve any new multi-family units included in the unit capacity;
 - b. A description of any known physical conditions, legal restrictions or regulatory requirements that would restrict or limit the development of multi-family housing within the district;
 - c. The number and age of multi-family housing units already existing within the multi-family district, if any.

District gross density

- viii. The gross density for the multi-family district, calculated in accordance with section 6 of these guidelines.

Housing suitable for families

- ix. An attestation that the zoning bylaw or ordinance does not place any limits or restrictions on the size of the units, the number of bedrooms, the size of bedrooms, or the number of occupants in multi-family housing units within the multi-family district.

Attestation

- x. An attestation that the application is accurate and complete, signed by the MBTA community's chief executive officer.

As soon as practical after receipt of a request for determination of compliance, DHCD will either send the requesting MBTA community a notice that it has provided all of the required information, or identify the additional information that is required to process the request. Upon reviewing a complete application, DHCD will provide the MBTA community a written determination either stating that the existing multi-family use district complies with Section 3A, or identifying the reasons why the multi-family use district fails to comply with Section 3A and the steps that must be taken to achieve compliance.

An MBTA community shall be deemed to be in compliance with Section 3A for the period of time during which a request for determination of compliance, with all required information, is pending at DHCD.

b. Action plans and interim compliance—New or amended district

Many MBTA communities do not currently have a multi-family district of reasonable size that complies with all of the requirements set out in Section 3A and these guidelines. These MBTA communities must take affirmative steps towards the creation of a compliant multi-family district within a reasonable time. To achieve interim compliance, the MBTA community must, by no later than the dates specified in section 9.c, send to DHCD written notice that a new multi-family district, or amendment of an existing multi-family district, must be adopted to come into compliance with Section 3A. The MBTA community must then take the following actions to maintain interim compliance:

- i. *Creation of an action plan.* Each MBTA community must provide DHCD with a proposed action plan and timeline for any planning studies or community outreach activities it intends to undertake in order to adopt a multi-family district that complies with Section 3A. DHCD may approve or require changes to the proposed action plan and timeline by sending the MBTA community written notice of such approval or changes. Rapid transit communities and bus service communities must obtain DHCD approval of an action plan by no later than March 31, 2023. Commuter rail communities and adjacent communities must obtain DHCD approval of a timeline and action plan by no later than July 1, 2023.
- ii. *Implementation of the action plan.* The MBTA community must timely achieve each of the milestones set forth in the DHCD-approved action plan, including but not limited to the drafting of the proposed zoning amendment and the commencement of public hearings on the proposed zoning amendment.

- iii. *Adoption of zoning amendment.* An MBTA community must adopt the zoning amendment by the date specified in the action plan and timeline approved by DHCD. For rapid transit communities and bus service communities, DHCD will not approve an action plan with an adoption date later than December 31, 2023. For commuter rail communities and adjacent communities, DHCD will not approve an action plan with an adoption date later than December 31, 2024.
- iv. *Determination of full compliance.* Within [90] days after adoption of the zoning amendment, the MBTA community must submit to DHCD a complete application requesting a determination of full compliance. The application must include data and analysis demonstrating that a district complies with all of the compliance criteria set forth in these guidelines, including without limitation the district's land area, unit capacity, gross density and location.

During the period that an MBTA community is creating and implementing its action plan, DHCD will endeavor to respond to inquiries about whether a proposed zoning amendment will create a multi-family district that complies with Section 3A. However, DHCD will issue a determination of full compliance only after final adoption of the proposed zoning amendment and receipt of a complete application demonstrating the unit capacity.

c. Timeframes for submissions by MBTA communities

To remain in interim compliance with Section 3A, an MBTA community must take one of the following actions by no later than December 31, 2022:

- i. Submit a complete request for a determination of compliance as set forth in section 9.a above; or
- ii. Notify DHCD that there is no existing multi-family district that fully complies with these guidelines, and submit a proposed action plan as described in section 9.b above.

10. Renewals and Rescission of a Determination of Compliance

a. Term and renewal of a determination of compliance

A determination of compliance shall have a term of 10 years. Each MBTA community shall apply to renew its certificate of compliance at least 6 months prior to its expiration. DHCD may require, as a condition of renewal, that the MBTA community report on the production of new housing within MBTA community, and in the multi-family district that was the basis for compliance. Applications for renewal shall be made on a form proscribed by DHCD.

b. Rescission of a determination of compliance

DHCD reserves the right to rescind a determination of compliance if DHCD determines that (i) the MBTA community submitted inaccurate information in its application for a determination of compliance, (ii) the MBTA community amended its zoning or enacted a general bylaw or other rule or regulation that materially alters the Unit capacity in the applicable multi-family use district.

11. Effect of Noncompliance

If at any point DHCD determines that an MBTA community is not in compliance with Section 3A, that MBTA community will not be eligible for funds from the following grant programs: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2E of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A. DHCD may, in its discretion, take non-compliance into consideration when making other discretionary grant awards.

MBTA COMMUNITIES
FREQUENTLY ASKED QUESTIONS

A. General

A1. What role does DHCD play in determining compliance with the new section 3A of the Zoning Act (“Section 3A”)?

Section 3A gives DHCD, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, discretion to promulgate guidelines to determine if an MBTA community complies with Section 3A. DHCD released draft guidelines on December 15, 2021. The draft guidelines clarify what is required to comply with the statute, for example by defining what it means for a district to be of “reasonable size,” and explaining how communities demonstrate that a district meets the law’s minimum gross density requirement. The draft guidelines do not impose mandates or create restrictions that are not in the law.

A2. Can you clarify how DHCD determined if a particular MBTA community is a rapid transit community, a bus service community, a commuter rail community, or an adjacent community?

MBTA communities were categorized based on whether they have transit service located within the municipality or within 0.5 miles of the municipal boundary, and if so what type of transit service. A community with access to more than one transit type is classified in the category with the higher unit capacity requirement. More specifically:

- A rapid transit community has an MBTA subway station located within its borders, or within 0.5 miles of its border. Note, a rapid transit community may also have other types of transit stations.
- A bus service community has no subway station within its border or within 0.5 miles of its border, but does have an MBTA bus route with one or more bus stops located within the community. Note, a bus community that happens also to have a commuter rail station within its borders is placed within the bus community category due to the presence of the bus route.
- A commuter rail community has a commuter rail station within its borders or within 0.5 miles of its border, but has no bus route or subway station.
- An adjacent community abuts a rapid transit community, bus service community or commuter rail community, has no subway station or commuter rail station within its boundaries or within 0.5 miles of its border, and has no MBTA bus route running through it.

A2A. *My community has a commuter rail station and a bus route. We appear to be misclassified based on the definition of “bus service community” in the draft guidelines. Can you clarify why we were classified as a bus service community?*

There is a typographical error in the definition of “bus service community” in the draft guidelines. For purposes of the draft guidelines, this definition was intended to read as follows: *“Bus service community” means an MBTA community with a bus station within its borders or within 0.5 miles of its border, or an MBTA bus stop within its borders, and no subway station or commuter rail station within its border, or within 0.5 mile of its border.* That error will be corrected in the final guidelines. (Added March 10, 2022)

B. Location of Districts

B1. *How much discretion does each MBTA community have with respect to where a multi-family district is located?*

A multi-family zoning district must be located within 0.5 miles of a transit station, with at least half of the district’s land area within the 0.5-mile radius, when that is possible. Where it is not possible to locate a district within 0.5 miles of a transit station, cities and towns otherwise have considerable flexibility to decide where to locate these districts. These districts may be located where there are existing single-family, multi-family, commercial or other existing uses and structures, or in areas ready for redevelopment. DHCD strongly encourages cities and towns to consider multi-family districts where there is existing or planned pedestrian and bicycle access to a transit station, or that otherwise are in areas of concentrated development. Regardless of location, each community must demonstrate that the zoning allows for multi-family housing that meets or exceeds the required unit capacity and at a density that meets the statutory minimum.

B2. *What if my community has more than one transit station—for example, a subway station and a separate commuter rail station, or multiple commuter rail stations? Do I need a multi-family zoning district in proximity to each station? If not, can I choose which transit station the district?*

Section 3A requires each MBTA community to “have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right” An MBTA community may have more than 1 such multi-family zoning district, but a single district is all that Section 3A requires. If an MBTA community has more than one transit station, it may locate the multi-family zoning district within 0.5 miles of any of them.

B3. *Can my town establish a multi-family district in an area where there is already significant multi-family development?*

Yes, but you still must demonstrate the district meets the “reasonable size” criteria, including the minimum unit capacity, and at the required minimum gross density.

B4. Can my town establish a multi-family district in an area where there are many single family homes on small lots?

Yes, but it may be difficult to demonstrate such a district meets the minimum multi-family unit capacity and gross density requirements, because the zoning is unlikely to allow for the construction of the required number and density of multi-family housing units on small parcels.

B5. My community has been categorized as a “bus service community” because we have an MBTA bus route, with several bus stops in town. Are bus stops or park-and-ride locations the same as “bus stations,” and do we have to locate our multi-family zoning district within 0.5 miles of one of a bus stop or park-and-ride location if we have one?

No. Neither a bus stop nor a park-and-ride location is considered to be a bus station. The draft guidelines attempted to make this point by including a definition of bus station.

B6. What is required of “adjacent communities” with no land area within ½ mile of a transit station?

Section 3A requires all MBTA communities, including adjacent communities, to have at least 1 zoning district in which multi-family uses are allowed by right. An adjacent community with no land area within ½ mile of a transit station should locate its district in an area that makes the most sense for that community, and should carefully consider establishing the district in an area of concentrated development, or an area with pedestrian access to a transit station that is more than one half mile away. *(Added March 10, 2022)*

C. Size of Districts

C1. How do the draft compliance guidelines define reasonable size?

The draft compliance guidelines consider two factors in determining if a zoning district is of reasonable size. First, they require the land area in the district be at least 50 acres. Second, the draft guidelines consider the number of multi-family units that the zoning allows in the district—what the guidelines refer to as the district’s “multi-family unit capacity.” The minimum multi-family unit capacity for each district depends on the type of transit service in a particular community, if any, and ranges from 10 to 25 percent of the community’s total housing stock. This may at first sound like a large number of units, but keep in mind that “unit capacity” is just a measure of the number of multi-family units allowed by right in the district—many of which may already exist. Unit capacity is not a requirement to construct a particular number of units, or any units at all. Section 3A requires multi-family by right zoning, not housing production.

C2. *A minimum land area of 50 acres seems like a lot—isn't that too big for most communities?*

The intent of Section 3A is to require the creation of multi-family zoning districts within 0.5 miles of a transit station, where applicable. For reference, a circle with a half-mile radius and a transit station at its center comprises about 500 acres. The minimum district size of 50 acres is approximately one-tenth of that land area. In most MBTA communities, 50 acres will be well under 1 percent of the community's total land area. A minimum land area of 50 acres will encourage long-term, neighborhood-scale planning, instead of using zoning as a way to permit proposed projects on specific sites. But 50 acres is still only a small fraction of the land area in a town and gives communities significant flexibility on where to locate a district in the half-mile radius around a transit station.

C3. *Section 5.a of the draft guidelines states that portions of an overlay district can be a minimum of 5 acres as long as one portion of the overlay district is 25 acres. Does this apply to "base districts" as well?*

Yes, base districts and overlay districts have the same minimum land area requirements.

C4. *My community has 2500 total housing units and is categorized as an "adjacent community." Is the required unit capacity 250 (10% of the total housing units) or 750 (50 acres x 15 units/acre)?*

Your town's minimum unit capacity is 250 as that term is defined in the draft guidelines. But, to comply with Section 3A, the multi-family zoning district also must meet the minimum gross density requirement of not less than 750 multi-family units (for a 50-acre district). Because the guidelines establish a minimum land area of 50 acres and the statute requires a minimum gross density of 15 units per acre, the result is that every MBTA community, regardless of its size, must provide a zoning district that allows at least 750 multi-family units as of right. This requirement is a floor on the number of units a zoning district must allow—many MBTA communities are required to have a district with a larger unit capacity. In other words, because of the minimum gross density requirement, a compliant district must allow at least 750 units regardless of the number of housing units in the community.

C5. *My community is categorized as a "commuter rail community" because we have a commuter rail station. We have almost 10,000 housing units. Are you saying we need to construct new multi-family units equal to 15% of our total housing stock?*

No, your community does not have to produce 1,500 new housing units. Your community must adopt a multi-family zoning district that can accommodate that many units. Those units may be existing units, as long as they would be allowed to be built as of right under the district's zoning; or they may be new units that potentially could be constructed by right sometime in the future; or a combination of existing and potential new units.

C6. *According to the draft guidelines, my community must have a zoning district with a unit capacity of 970 units. We have an area in town with 800 multi-family units already. Some of these units were built by special permit, and others were built under chapter 40B. Can we create a new zoning district in this area and count the existing units?*

The zoning district must allow for 970 multi-family units by right. To determine the unit capacity of a new or existing multi-family zoning district, you do not “count” existing units—you instead determine how many multi-family units the zoning district would allow by right on that parcel if it were undeveloped. Depending on the density, height, open space, setbacks, parking and other requirements that apply in the district, and the amount of developable land on each parcel, it is possible that all of the existing 800 units could be constructed by right—or even more than the existing 800 units. The important thing to understand is that you are counting what the zoning allows by right, not the number of units that currently exist. Note that in addition to meeting the unit capacity requirement, the district must meet the minimum gross density requirement as well. In some cases, the zoning for a district will need to allow for more multi-family units to meet the minimum gross density requirement.

C7. *By basing the minimum multi-family unit capacity on the number of existing housing units the draft guidelines require greater density in communities that already are densely developed. Shouldn't there be more expected of communities that haven't already allowed for multi-family housing?*

MBTA communities include dense, urban communities, suburban communities and rural communities. One of the guiding principles of the draft guidelines is that MBTA communities should adopt multi-family districts that will lead to development of multi-family housing projects of a scale, density and character that are consistent with a community's long-term planning goals, while also leveraging local and state investment in public transportation. The draft guidelines are intended to establish zoning requirements that will lead to more multi-family housing production in appropriate locations, while allowing towns to adhere to other municipal goals. *(Added March 10, 2022)*

D. Minimum Gross Density

D1. *What does it mean to have a minimum gross density of 15 units per acre?*

Section 3A states that each multi-family zoning district of reasonable size “shall ... have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A.” The law defines gross density as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.” The law clearly states that the gross density requirement applies to the district as a whole, rather than to individual parcels or projects within

that district. The draft guidelines provide further instruction on how to calculate the gross density of an existing or proposed multi-family zoning district.

D2. Can the multi-family district have subdistricts with varying degrees of density as long as the average gross density is 15 units/acre?

Yes. The draft guidelines permit the multi-family district to contain sub-districts that may have varying densities (higher and lower than a gross density of 15 units/acre) as long as the gross density for the entire district is at least 15 units/acre.

D3. Is a district that allows or requires mixed use and residential gross density of at least 15 units per acre acceptable to meet the guidelines?

Yes, commercial and other uses can also be permitted by right or by special permit in a multi-family zoning district. A mixed-use district will be deemed to comply with Section 3A as long as it meets the unit capacity, density and other requirements in the guidelines.

D4. A density of 15 units per acre is out of character with my rural community. Can the final guidelines reduce the minimum gross density requirement from 15 units per acre for more rural MBTA communities in which that density is out of character with existing development patterns?

No. The minimum gross density of 15 units per acre is expressly set forth in Section 3A. The guidelines must be consistent with the statute. But, the dimensional requirements in the zoning district can encourage the construction of low-rise multi-family housing projects where that kind of development is desired. (*Added March 10, 2022*)

E. Interim Compliance Requirements

E1. DHCD released draft guidelines on December 15. What is expected of us until these draft guidelines are issued as final guidelines?

While DHCD is collecting public comment on the draft guidelines, and until final guidelines are issued, an MBTA community can remain in compliance with Section 3A by taking the following actions set forth in the “How to Comply for 2022 for MBTA Communities” which can be [found here](#). If you would like to submit comments on the draft guidelines, you may do so [online here](#).

E2. Who signs the attestation required in section 9 of the guidelines? We are concerned our small town doesn't have the expertise to make this statement.

The attestation must be signed by each municipality’s chief executive officer—the mayor in a city and the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter. Technical assistance will

be available after the guidelines are finalized and you may also consult with your Regional Planning Agency for assistance.

E3. What happens if my community does not comply with Section 3A?

MBTA communities that do not timely comply with Section 3A will not be eligible to receive Massworks or Housing Choice funding through the 2022 Community One-Stop Application. Non-compliant MBTA communities will also be ineligible to receive funding from the Local Capital Projects Fund established in section 2EEEE of chapter 29. The compliance requirements in effect until the issuance of final guidelines can be [found here](#).

E4. Does Section 3A require all MBTA communities to adopt a multi-family zoning district, or is compliance optional?

Section 3A states that each “MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right ...” The word “shall” indicates that the legislature intended to require all MBTA communities to have a multi-family zoning district. *(Added March 10, 2022)*

E5. Subsection (b) of Section 3A says that an MBTA community that does not have a compliant multi-family zoning district shall not be eligible for funds from: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A. What are these grant programs?

The MassWorks infrastructure program provides the largest and most flexible source of capital funds to municipalities and other eligible public entities primarily for public infrastructure projects that support and accelerate housing production, spur private development, and create jobs throughout the Commonwealth. EOHED grants approximately \$75 million in MassWorks funding every year. The Housing Choice Initiative is a flexible grant program open to communities that have been designated as “housing choice communities”. Approximately \$19 million in grant funding has been awarded since 2018. The Local Capital Projects Fund collects a portion of the state’s gaming revenue and has been used in recent years to fund the operations of local housing authorities. *(Added March 10, 2022)*

F. Technical Assistance

F1. Where can I find help understanding the new law and how best to comply with it?

Additional resources are available at mass.gov/MBTACommunities. Funding opportunities for planning and other technical assistance will be available in next year’s One Stop application. Further information on the One Stop application is available at mass.gov/onestop. Other technical assistance will be offered by the Massachusetts Housing

Partnership (MHP) and regional planning agencies. Details about MHP’s technical assistance are available at www.mhp.net/mbtazoning.

G. Miscellaneous

G1. What if I already have a zoning district in which multi-family housing is allowed by special permit? Does that count?

No, the law requires that multi-family uses be allowed by right in the district. Those uses may be subject to site plan review and design review, but multi-family uses cannot be subject to special permits or other discretionary permits that a local board can deny the use, or impose conditions unrelated to site layout, pedestrian safety, internal circulation of automobiles, and public safety considerations.

G2. Can an MBTA community’s zoning require that multi-family projects within a multi-family zoning district include a specified percentage of affordable units?

Yes, reasonable affordability requirements are allowed, as long as they are financially feasible and do not unduly impede the construction of new multi-family housing in the district. At least 140 cities and towns in the Commonwealth have some form of “inclusionary” zoning requiring that a percentage of units in new housing developments be affordable. Any affordability requirements in a zoning ordinance or bylaw will be reviewed on a case-by-case basis to ensure that they are reasonable.

G2A. Answer G.2 says that the multi-family zoning may require projects to include a percentage of affordable units, as long as the requirements are financially feasible and do not unduly impede the construction of new multi-family housing in the district. How will DHCD review affordability requirements to ensure that they are reasonable?

The final guidelines may provide more specific rules about what is reasonable and what is not. DHCD encourages and invites public comment on this issue to inform the final guidelines. (Added March 10, 2022)

G3. Can a project within the multi-family zoning district be required to have an adequate number of parking spaces?

Requiring too many parking spaces for multi-family housing projects can practically impede the number of multi-family units that can be constructed within the district. A municipality should consider reducing or eliminating any minimum parking requirements in the multi-family zoning district—particularly for projects that are within walking or biking distance to a transit station—to allow for a greater density of multi-family units on each parcel. In all cases, a municipality must consider whether the unit capacity and minimum gross density

requirements are met given the amount of parking required.

G4. My community does not currently provide a public sewer system. Are we required to design and construct a public sewer system and offer sewer hook ups to support higher density housing? If so, how can we pay for that expensive infrastructure?

No. Multi-family housing can be created at the required density using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, private developers may be able to support the cost of necessary water and sewer extensions. Communities are encouraged to consider the location of any municipal water sources and other nitrogen-sensitive areas when siting multi-family zoning districts to minimize barriers to installing septic and wastewater systems that can serve the needs of multi-family housing development in the district. Cities and towns seeking to affirmatively plan for growth may also be eligible for state grants to defray the cost of new or expanded public infrastructure.

G5. My community is concerned that new multi-family housing will mean many more children in the school system. Our school system is already at capacity and we do not have the resources to accommodate more children. What can we do?

The new law does not require immediate housing production—only the creation of compliant zoning districts where multi-family housing *may* be created as of right. It is unlikely that communities will see an immediate increase in school attendance, given the time needed to assemble land for development, design and build housing. Moreover, studies have shown that in most cases new multi-family housing development has no negative impact on a community's school system.

**DISCUSSION &
POSSIBLE VOTE**

Accept open space deed for
Joanne Drive Subdivision



Town of Stow
Conservation Commission

380 Great Road
Stow, Massachusetts 01775
(978) 897-8615
FAX (978) 897-4534
conservation@stow-ma.gov

To: Stow Select Board, Ellen Sturgis, Chair
From: Kathy Sferra, Stow Conservation Director *KS*
Re: Acceptance of Joanne Drive Open Land
Date: April 19, 2022

On behalf of the Stow Conservation Commission, I am requesting that the Select Board vote to accept three parcels of open land totaling approximately 28 acres that are part of the Joanne Drive subdivision off Sudbury Road, and which are being donated to the Town by Kendall Homes, Inc. to be placed under the care, custody and control of the Conservation Commission pursuant to Chapter 40, Section 8C. The parcels are required open space that was set aside as part of the Planning Board's subdivision approval. The parcels have frontage on the Assabet River, and extensive wetlands, and will contain both a walking trail for use by the public and a canoe landing for the benefit of residents of the subdivision and river users. The deed has been executed by Kendall Homes, Inc., and the Conservation Commission has voted unanimously to accept the parcel. The Select Board also needs to sign the acceptance. A map of the parcels is attached.

Thank you and please let me know if you have any questions.

QUITCLAIM DEED

Kendall Homes, Inc., having a mailing address of P.O. Box 766, Southborough, Massachusetts, (hereinafter, the “Grantor”),

in consideration of One and 00/100 (\$1.00) Dollar paid

grants to the Town of Stow, acting by and through its Conservation Commission pursuant to Massachusetts General Laws, Chapter 40, Section 8C, as amended, with an address of 380 Great Road, Stow, Middlesex County, Massachusetts, (hereinafter, the “Grantee”),

with quitclaim covenants

that parcel of land shown as Parcel A on the plan entitled, “Definitive Subdivision Plan, Joanne Drive, A Planned Conservation Development, Stow, Massachusetts”, dated August 4, 2017 and last revised on December 3, 2018, prepared by Stanski and McNary, Inc., 1000 Main Street, Acton, MA 01720, which plan is recorded at the Middlesex County (Southern District) Registry of Deeds as Plan No. 195 of 2020. Said Parcel A contains 1,018,052 square feet, more or less, according to said plan; and

that parcel of land shown as Parcel B on the plan entitled, “Plan of Land in Stow, Massachusetts”, dated October, 1963, prepared by W. Robert Nolte & Associates – Land Surveyors, Nashua, NH, which plan is recorded at the Middlesex County (Southern District) Registry of Deeds as Plan No. 1416 of 1963. Said Parcel B contains 2.8 acres, more or less, according to said plan; and

that parcel of land shown as Parcel C on the plan entitled, “Plan of Land in Stow, Massachusetts”, dated October, 1963, prepared by W. Robert Nolte & Associates – Land Surveyors, Nashua, NH, which plan is recorded at the Middlesex County (Southern District) Registry of Deeds as Plan No. 1416 of 1963. Said Parcel C contains 2.1 acres, more or less, according to said plan.

Said parcels are conveyed subject to, and with the benefit of, all easements, restrictions, encumbrances and other matters of record insofar as now in force and applicable and all easements, restrictions and other matters shown on the Plan.

Reserving to the Grantor the fee in the streets and ways shown on the Plan but granting to the Grantee the right to pass and repass over the streets and ways shown on the Plan for all purposes for which streets and ways are commonly used in the Town of Stow, Massachusetts, in common with all others legally entitled thereto.

Property Address: Parcels A, B and C, Joanne Drive, Stow, Massachusetts

This conveyance is not a transfer of all or substantially all of the assets owned by the Grantor in the Commonwealth of Massachusetts.

Being a portion of the premises conveyed to Grantor by deed from Lundy Starmer, Inc., recorded with Middlesex County (Southern District) Registry of Deeds on October 28, 2020, at Book 76011, Page 255.

[The remainder of this page is left intentionally blank – Signature page to follow]

Executed as a sealed instrument this 29 day of March, 2022.

Kendall Homes, Inc.

By: [Signature]
Name: Charles K. Black
Title: President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 29th day of March, 2022, before me, the undersigned notary, personally appeared Charles K. Black, proved to me through satisfactory evidence of identification, which was:

- Photographic identification with signature issued by a federal or state governmental agency, or
- Oath or affirmation of a credible witness, or
- Personal knowledge of the undersigned, or
- The following evidence of identification _____

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, as President and Treasurer of Kendall Homes, Inc., a corporation.



DANIEL J. BURGER
Notary Public
Commonwealth of Massachusetts
My Commission Expires
October 28, 2027

[Signature]

Notary Public
Printed Name: Daniel J. Burger

My Commission Expires: 10/28/2027

**ACCEPTANCE OF GRANT BY TOWN OF STOW
CONSERVATION COMMISSION**

We, the undersigned, being a majority of the Conservation Commission of the Town of Stow, Massachusetts, hereby certify that at a public meeting duly held on this ____ day of _____, 2022, the Conservation Commission voted to accept the foregoing gift of land from Kendall Homes, Inc., pursuant to M.G.L. Chapter 40 Section 8(C).

STOW CONSERVATION COMMISSION:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, Chair of the Conservation Commission, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

APPROVAL OF SELECT BOARD

We, the undersigned, being a majority of the Select Board of the Town of Stow, hereby certify that at a public meeting duly held on this ____ day of _____, 2022, the Select Board voted to approve the foregoing gift of land from Kendall Homes, Inc., Inc to the Stow Conservation Commission.

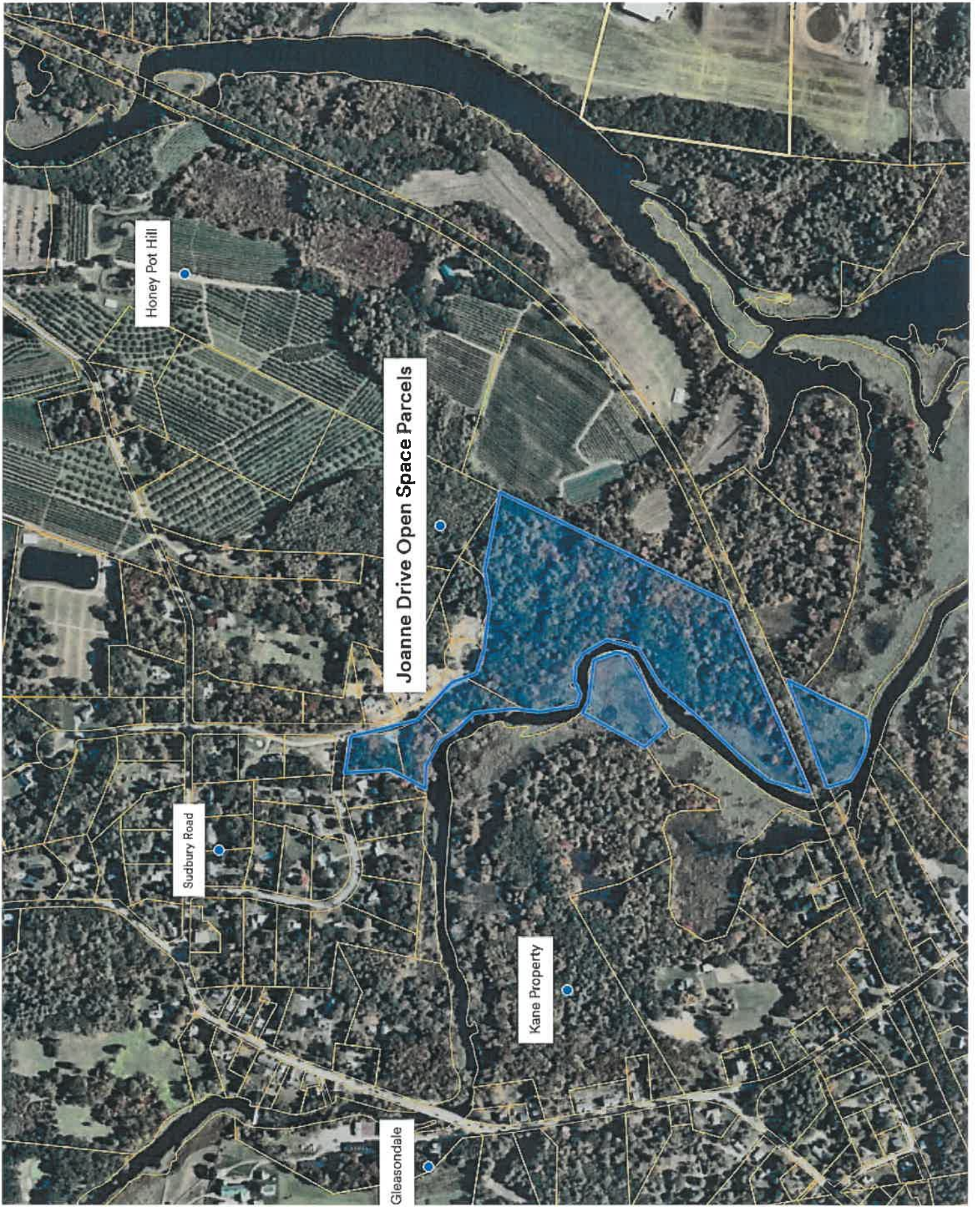
SELECT BOARD:

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss:

On this ____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, Chair of the Select Board, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:



Honey Pot Hill

Joanne Drive Open Space Parcels

Sudbury Road

Kane Property

Gleasondale

MVP Grant submission for
Stow Acres

Kathy Sferra



Town of Stow *Select Board*

380 Great Road
Stow, MA 01775

Tel: 978-897-4515

selectboard@stow-ma.gov

April 26, 2022

Kara Runsten
Municipal Vulnerability Preparedness Program
Executive Office of Energy and Environmental Affairs
100 Cambridge Street
Boston, MA 02114

RE: Town of Stow MVP Action Grant Application – Stow Acres North

Dear Ms. Runsten:

The Town of Stow Select Board has voted unanimously to offer its strong support for Stow's Municipal Vulnerability Preparedness (MVP) Action Grant proposal for Stow Acres.

Over the past two years, Town staff have worked in partnership with the ownership of Stow Acres, the Stow Conservation Trust, and MCO & Associates, a local developer, to patiently craft a vision for the future of Stow Acres that permanently preserves more than 80% of this high priority property and meets the town's needs for housing diversity on the remainder of the land. Extensive outreach during 2020 and 2021 led to near unanimous votes at two successive Town Meetings in support of the vision for this project – the purchase of a Conservation Restriction on the South Course and the fee acquisition of 115 acres of the North Course Property, both at bargain sale prices. The Town has already voted to expend a record \$4.0 million in Community Preservation funds toward this larger vision (including \$2.5 million for the North Property), contingent on securing the balance of the funding through grants and private fundraising. We are requesting a Year 1 grant of \$960,000 toward this acquisition, with the remainder of the purchase price to be met by Stow Conservation Trust private fundraising.

Once the acquisition is complete, the Town seeks to embed the goals of the MVP program into the project through the development of a Year 2 Climate Resilience Master Plan for the property. The Plan, described in more detail in our proposal, would set the blueprint for the future use of the property – including passive and active open space areas, trails, and a variety of upland and wetland restoration areas. Extensive outreach and public involvement will seek to ensure that all voices are heard during this process – including climate vulnerable older residents and those from surrounding communities. The Plan would be driven by a focus on climate resilience – restoring ecosystem function, fostering connectivity for people and wildlife, and providing for public outdoor recreation and health for a diverse population.

We are very proud of the vision for this property and feel that the Stow Acres project will be a model development of a public-private partnership fostering, not only our affordable housing goals, but heavily focusing on climate resiliency and environmental justice by restoring key conservation areas and promoting outdoor recreational opportunities for all.

On behalf of the Stow Select Board, I thank you very much for considering our application.

Sincerely,

Ellen S. Sturgis
Chair

**Stow Acres Acquisition and Resiliency Master Plan
Municipal Vulnerability Preparedness Grant Application EOI Narrative**

Background and Summary

For decades, residents of Stow have been concerned about the future of Stow Acres, the Town's largest (36 hole) golf course and the largest undeveloped parcel in Stow. This 360-acre property contains significant conservation values – including riparian corridors along Elizabeth Brook and the Assabet River, scenic views from Randall Road and Gleasondale Road, and opportunities for significant large-scale conservation and restoration. The 2016 Open Space and Recreation Plan identifies planning for the protection of Stow's "at-risk" golf course properties, including Stow Acres, as one of the Town's highest priorities, and the parcel is listed as a regionally-significant Priority Preservation Area in the 495/Metrowest Development Concept Plan.

In 2019, when rumors began circulating about the possible sale of Stow Acres, the Town and the nonprofit Stow Conservation Trust (SCT) began negotiations with the property owners. These discussions led to the creation of a groundbreaking partnership that included the Town, SCT, a private for-profit purchaser, and the owners of Stow Acres, who worked together for two years to develop an overall vision for the entire property with the support of a professional landscape design firm, Dodson and Flinker. Together, the partnership identified priority locations to focus development and meet the town's housing diversity needs, and areas that had the highest conservation and recreation values which will support future trails, recreation facilities, restored wetlands and streams, and conserved corridors along Elizabeth Brook and the Assabet River. Multiple community forums were held via Zoom to build community consensus in support of the overall land use vision for the property. The 2018 MVP Plan conducted by the Town recognized the need for strong ecological processes to maintain a resilient community. As the Stow Acres project evolved, the opportunities to restore filled wetlands, reconnect habitat corridors, improve flood storage capacity, and maintain groundwater recharge and base flow to the Assabet River became clear.

The Town and the Trust worked with the property owners to negotiate a two-phase plan for the conservation of more than 85% of the property at a price that was significantly below market value. In May 2021, residents voted overwhelming at Town Meeting to expend Stow Community Preservation Funds to purchase a Conservation Restriction with public access trail on the 151-acre South Course of Stow Acres for \$1.5 million. In October 2021, they again voted in favor of expending \$2.5 million toward the Town purchase of approximately two-thirds of the North Course for conservation and recreation purposes, with the balance of the purchase price to be raised from gifts and grants. The purchase is expected to be consummated in late 2022. The overall vision will guide the development of the remaining 1/3 of the North Course as a 180-unit village-style housing community that is designed to interconnect with the Town property.

MVP Grant Proposal

Year 1 – Acquisition Phase - \$1,000,000 Grant Request

The project is already a model for a collaborative approach to forestalling potentially unsustainable development on a large, high priority parcel. Rather than waiting for the property to be offered to the Town piecemeal under Chapter 61B at what would likely have been an unaffordable total price, and having only 120 days to respond, the Town worked proactively in partnership with others to create a comprehensive, positive outcome for the land. The Town has paid the entire cost of the South Course

purchase, however the North Course purchase will only occur if we are able to raise the necessary funds. Toward that end, we are seeking \$1,000,000 in MVP Action Grant funds for the purchase of 115 acres of the Stow Acres North Course. These funds will be combined with \$2.5 million from CPA funds, already approved by the voters, and private fundraising by Stow Conservation Trust to meet the \$3,535,000 purchase price for this property and cover expenses associated with the closing. These grant funds are expected to be expended in December 2022.

Years 1 and 2 – Resilient Facility Master Planning Phase - Final Amount TBD – Est \$250K-\$350K

Once the acquisition is complete, the Town seeks to have the 115-acre town-owned North Course serve as a model resilient conservation and recreation facility, guided by an overall master plan prepared by an interdisciplinary team that includes landscape designers/architects, individuals with expertise in ecological restoration planning, and recreation facility designers. We expect that the process of development of the master plan will involve significant community outreach – to stakeholders in Stow and beyond – and that the process will take approximately one year, concluding in early 2024. The Master Planning effort would be guided by a Steering Committee with a diverse membership who would ensure that we bring our best thinking to this process and engage residents in thinking about the issues of climate resilience and mitigation. The project will also provide an opportunity for citizen science, supplemented by professional oversight, to monitor the restoration of natural areas and coordinate with OARS, the watershed association for the Assabet River, to monitor water quality in Elizabeth Brook and the Assabet River.

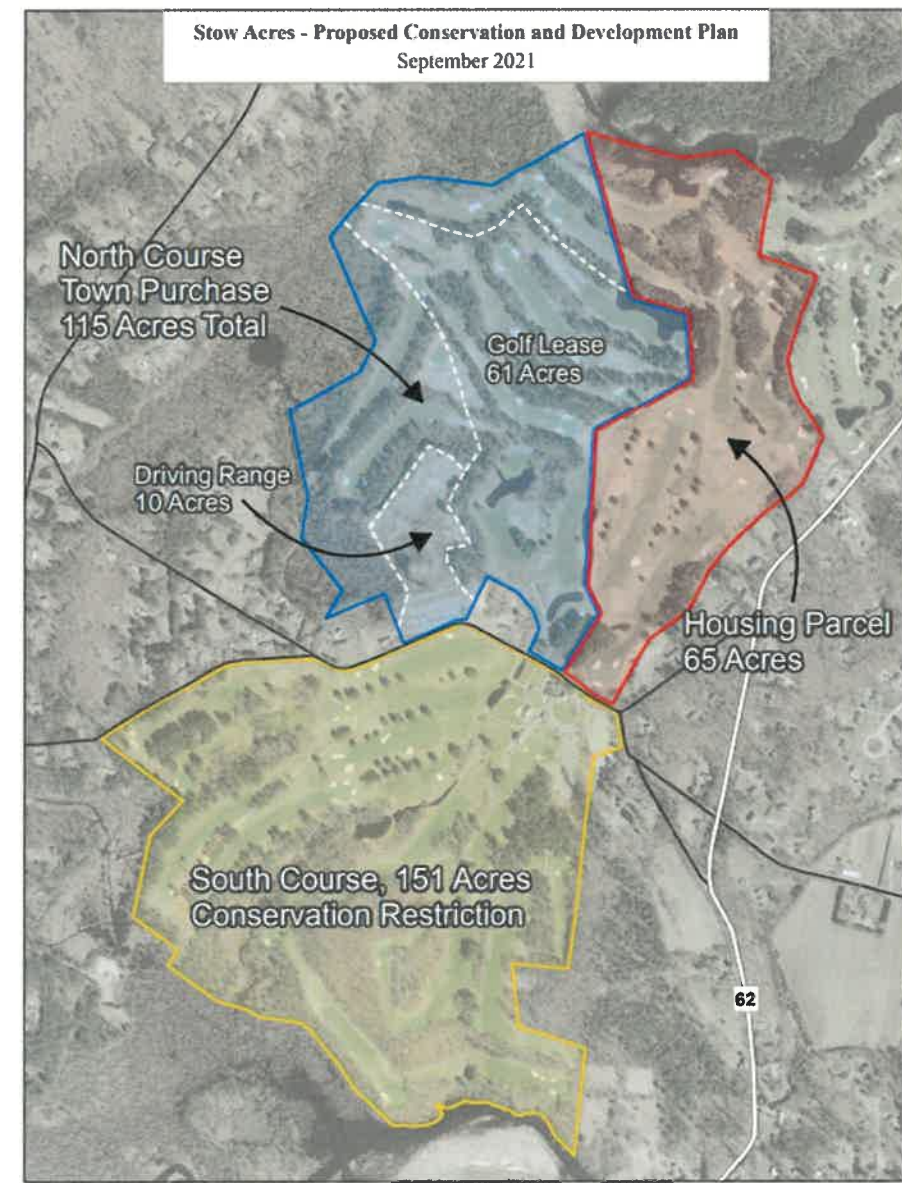
Components of that master plan are expected to include:

- restoration of historically-altered floodplain, wetlands and stream corridors at the Stow Acres Driving Range;
- restoration of riparian corridors along streams, including Elizabeth Brook, and measures designed to increase biodiversity, landscape complexity and habitat values in the upland areas of the property including creation of open meadows and tree planting;
- creation of an accessible recreational trail around the perimeter of the property interconnecting with recreational elements and the planned trail at the Stow Acres South Course;
- integration of resilient recreation facilities including shade structures, water features, and other elements to help minimize heat island impacts and reduce water use for irrigation. The specific active and passive recreation facilities on the property would be guided by a needs assessment and community survey to be conducted by the town during 2022 as part of the revision of its Open Space and Recreation Plan, which will also involve outreach to town staff in surrounding communities;
- exploration of the feasibility of water-based recreation through canoe/kayak access to Elizabeth Brook and Wheeler Pond;
- creation of access and parking to serve the town facilities, including redevelopment of the existing driving range parking lot on Randall Road to serve visitors, with interpretive elements overlooking the restored driving range. We will also assess the potential for one or more EV charging stations in this parking lot (Stow currently has none);
- green stormwater infrastructure measures to manage runoff from any facilities that are created on the site and encourage stormwater recharge;
- identification of opportunities for interpretive panels, signage and similar educational materials to engage those using the property; and

- a logical and cost-effective phasing plan with cost estimates for the various elements that is designed to result in some “early wins” in terms of providing opportunities for the public to use and enjoy the property during what is expected to be a 10-15 year build out of facilities.

Importantly, and consistent with the planned vision for the entire property, the private developer who will be developing the housing project has agreed to allow the town to incorporate nearly half of that property (approximately 30 acres) into the overall master plan to facilitate the integrated use and enjoyment of both properties. This will allow restoration of the Elizabeth Brook riparian corridor and provide for an integrated trail network spanning both properties. This area is slated to be the wellfield for the development and passive recreational uses are permissible in this area.

The Stow Acres project is a once-in-a-lifetime opportunity for the town to shape what will essentially be a blank canvas in a model climate-resilient recreation facility and restoration project. An MVP grant will help ensure that we make the most of this opportunity and that initial actions are done in a manner consistent with the overall master plan for the property.



**Review and Approve
2022 Annual Town Meeting**

MINUTES

Select Board Meeting Minutes
Tuesday, April 12, 2022
Stow Town Building & Zoom

Present in the Warren Room: Chair Ellen Sturgis, Megan Birch-McMichael, Cortni Frecha, James Salvie, and Town Administrator Denise Dembkoski

Chair Sturgis called the meeting to order at 7 p.m.

Chair Sturgis said with the resignation of Zack Burns, it is now a Board of four members. If there is a unanimous vote she will not request a roll call. The Chair noted that Stow TV is recording this meeting. If there is any public comment, please identify yourself and limit comments to under two minutes.

Public Input - none

Board Member Comments:

Chair Sturgis made the following comments:

- The Stow Council On Aging (COA) is looking for volunteers for the Friday morning Bridges Together program, which is with the fourth graders. Anyone over age 60 who wants to volunteer can contact the COA.
- The Randall Library Friends Book Sale is April 23-24 at the Pompo Community Center.
- If Board members have comments on the draft of the Nashoba Regional Agreement, send them to the office and she will make sure that they get to the committee.
- Stow Clean-Up Day is Saturday, April 30th.
- There is a Candidates Night on April 27th sponsored and run by the Stow Independent.

Recognition

Eagle Scout Luke Piotte's service project in 2019 was at Pine Bluff Recreation Area where he refurbished the gate and replaced signs, including the one-way sign and two identification signs.

Board member Salvie moved to recognize Boy Scout Luke Piotte for achieving the rank of Eagle Scout, and to sign the letter and proclamation, to be presented at his recognition ceremony on Sunday, April 24, 2022. Board member Frecha seconded the motion and it passed unanimously.

Appointments

Firefighter/EMT

Fire Chief JP Benoit said that Rachel has been with the Fire Department since 2019, first as an EMT and then within a year as a Call Firefighter. Firefighter Vroegindewey said it is a great honor and she hopes to do the Town proud.

Board member Salvie moved that the Select Board appoint Rachel Vroegindewey to the position of Firefighter/EMT through June 30, 2022, and subject to reappointment thereafter. This appointment is contingent upon final approval from the Town Administrator after a review of any reports provided by the pre-employment mental assessment. Board member Frecha seconded the motion and it passed unanimously.

Zoning Board of Appeals Associate Member

Bill Byron has stepped down as a member of the Zoning Board of Appeals after 18 years and asked to be appointed as an associate member. Board members shared their appreciation of his tenure on this and other committees. Member Salvie said Mr. Byron cares passionately for and has a breadth of knowledge of the Town.

Board member Salvie moved to appoint William Byron as an Associate Member of the Zoning Board of Appeals, to complete the remainder of an unexpired term expiring June 30, 2023. Board member Frecha seconded the motion and it passed unanimously.

Stow Municipal Affordable Housing Trust

Cathy Leonard was present via Zoom. She has been attending the meetings for four years and has an interest in affordable housing.

Board member Salvie moved to appoint Catherine Leonard to the Stow Municipal Housing Trust (SMAHT) to complete the remainder of an unexpired two-year term expiring June 30, 2023. Board member Frecha seconded the motion and it passed unanimously.

Town Administrator (TA) Report

- The next Household Hazardous Waste Day is Wednesday, May 4th. The schedule is the first Wednesday and the following Saturday of each month from 9 a.m. to 1 p.m. weather permitting.
- The current COVID count in Stow is 5 cases, which is a 1.13% positivity rate.
- April is Volunteer Appreciation Month, and the TA thanked all the volunteer board and committee members, the numerous volunteers in various Town departments, and in particular, Liza Mattison and Holly Clack who were both appointed to the Conservation Commission in 2021 and have recently completed 8 units of the MA Conservation Commission's training program.
- The Eversource project in Gleasondale should begin in May or June on the right-of-way. They will use outreach such as door hangers, going door-to-door, a website, a hotline, etc. It will impact the Chestnut St. Bridge so arrangements will need to be made for police, fire, and public access.

Discussion of Zack Burns' Resignation from the Select Board

Special Election

The Board can call a Special Town Election to fill the unexpired 3-year term that ends in 2024. The Town Administrator recommends holding it with the state election in November. The Town Clerk prefers holding it with the September primary only if the school agrees to be closed on that day. The board discussed having an election in the summer. The Board decided to discuss this further at the May 24th meeting, after the Annual Town Election when there is a new Select Board in place.

Capital Planning Committee Vacancy

The vacancy is through 2023 and has not been posted yet; it is a Select Board appointee and historically it is a Select Board member in that role. The Board will wait until the May 24th meeting.

Minuteman Advisory Group on Interlocal Coordination (MAGIC) Select Board Representative Vacancy

MAGIC has asked if there is a new representative. The Board decided to wait until the May 24th meeting. The TA offered to be the representative as many Town Administrators serve in that role.

Sustainable Stow – Nonbinding Resolution Article Request Overview

The petition for a warrant article filed by Sustainable Stow was received after the deadline. Based on the Town’s Charter and town counsel’s opinion of the Charter, the Select Board cannot overrule any provision of the Charter.

Rick Lent and Jen Sylvester of Sustainable Stow were present. Mr. Lent said his group thought that the state statute could override the Charter. Ms. Sylvester hopes that at the next opportunity this can be on the warrant and that it will receive the support of the Select Board.

Allan Fierce was present via Zoom. Mr. Fierce said they presented a written memo to the Board that referenced MGL Ch. 39 Section 10 and that the state law regarding warrant articles trumps the Town Bylaw. He would like to see the written opinion from town counsel. The Town Administrator clarified that it is in the Charter, not the Bylaws, and that the Charter can be more restrictive than state law.

Some Board members praised Sustainable Stow’s efforts but most felt there was a lack of urgency for getting this article on the upcoming warrant via circumventing the Charter. Member Birch-McMichael was disappointed in the way that Sustainable Stow’s members went about trying to solicit input from the Board. One member reached out to Birch-McMichael at work and she said for the record it was “out of the realm of what is appropriate” and that her feelings on this are rooted in the messaging.

FY2023 Budget Discussion

The budget book and the Town Administrator’s budget recommendation letter are on the website. The salary increases include the rolling in of the education incentives that had been a separate item in prior years, and the salary classifications are now what the true salary for positions should be. The Highway Department has chosen to unionize, and in negotiating the contract the pay scale has increased to market value. The Cemetery Supervisor position has joined the union and this position is being phased into the Highway Department as part of the creation of a Public Works Department. In a future year, the final step will be requesting a bylaw change to formally create this department.

The Minuteman High School assessment is up 35.7% (\$564,000) and the Nashoba Regional School District increase is 2.64% (\$476,000), for a combined increase of over \$1M. Revenues are still an estimate at this time, but the budget will average out to an approximate 3.5% total budget increase and will be balanced safely.

The Finance Committee met last night and unanimously approved every article except the Town Hall Restoration Committee funding through the Community Preservation Committee and held on the highway equipment article pending more information.

Annual Town Meeting Warrant Review

The TA discussed Article 3, Wage and Salary Schedule. The TA worked with the Asst TA/HR Director to remove the highway positions (now in a contract), add a new seasonal employee rate schedule, and create an 8 grade, 12 step schedule.

The TA also discussed Article 56, Amend General Bylaw Article 11 – Personnel Administration. Proposed changes will define how the new step schedule works and move day-to-day decisions from the Select Board to the TA in order to follow the Charter.

The Board will review and approve the 2022 Annual Town Meeting Warrant at its next meeting.

Meeting Minutes

Member Frecha asked for corrections on page 2 to the numbers in the presentation by Senator Eldridge and Representative Hogan. The amount the Nashoba district received last year to be corrected to \$7.8 million, and the amount the district received to be corrected to \$100,000 to fight food insecurity.

Board member Salvie moved to accept the meeting minutes of the March 22, 2022 meeting as amended. Board member Frecha seconded the motion and it passed unanimously.

Correspondence

Member Frecha commented on an email regarding Canada geese, noting that it is sad and she would like to know what happened and that she will inquire elsewhere.

Member Frecha commented on the email regarding the Cemetery meetings. She asked if there would be value in having a staff member to support committees that do not have staff to assist with minutes. Chair Sturgis said that many committees do not have staff support and the committee members can rotate taking the minutes. They both appreciate having minutes available on the Town's website. The TA said she spoke with the Cemetery Commission chair and most items in the email that was sent to the office are not accurate. She has responded to the person who sent the email and both she and the commission chair offered to meet with him. Chair Sturgis encouraged the Cemetery Commission to meet in the Town Building.

The Nashoba Area Social Justice Alliance is seeking submissions for its Art Show in May; the submission deadline is April 25th.

Adjournment

At 9:07 p.m. Board member Birch-McMichael moved to adjourn. Board member Frecha seconded the motion and it passed unanimously

Respectfully submitted,

Joyce Sampson

Executive Assistant

Documents used at this meeting:

Documents can be found in the Select Board's Office in the meeting folder.