

Frequently Asked Questions: MBTA Communities Multi-Family Overlay District (MCMOD)

Why are we considering a Multi-Family Overlay District Bylaw?

- Chapter 358 of the Acts of 2020 (“Acts”) amended the state zoning act to stimulate economic development and address the housing crisis by requiring that towns allow multi-family housing near transit with by-right zoning.

What is the law?

- The new law states that all MBTA Communities must have a zoning district where multi-family housing is allowed as-of-right, meaning without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.
- Complying with the law is mandatory. If a town does not comply, the town will be ineligible for many critical state funding programs, may be subject to civil enforcement action and, also risk liability under federal and state fair housing laws.

What is an MBTA Community

- MBTA is the Massachusetts Bay Transportation Authority. A city or town with MBTA service, or adjacent to a city or town with MBTA service, is considered an MBTA Community. West Newbury is designated as an MBTA Adjacent Small Community because the abutting towns of Newburyport and Haverhill have MBTA Commuter Rail Service.

Why did the state pass this law?

- Local zoning restrictions on multi-family housing are contributing to the state’s housing shortage. Changing zoning to remove these barriers can stimulate the development of more diverse types of housing, providing places to live for young people, older people looking to downsize, and others who cannot afford, or do not want, to buy or rent a single-family residence.

What is multi-family housing?

- Multi-family housing is defined as:
 - a building with three or more residential units; or
 - two or more buildings on the same lot with more than one residential unit in each building.

What does the law mean for West Newbury?

- The Town is required to adopt a zoning district where multi-family housing is allowed as-of-right. The zoning district can require Site Plan Review to ensure that a project meets established environmental and aesthetic standards, but as long as a project meets the zoning criteria, it must be approved.
- The law requires that the district must:
 - Allow for a minimum density of 15 dwelling units per acre.
 - Be of reasonable size, which for West Newbury means a minimum of about six acres.
 - Include land that is feasible to develop. (Excludes steep slopes, wetlands, protected conservation lands, cemeteries and most other town-owned properties.)
 - Allow multi-family housing that is suitable for families with children. For example, it cannot limit the number of bedrooms in a dwelling unit or the age of residents.
 - Create the potential capacity for 87 dwelling units (this number is based on the 2020 Census, specifically 5% of our year-round housing units).

- The law **DOES NOT** require:
 - that any housing units be built, just that our local zoning allows them.
 - the use of town-owned land.
 - the town to provide utilities or services not already provided in the area.
 - affordable housing, however a maximum requirement of 10% affordability may be allowed if the Town has an existing bylaw requiring such for other developments. West Newbury does have an existing Inclusionary Zoning Bylaw that requires 10% of housing units in any new development qualify as affordable.

What is the proposed MBTA Communities Multi-family Overlay District (MCMOD)?

- Currently under consideration are about 7 acres at both 187 Main Street (Knapp) and 317 Main Street (Dunn).
- The regulations that control development within the MCMOD include dimensional controls and site and building design standards.

Is it likely that all 87 units would be built?

- Any proposed development would face pragmatic challenges that may limit the number of units being proposed. Soils, topography, water pressure, wetlands, septic requirements, among other issues will determine the building capacity of the District.
- Title V regulations for example, limit wastewater flows to less than 10,000 gallons per day without a wastewater treatment system (package plant). Given that flows are calculated as 110 gallons per day per bedroom, development would be limited to a maximum of 90 bedrooms (30-40 housing units) unless the developer installed a wastewater treatment system. Wastewater treatment systems are permitted by Mass DEP, are expensive, require considerable land area and have ongoing operational and maintenance costs. For these reasons they are typically reserved for larger developments (hundreds of units).

Is housing created under MCMOD Regulations subject to West Newbury's zoning, wetland, septic, stormwater and other requirements?

- Yes, MCMOD Developments are subject to all applicable requirements of the West Newbury Zoning Bylaw, Conservation Commission/Wetland regulations, Stormwater Management regulations and Title V Septic regulations. Any building would require a building permit and must meet all applicable building codes.

How was the proposed Bylaw developed?

- Using State Grant funds, the Town secured the services of Dodson & Flinker, a design and planning firm, to lead a community planning process.
- The public planning process that began in April of 2023 helped the Town identify and evaluate three potential districts and create zoning to regulate potential development within the selected district.
- The process included presentations and discussions at Planning Board Meetings in 2023 and 2024 (March 21, April 4, May 16, July 18, Sept 19, Oct 17, Nov 21, Dec 5, Dec 19, Jan 2, Jan 16, Feb 6, Feb 20), virtual community forums (April 18, June 20, Sept 5, Nov 7), an in-person community forum (Nov 15), an in-person design workshop (June 27) and a public hearing (March 19, 2024).

How was the MCMOD district selected?

- The planning process included a systematic evaluation of land throughout town using a series of maps that provided a visual representation of lands with regulatory and other development constraints (including lands of high environmental value, protected lands, water and wetland resource and buffer areas, steep slopes, small lot sizes and land protections). These maps were overlaid with maps that showed positive attributes for housing development (primary roads, public water access, proximity to amenities and services, parcel size among others). The result of this mapping exercise led to the selection of three sites for further evaluation and to test development scenarios on.
- After further evaluation of the sites, the Board concluded that two sites would be appropriate, eliminating the Mullen site from further consideration. The principal reason for not putting forth the Mullen site (north side of Main Street opposite Daley Drive) is that the site is town-owned and identified as non-compliant land under the MBTA Communities criteria. Additionally, the town has historically desired a significant proportion of affordable units if housing is to be built on the Mullen Property, but MBTA Community districts are limited to 10% affordability.
- The Board is currently evaluating the two sites (Knapp and Dunn) through a head-to-head comparison of strengths and challenges, relying on their understanding of the sites and public input.