

Questions and Answers from March 19, 2024 MBTA Communities Multi-family Overlay District Zoning Public Hearing

Is zoning a single or two disconnected parcels considered as "spot zoning?"

This is not considered spot zoning as the district(s) serve a specific public purpose within the context of transportation and housing policy in Massachusetts and a legitimate public planning process identified these sites/properties as appropriate for the defined use.

Will the Town be voting for this overlay for both properties or only one of them?

Only one district is expected to be put forth as a MCMOD.

What is at risk in terms of loss of state funding?

The Town is preparing a memo on this. Loss of funding (unlimited over time), the risk of civil enforcement action and the risk of liability under state and federal fair housing laws.

What is typically funded by the State programs the Town would not be eligible for if the Town does not comply with the law?

Bridges, road improvement, land acquisition and various planning studies among others.

Has adequate consideration been given to traffic control on Main St.

A traffic study would be undertaken by a developer and peer reviewed by a Town Consultant (paid for by the developer) when a proposal is submitted. Given the similarity in size to Drakes Landing, one might assume similar impacts.

Has adequate consideration been given to the potential impacts to our schools?

School impacts are anticipated to be minimal for a 30-40 unit development. Drakes Landing may be a good example.

A May 2020 Special Study "One Public School Child for Every Three Homes, found that for all housing in Massachusetts, the average number of students per household is .314, for households in multi-family housing the average is .235. The number of students that may be anticipated from a 30-40 unit development one could assume is likely less than .5 per unit. Even

at .5 per unit, if you imagine that 15-20 students are distributed among the class range – a few students per grade would not likely impact staff requirements. West Newbury's (PRSD) school population is declining.

What traffic studies have been done to address the increased traffic congestion on 113?

Traffic studies are undertaken when a development is proposed – it is only then that the number of units, location of the roadway and layout of interior circulation is known. The developer is responsible for producing the traffic study and also pays for a town consultant to review and confirm or challenge its findings and make recommendations to the Town regarding any mitigation that may be needed.

A Route 113 Corridor study is currently underway to identify opportunities to improve vehicle, bicycle and pedestrian safety.

What improvements will be made to 113 to ensure the safety of pedestrians?

This will depend on what is needed to create a safe pedestrian environment. Any improvements needed to mitigate project impact, as typically determined by the Town's Peer reviewer, will be the responsibility of the developer.

What studies have been done on the effects on the town water supply that we can refer to?

A high-level hydraulic evaluation was completed for the potential district locations to determine if one location is more favorable in regard to water supply from the existing West Newbury water distribution system and to determine if needed fire flow capacity is likely adequate. The Knapp property is estimated to have adequate available Fire Flow with existing pipe conditions while the Dunn property is estimated to fall short at this time. However, both the Dunn and Knapp parcels are estimated to have access to sufficient available fire flow with the proposed future main Street Water Main improvements.

Regarding public water.

- *West Newbury is permitted to withdraw/produce 200,000 gallons per day from Town wells*
- *Typical non-summer withdrawal is 140,000 g/d (70% of the 200,000 available)*
- *Typical summer season withdrawal is as high as 250,000 g/d (125% of Town capacity, thus the town purchases from Newburyport in the summer)*
- *150,000 g/d purchased from Newburyport during summer season*

- Combined Town and Newburyport water available is 350,000 gpd (250,000 gpd is 70% of the 350,000 available)
- There are 1077 meters/water connections in W Newbury that average
 - 130 gpd per household non summer
 - 232 gpd per household summer
- Using the typical water consumption for W Newbury this would mean 40 units would add:
 - 5,280 gpd non summer (130 x 40) to daily consumption of 140,000 gpd or an increase of 3.7% - (73.7% of available)
 - 9,280 gpd summer (232 x 40) to daily consumption of 250,000 gpd or an increase of 3.7%- (73.7% of available)
- Water use is paid by household, provides income to water department- increases operating budget

MBTA communities are encouraged to consider the availability of water and wastewater infrastructure when selecting the location of a new multi-family zoning district. But compliance with Section 3A does not require a municipality to install new water or wastewater infrastructure, or add to the capacity of existing infrastructure, to accommodate future multi-family housing production within the multi-family zoning district. In most cases, multi-family housing can be created using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, but capacity is limited, private developers may be able to support the cost of necessary water and sewer extensions. While the zoning must allow for gross average density of at least 15 units per acre, there may be other legal or practical limitations, including lack of infrastructure or infrastructure capacity, that result in actual housing production at lower density than the zoning allows.

What soil studies have been done on the proposed areas to ensure that they are suitable sites for septic tanks for the volume of the size proposed by the zoning plans? Will this be conducted before or after a developer is selected for a project?

The Town has not conducted soil studies (perc tests) to ensure that the sites are suitable, but have drawn on the BOH agents experience with soils throughout the town, supplemented by information from land owners to determine potential suitability.

A developer would have to prove that the site could support adequate septic in order to develop the site.

How many times in the coming years will the state comeback and ask for more land to be zoned for housing? Is this a one-time request for compliance situation or is this to be a “given an inch and they take a mile”?

This is expected to be a one-time request for compliance.

If a project doesn't build the 15 units per acre (required by the state), will we lose funding?

The 15 unit per acre requirement applies only to zoning – not to what is built. The owner of a property can use the new zoning or underlying zoning to develop the property. And they can not develop the property at all. The zoning is what determines compliance – not any resulting development.

If a district it is zoned for the 15 units per acre, can someone buy it and build something else?

Yes. The by right multi-family housing is an option for the land owner – not a requirement.

If this area is to be zoned for housing as mandated by the state, can other developers then start building too and the “87” homes increase exponentially or will the area as zoned be capped at 87?

The zoning overlay district for multi-family housing is restricted to one site and the regulations as proposed cap the number of units that can be developed at that site is 87.

Why are we proceeding as if we are being held hostage by the state?

Section 3A of MGL c. 40A is a State Law. Not complying with the law will result in loss of funding for critical town projects, may result in civil enforcement action, and may put the Town at risk of liability under federal and state fair housing laws.

Changing local zoning can stimulate the development of more diverse types of housing – an identified need in West Newbury.

There has been a lot of discussion about what happens if the Town doesn't comply with the legislation. What is the benefit to the Town and its residents if it does comply?

The benefit of adopting the zoning is compliance with State Law. The benefit of housing that is produced under the zoning regulations is greater diversity in the Town's housing stock. The Town's long term planning documents for decades have called out the lack of diversity and

affordability in the Town's housing stock as important to address. The MCMOD offers the town one more tool to help address the town, region and states' critical housing shortage.

If we change the zoning what other properties become at risk for unrestricted development?

None, only the parcels rezoned would be impacted. Town Meeting approves all zoning changes.

Note that by right zoning is not unrestricted development. While the type of use is by right, the development must still meet site, building, environmental and other standards.

Will the state accept the 87 unit overlay zoning if it is known that 87 units cannot be constructed due to the cost of sewage treatment? Why not create the overlay zoning in an existing high density housing area (like Drakes or Ocean Meadow?)

Even though the zoning district must permit 15 units per acre as of right, any multi-family housing produced within the district is subject to, and must comply with, the state wetlands protection act and title 5 of the state environmental code—even if such compliance means a proposed project will be less dense than 15 units per acre.

West Newbury needs more diverse housing – the Board believes that a development of the size and style shown in the concept plan, as limited by the soils, would produce the type of housing needed by the Town.

Can we afford to staff our school with more teachers to account for the increase in number of students?

The student population in West Newbury/Pentucket Regional School System is declining. The number of students that may be anticipated from a 30-40 unit development is likely less than .5 per unit. Even at .5 per unit, if you imagine that 15-20 students are distributed among the class range – a few students per grade would not likely impact staff requirements.

Note: Special Study One Public School Child for Every Three Homes – May 2020. [One Public School Child for Every Three Homes | Eye On Housing](#)

All housing .314; multifamily avg .235

Why not choose parcels that are not for sale and not likely to be? We could still be in compliance with the overlay and not have the jeopardy of having 87 units built.

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the lack of diversity and affordability in the Town's housing stock as important to address. The MCMOD offers the town one more tool to help address the town, region and states' critical housing shortage.

Whereas a good many abutters have expressed concerns with storm water issues associated with both chosen sites it may be advisable for the PB to speak about the new town storm water bylaw which was recently adopted and is designed to insure a higher level of reliability from storm water design mitigation efforts associated with subdivisions than what we relied upon previously.

West Newbury has a new Stormwater Bylaw and Stormwater Permit Regulations that require appropriate stormwater management for any site with a disturbance of over one acre. The Town's Board of Health and Health Agent are responsible for permitting Stormwater Management. Development under the MCMOD Zoning would need to meet the Town's stormwater standards and site work would include oversight by both Town employees and consultants.

Has the town ever conducted a fiscal study of what happens if we don't allow further housing development and what would be the impact on the existing revenue (taxpayer)/services delivery? In other words, would we benefit from a certain amount of building projects? How is striking a balance between the two being considered?

Town budgets typically rely on some level of growth to maintain level service. Income produced by 30-40 units of housing is likely to exceed expenses attributed to those units if the development would not create the need for additional public personnel or facilities. Using the recently completed Drakes Landing subdivision as an example, no new public personnel or facilities were needed.

In order to gain needed resident support at TM more should be said about the relationship between this housing initiative and how it improves our affordable housing situation which currently is sub-optimal in terms of the Town's inability to resist Chapter 40B projects

The Town's need for more housing and greater diversity of housing types including smaller units, more affordable units, and rental units has been well documented in multiple Housing Production Plans over the last few decades. Housing units that may be possible to develop under the proposed Multi-Family Overlay District Zoning, would help increase and diversify the town's housing supply.