




TOWN of WILMINGTON

DEPARTMENT OF PLANNING & CONSERVATION

121 Glen Road, WILMINGTON, MA 01887 www.wilmingtonma.gov (978) 658-8238

MEMORANDUM

To: Lou Cimaglia, Temporary Town Manager
From: Valerie Gingrich, Director of Planning & Conservation 
Re: Multi-family Zoning for MBTA Communities (Section 3A)
Date: February 16, 2024

As discussed over the last two years, the new Section 3A of M.G.L. c. 40A (Section 3A) requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing is permitted as of right and meets other criteria set forth in the statute. Wilmington is specifically required to have a zoning district of at least 50 acres that allows multi-family use as-of-right; no special permit process is allowed. The zoning must allow for at least 1,248 units (unit capacity) at a density of at least fifteen (15) units per acre. At least half of the district must be located within a half (1/2) mile of an MBTA station. The zoning would require a majority vote at Town Meeting and must be in place by the end of 2024 to avoid ineligibility for certain grant funding, reduction in funding for the Wilmington Housing Authority, and civil enforcement action by the Attorney General's office.

Proposed MBTA Communities Multi-family Overlay District (MOD)

With the assistance of survey results from over 400 respondents, the Wilmington Planning Board developed a zoning proposal to meet the requirements of Section 3A. The goal was to put forward a district that met the requirements, focusing on existing commercial and multi-family areas. The resulting MBTA Communities Multi-family Overlay District (MOD) has four sub-districts: Main Street Mixed Use Sub-district, Deming Way Sub-district, Burlington Avenue Sub-district, and West Street Sub-district. Specific height, parking and other requirements are called out for each sub-district in the MOD in the proposed zoning text which has been posted on the Department of Planning & Conservation's webpage since November. The webpage also includes maps showing the proposed MOD, video clips, and other resources for residents to learn about the new requirement and the proposed zoning. Outreach has been on-going.

Mixed Use Location Determination for the Main Street Mixed Use Sub-district

The draft MOD, which included a proposed mixed-use requirement for the Main Street Mixed Use Sub-district was submitted to the Executive Office of Housing and Livable Communities (EOHLC) for a pre-adoption review in November 2023. On February 7, 2024, I received the attached letter from EOHLC denying the Town's proposal for a mixed-use requirement in the Main Street Mixed Use Sub-district. With the denial of the mixed-use requirement, EOHLC removed the entire Main Street Mixed Use Sub-district from the compliance model, resulting in a unit count and area below the requirement as described in the letter.

Revised MOD Zoning Proposal

Following EOHLC's denial of the mixed-use requirement, the Planning Board discussed revisions to the MOD that instead provide an incentive to construct a commercial ground floor. The Board concluded that the next best option to preserve the commercial, active nature of Main Street would be to provide a height increase to three (3) stories in the Main Street Mixed Use Sub-district with development that includes a commercial ground floor with commercial uses. Residential only development in the Main Street Mixed Use Sub-district would be capped at a height of two (2) stories. The incentive of the extra floor may encourage development of mixed-use buildings with active commercial ground floors with residential units above, typical of New England Main Streets.

With the revision, the Main Street Mixed Use Sub-district will be added back into the compliance model and bring the unit count and area into compliance. The other comments in the November 7, 2024 EOHLC letter were discussed with EOHLC staff and can be addressed with small edits to the compliance model and a narrative when submitting for compliance.

Town Counsel is currently reviewing EOHLC's comments and the revised MOD zoning article that is attached for reference.

Next Steps

The legal ad for the proposed zoning will appear in the Town Crier on February 28, 2024 and March 6, 2024. The revised zoning will be added to the Department webpage prior to the first publication and a press release will be issued regarding the changes.

The proposed zoning will be presented at the Planning Board/Finance Committee public hearing on March 19, 2024 at 7:00PM in the Town Hall Auditorium.

Please let me know if you have any questions.



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

Maura T. Healey, Governor ♦ Kimberley Driscoll, Lieutenant Governor ♦ Edward M. Augustus Jr., Secretary

Sent via email to vgingrich@wilmingtonma.gov

February 7, 2024

Valerie Gingrich
Director of Planning and Conservation
121 Glen Road
Wilmington, MA 01887

Re: Town of Wilmington: Pre-Adoption Review Application for Compliance with MBTA Communities/Section 3A of the Zoning Act

Dear Ms. Gingrich:

The Executive Office of Housing and Livable Communities (EOHLC) received a pre-adoption review application from the Town of Wilmington submitted electronically on November 9, 2023. The application requested that EOHLC conduct a pre-adoption review for the Town of Wilmington's proposed district called the "MBTA Communities Multi-family Overlay District" (District) based on the criteria set forth in the Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act (Guidelines).

EOHLC appreciates all the work the town has done to prepare for compliance with Section 3A. The MBTA Communities program staff are available to work through these technical details with you and your staff. **After careful review and analysis, EOHLC has determined that the Application as submitted does not demonstrate that the District will meet the requirements of Section 3A and the Guidelines if the new zoning is adopted as submitted.** We hope the descriptions of technical corrections will assist the Town in creating zoning that can be deemed compliant.

Wilmington is designated as a Commuter Rail community with 8,320 existing housing units per the 2020 United States Decennial Census and 538 acres of developable land within one half mile of MBTA transit stations. The Town is required to have a district with a minimum multi-family unit capacity of 1,248 units, a minimum land area of 50 acres and a gross density of 15 dwelling units per acre. At least 50 percent of each minimum requirement (acreage and unit capacity) must be located within one half mile of transit stations ("transit station areas").

EOHLC identified the following issues which may affect the District's compliance with Section 3A:

1. The Mixed Use Location Determination for the Main Street Mixed Use Sub-district was not approved by EOHLC. Due to this determination, the compliance model as submitted does not

demonstrate sufficient unit capacity to meet the minimum requirement. The compliance model shows a unit capacity of 1,074 units, and the minimum requirement is 1,248 units.

2. The compliance model as submitted does not meet the minimum land area requirement of 50 acres, instead showing 41.6 total acres. As the District is expanded to meet this requirement, please stay mindful of the contiguity requirements found in Section 5 of the Guidelines.
3. An economic feasibility analysis will be required to support the requirement of Section 6.11.5.1 that 15% of units be affordable.
4. There are some components of the zoning that need clarification, revisions, or amendments to ensure compliance:
 - a. Due to the requirement in Section 6.2: Floodplain District for a special permit for residential development within the floodplain, the unit capacity of the parcels within the floodplain must be removed from the compliance model. Another option would be revising the zoning to exempt the District from the special permit requirement of the Floodplain District (but retaining the Floodplain District's other substantive requirements).
 - b. EOHLIC recommends reviewing Section 6.5: Site Plan Review to ensure that the standards set forth are objective and nondiscretionary and consult with town counsel to ensure that this section aligns with the existing case law concerning site plan review for as of right uses, especially whether a disapproval under Section 6.5.3 conforms with as of right uses.
 - c. Due to the requirement in Section 6.6: Groundwater Protection District for a special permit for residential development, the unit capacity of the parcels within this district must be removed from the compliance model. Additional alternatives include (a) capping the affected parcels below the square footage/lot coverage requirement of Section 6.6.7.7 for a special permit or (b) revising the zoning to exempt the District from the special permit requirement of the Groundwater Protection District (but retaining the Groundwater Protection District's other substantive requirements). We recognize that the first approach was already undertaken at 335 Main Street.
 - d. Due to the requirement in Section 6.11: Inclusionary Housing for a special permit for developments over 6 units, the unit capacity of parcels in the compliance model must be capped at 5 units. Alternatively, the District could be exempted from the requirement for a special permit.
 - e. In Section 6.12.6, the Burlington Ave and West Street subdistricts require ground floor as-of-right uses to use the minimum parking requirements in Section 6.4.1.1. It appears that multi-family housing is a ground floor as-of-right use, thus the units on the ground floor of a development would need to follow the minimum parking requirements of Section 6.4.1.1, which are greater than the parking requirements described in 6.12.6. Please ensure that the parking requirements are accurately shown in the compliance model.

For the foregoing reasons, EOHLIC determined that the application as submitted does not demonstrate that the District will comply with Section 3A as proposed. The Town must take the steps outlined in this letter to position the District for a determination of compliance.

Please note that this pre-adoption review is limited to the specific issues identified at this stage of review, based on materials provided by the Town of Wilmington. It does not constitute a representation that resolution of the identified issues would result in a compliant zoning district.

MBTA Communities staff at EOHLC will meet with you and your staff should you want to review the details of this letter. If you have questions or need further assistance regarding this determination, please contact MBTA Communities Compliance Coordinator Nathan Carlucci, at nathan.carlucci@mass.gov.

Sincerely,



Caroline "Chris" Kluchman
Acting Director, Community Services Division

cc: Senator Barry R. Finegold
Representative David Allen Robertson

Article __ MBTA Communities Multi-family Overlay District (MOD)

To see if the Town will vote to amend the Zoning Bylaw and Zoning District Map as follows to create a new MBTA Communities Multi-family Overlay District or to take any other action related thereto:

1. Add a new Section 6.12:

Section 6.12 **MBTA Communities Multi-family Overlay District**

6.12.1 Purpose.

The purpose of the MBTA Communities Multi-family Overlay District ("MOD") is to allow multifamily housing as-of-right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A).

6.12.2 Establishment and Applicability.

This MOD is an overlay district having a land area of approximately 65 acres in size that is superimposed over the underlying zoning districts and is shown on the Zoning Map.

6.12.2.1. Applicability of MOD. An applicant may construct multi-family housing and mixed-use development within the MOD in accordance with the provisions of this Section 6.12.

6.12.2.2. Underlying Zoning. The MOD is an overlay district superimposed on underlying zoning districts as shown on the Town's zoning map. The provisions of the Zoning Bylaw relative to use, dimensional requirements, and all other provisions of the Zoning Bylaw governing the respective underlying zoning districts shall remain in full force, except for uses allowed as of right in the MOD as established in Section 6.12.4, which shall be subject to the dimensional requirements set forth in Section 6.12.5. Uses that are not identified in Section 6.12.4.1 are governed by the requirements of the underlying zoning districts.

6.12.2.3. Sub-districts. The MOD contains the following sub-districts, all of which are shown on the Zoning Map: Main Street Mixed Use Sub-District, Burlington Avenue Sub-District, Deming Way Sub-District, and West Street Sub-District.

6.12.3 Definitions.

The following definitions apply to Section 6.12:

6.12.3.1 MBTA. Massachusetts Bay Transportation Authority.

6.12.3.2 Mixed-use development. Development containing a mix of residential uses and nonresidential uses, including, but not limited to the commercial and/or educational uses described in Section 6.12.4.1.2.

6.12.3.3 Multi-family housing. A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.

6.12.3.4 Sub-district. An area within the MOD that is geographically smaller than the MOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.

6.12.4 Permitted Uses

6.12.4.1. Uses Permitted As-of-Right. The following uses are permitted as-of-right within the MOD.

6.12.4.1.1 Multi-family housing is permitted as-of-right in all sub-districts.

6.12.4.1.2 Mixed-use development is permitted as-of-right in the Main Street Mixed Use Sub-district, Burlington Avenue Sub-district, and West Street Sub-district - Residential use is a required component and is allowed on any floor. Ground Floor as-of-right commercial uses in a mixed-use development are as follows:

Retail store under 30,000 s.f., personal service shop, limited-service restaurant without a drive through, general service restaurant without a drive through, business/professional office, and/or educational uses.

6.12.4.2. Main Street Mixed Use Sub-district. Within the Main Street Mixed Use Sub-District, mixed-use development with a ground floor commercial use consistent with Section 6.12.4.1.2. is allowed and encouraged ~~required~~ to preserve the commercial, active nature of Main Street and maintain a pedestrian friendly streetscape. A height increase from two (2) to three (3) stories is provided per Section 6.12.5.9 when the ground floor is dedicated to commercial uses per Section 6.12.4.1.2.

6.12.5 Dimensional Standards

The following dimensional standards apply to development within the MOD:

6.12.5.1 Minimum Lot Area = None

6.12.5.2 Minimum Lot Frontage in FT = None

6.12.5.3 Minimum Lot Width = None

6.12.5.4 Minimum Front Yard Setback = 20'

6.12.5.5 Minimum Side and Rear Yard Setbacks = 20'

6.12.5.6 Minimum Open Space = 20% of lot area

6.12.5.7 Maximum Building Cover = None

6.12.5.8 Maximum Height in FT = 35' in the Burlington Avenue Sub-District and Deming Way Sub-District; 40' in the Main Street Mixed Use Sub-District and West Street Sub-District.

6.12.5.9 Maximum Height in Stories = 3 stories in the Burlington Avenue Sub-District, Deming Way Sub-District and West Street Sub-District.; 2 stories in the Main Street Mixed Use Sub-District with residential only and 3 stories in the Main Street Mixed Use Sub-District with mixed-use development per Section 6.12.4.2.

6.12.6 Off- Street Parking Requirements and Design

The following parking requirements apply to multi-family housing and mixed-use development in the MOD.

6.12.6.1. Parking Requirements and Design Standards. The parking requirements and parking design standards of Section 6.4.1, Section 6.4.2, and Section 6.4.3 shall apply to development in the MOD except as otherwise specified below.

6.12.6.2. Main Street Mixed Use Sub-District. Multi-family housing requires one and one-half (1.5) spaces per dwelling unit, rounding up to the nearest whole number. ~~G~~The required ground floor commercial uses per Section 6.12.4.2 has no minimum parking requirement.

6.12.6.3 Burlington Avenue Sub-District. Multi-family housing requires one and one-half (1.5) spaces per dwelling unit, rounding up to the nearest whole number. Ground floor commercial ~~as-~~

~~of right~~ uses per Section 6.12.4.1.2 shall follow the minimum parking requirements in Section 6.4.1.1.

6.12.6.3 Deming Way Sub-District. Multi-family housing requires one and one-quarter (1.25) spaces per dwelling unit, rounding to the nearest whole number.

6.12.6.4 West Street Sub-District. Multi-family housing requires two (2) parking spaces per dwelling unit. Ground floor ~~as-of-right~~ commercial uses per Section 6.12.4.1.2 shall follow the minimum parking requirements in Section 6.4.1.1.

6.12.7 Site Plan Review and General Development Standards

6.12.7.1 Applicability of Site Plan Review. All development within the MOD shall be subject to Site Plan Review in accordance with Section 6.5.

6.12.7.2 General Development Standards. All development within the MOD shall be subject to the following development standards.

6.12.7.2.1 Connections. Site Design shall focus on optimizing pedestrian experience. Sidewalks shall provide direct connections among building entrances, the public sidewalk (if applicable), bicycle storage, and parking.

6.12.7.2.2 Vehicular access. Where feasible, curb cuts shall be minimized, and shared driveways encouraged.

6.12.7.2.3 Streetscape. Buildings shall be oriented toward the street, creating pedestrian focused frontage with amenities, and a public facing façade with primary entrances.

6.12.7.2.4 Parking. Surface parking shall be located to the rear or side of buildings. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way. Parking shall be designed in accordance with Section 6.4.2 and Section 6.12.6 as applicable.

6.12.7.2.5 Plantings. Plantings shall include species that are native or adapted to the region, and preferably drought tolerant. Shade trees shall be provided in parking areas to combat heat island effect.

6.12.7.2.6 Lighting. Light levels shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and reducing the amount of skyglow.

6.12.7.2.7 Mechanicals. Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened if visible from a public right-of-way.

6.12.7.2.8 Dumpsters. Dumpsters shall be screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located within the building.

6.12.7.2.9 Waivers. Upon the request of the Applicant, the Planning Board may waive the requirements of this Section 6.12.7.2 General Development Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MOD.

6.12.8 Affordability Requirement

6.12.8.1 Affordability Requirement. All development within the MOD shall comply with Section 6.11.

6.12.9 Severability

If any provision of this Section 6.12 is found to be invalid by a court of competent jurisdiction, the remainder of Section 6.12 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 6.12 shall not affect the validity of the remainder of the Town of Wilmington Zoning Bylaw.

2. Amend the Zoning District Map by superimposing the MBTA Communities Multi-family Overlay District on the underlying zoning on the following parcels:

Main Street Mixed Use Sub-district:

Map 42, Parcels 22, 22E, 22F, 22H, 22K, 22J, 24

Map 43, Parcels 1, 2, 3, 3A, 4, 4A, 4B

Burlington Avenue Sub-district: Map 29, Parcel 1

Deming Way Sub-district: Map 30, Parcel 1

West Street Sub-district: Map 71, Parcels 3, 5, 6, 7, 18

3. Amend Section 2.1 by adding “MBTA Communities Multi-family Overlay District (MOD)” after “Over 55 Housing District (O55H)”;
4. Amend Section 2.2, first subparagraph to read as follows: Zoning District Map of the Town of Wilmington, January 1983 revised through May 2024 (Scale 1”=1200’ consisting of a single sheet);
5. Amend Table II Standard Dimensional Regulations by adding “MBTA Communities Multi-family Overlay” between “Over 55 Housing” and “Neighborhood Business” as follows:

TABLE II STANDARD DIMENSIONAL REGULATIONS

NOTES: (1) All Standard Dimensional Regulations are subject to the definitions and conditions in corresponding provisions for dimensional regulations contained in Section 5 of this Bylaw.
 (2) Special exceptions to these Dimensional Regulations are contained in Subsection 5.3 of this Bylaw.

ZONING DISTRICTS	MIN. LOT AREA SQ FT	MIN. LOT FRONTAGE IN FT	MIN. LOT WIDTH IN FT	MIN. FRONT YARD IN FT	MINIMUM SIDE & REAR YARD IN	MINIMUM OPEN SPACE (%)	MAX BLDG COVER (%)	MAX HGT IN FT	MAX HGT IN STORIES
RESIDENCE 10	10,000	100	100	30	15	--	--	35	2½
RESIDENCE 20	20,000	125	125	40	20	--	--	35	2½

RESIDENCE 60	60,000	200	200	50	25	--	--	35	2½
OVER 55 HOUSING	10 ACRE	50	50	50	50	35%	--	36	2½
MBTA COMMUNITIES MULTI-FAMILY OVERLAY	None	None	None	20	20	20%	None	See Section 6.12	See Section 6.123
NEIGHBORHOOD BUSINESS	10,000	100	100	30	15	30% in all cases and where a business or industrial use abuts a residential district or use, a landscape buffer shall be provided	35%	35	2½
NEIGHBORHOOD MIXED USE	20,000	125	125	20	20' side and rear yard in all cases provided that where such use abuts a residential district, the yard shall be increased to 50'	20% in all cases and where a business or industrial use abuts a residential district or use, a landscape buffer shall be provided	35%	35	3
GENERAL BUSINESS	20,000	125	125	20	20' side and rear yard in all cases provided that where such use abuts a residential district, the yard shall be increased to 50'	20% in all cases and where a business or industrial use abuts a residential district or use, a landscape buffer shall be provided	35%	35	3
CENTRAL BUSINESS	10,000	40	40	5	20' where such use abuts a residential district, 20' rear yard in all cases, 0 ft for a side yard where such a use abuts a commercial use	None, however, where such use abuts a residential district or use a landscape buffer consistent with §5.2.6.1 shall be provided	50%	40	3
GENERAL INDUSTRIAL	20,000	125	125	50	20' side and rear yard that where such use abuts a residential district	30% in all cases and where a business or	35%	40	3

HIGHWAY INDUSTRIAL 80,000	80,000				the yard shall increase to 50'	industrial use abuts a residential district, a landscape buffer shall be provided			
LIGHT INDUSTRIAL/OFFICE	20,000								

6. Remove current Section 6.11 Inclusionary Housing and replace with the following:

6.11 **Inclusionary Housing**

6.11.1 **Purpose and Intent**

The purpose of this Inclusionary Housing Bylaw is to:

- a. Expand and diversify the Town of Wilmington's housing stock to provide more varied housing options;
- b. Increase the supply of housing that is affordable to low-income and very low-income households;
- c. Develop and maintain housing that is eligible for inclusion in the Chapter 40B Subsidized Housing Inventory.

It is the intent of this Section that affordable housing units created pursuant to this Bylaw shall qualify for inclusion in the Chapter 40B Subsidized Housing Inventory (SHI) under the regulations and guidelines of the Massachusetts Executive Office of Housing and Livable Communities (EOHLC). It is the intent that all housing will comply with federal and state fair housing laws.

6.11.2 **Definitions**

In this Section the following terms shall have the following meanings:

- 6.11.2.1 **Affordable Housing Units** – Housing units that are restricted for sale or rent to individuals and families within specific income ranges and sales prices which meet the EOHLC and M.G.L. Chapter 40B requirements for inclusion in the Town's SHI.
- 6.11.2.2 **Applicant** – A person or entity who applies for a special permit under this Section. "Applicant" shall include an owner, or his/her/their agent or representative, or his/her/their assigns.
- 6.11.2.3 **Area Median Income** – The median income for households within the designated metropolitan statistical area that includes the Town of Wilmington, as reported annually and adjusted for household size by the United States Department of Housing and Urban Development for the Boston Metropolitan Statistical Area.
- 6.11.2.4 **Board** – Town of Wilmington Planning Board, who shall serve as the Permit Granting Authority for projects subject to this Section.
- 6.11.2.5 **Eligible Household** – Any household whose total income is at or below eighty (80) percent of the area median income adjusted for household size.

- 6.11.2.6 **EOHLC – Massachusetts Executive Office of Housing and Livable Communities**
- 6.11.2.7 **Local Initiative Program (LIP)** – A program administered by EOHLC pursuant to 760 CMR 45.00 to develop and implement local housing initiatives that produce low- and moderate-income housing, with or without a comprehensive permit as defined in M.G.L. Chapter 40B, Sections 20-23.
- 6.11.2.8 **Low-Income Household** – Household with income that does not exceed eighty (80) percent of the area median income adjusted for household size as determined by the United States Department of Housing and Urban Development, then in effect.
- 6.11.2.9 **Market-Rate Housing Units** – Housing units that are not restricted to certain rent or sale prices.
- 6.11.2.10 **M.G.L.** – The General Laws of Massachusetts. In case of a rearrangement of the General Laws, any citation or particular sections of the General Laws shall be applicable to the corresponding sections in the new codification.
- 6.11.2.11 **Off-Site Unit** – An affordable housing unit produced by the applicant on a site other than the primary residential development.
- 6.11.2.12 **Subdivision** – Any subdivision as defined in the Subdivision Control Law (M.G.L. Chapter 41, Sections 91K-GG), or any division of land under M.G.L. Chapter 41, Section 81P, into lots for residential use, and as defined in the Town of Wilmington Subdivision Rules and Regulations.
- 6.11.2.13 **Subsidized Housing Inventory (SHI)** – The EOHLC Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 31.04.
- 6.11.2.14 **This Section** –Section 6.11 of the Town of Wilmington Zoning Bylaws in its entirety.
- 6.11.2.15 **Town** – The Town of Wilmington.
- 6.11.2.16 **Very Low-Income Household** – Household with income that does not exceed fifty (50) percent of the area median income adjusted for household size as determined by the United States Department of Housing and Urban Development, then in effect.

6.11.3 **Applicability**

This Section applies to construction of at least six (6) new dwelling units in the Neighborhood Mixed Use District, Central Business District, or MBTA Communities Multi-family Overlay District (MOD).

New residential development in a Conservation Subdivision Design can provide affordable housing units should the applicant volunteer, and therefore be subject to this Section.

Developments may not be segmented or phased to avoid compliance with this Section. Unless otherwise directed by the Board as a condition of approval, all affordable housing units shall be developed/provided concurrently and proportionately with the development of market-rate housing units. Segmenting land or properties over any ten-year period with the effect of avoiding inclusionary housing requirements by either subdividing one parcel of land into two parcels of land or dividing a project that would otherwise be subject to this Section into phases in such a way that would not result in the creation of affordable housing units shall be prohibited. Said ten-year period shall be measured from and to the dates of Building Permit applications.

A Building Permit will not be issued for a development subject to this Section unless the applicant provides the percentage of the total dwelling units in the development as affordable housing units as described herein.

6.11.4 Site Plan Review

The development of any project under this Section shall be reviewed by the Planning Board during the Site Plan Review process.

6.11.5 Provision of Affordable Housing Units

Affordable housing units shall be provided at a minimum for low-income households, and providing housing units for very low-income households is strongly encouraged when possible. Nothing in this Section shall preclude an applicant from providing additional affordable housing units, or greater affordability, or both, than the minimum requirements.

6.11.5.1 Percentage Requirement

In any development subject to this Section at least fifteen (15) percent of the dwelling units shall be affordable to eligible households. If EOHLC determines in writing that the Town has not shown this 15% requirement to be feasible in the MOD, at least 10% of the dwelling units in any development containing 10 or more units in the MOD shall be inclusionary dwelling units with household income limited to 80% of the area median income and eligible for inclusion on the Subsidized Housing Inventory.

The affordability requirements of this Section do not apply to density bonus unit(s) (Section 6.11.5.2).

In the event that a development providing on- or off-site units has a fractional affordable housing unit of 0.5 or greater, it shall be rounded up to the next whole number. In the event that the fractional affordable housing unit is less than 0.5, the applicant may choose whether or not to round up to the next whole number.

6.11.5.2 Density Bonus

The Board may allow an increase in the total number of market-rate housing units by a number equal to the required affordable housing unit(s), not to exceed ten (10) bonus market-rate housing units. The allowed units per acre or lot coverage may be increased, parking requirements may be decreased, and/or open space may be reduced by the amount necessary to permit the bonus market-rate housing units. The affordability requirements of this Section do not apply to density bonus unit(s). Provided, however, the open space should not be reduced to an amount less than twenty (20) percent of the lot.

A density bonus is not permitted within the MOD.

The chart below illustrates the calculation of new market-rate, affordable and bonus housing units.

Total Number of Housing Units Proposed	Number of Affordable Housing Units Required	Number of Market-Rate Housing Units	Bonus Market-Rate Housing Units	New Total Market-Rate Housing Units (with Bonus)	New Total Units (Market-Rate & Affordable)	Effective Affordable Housing Unit Percentage
6	1	5	1	6	7	14.3%

10	2	8	2	10	12	16.7%
12	2	10	2	12	14	14.3%
15	2	13	2	15	17	11.8%
20	3	17	3	20	23	13%
25	4	21	4	25	29	13.8%
30	5	25	5	30	35	14.3%

6.11.5.3 Methods of Providing Affordable Housing Units

On-site units are the preferred method of providing affordable housing units under this Section.

As an alternative to on-site provision of affordable housing units, an applicant subject to this Section may also be allowed by the Board to develop, construct, rehabilitate or dedicate affordable housing units off-site, only in unique and extraordinary circumstances, for which the applicant must provide a narrative to meet this criterion.

All requirements of this Section that apply to on-site provision of affordable housing units shall apply to provision of off-site affordable housing units, except as provided for in Section 6.11.6.2.b.

6.11.6 Siting and Design

6.11.6.1 Siting and Type of Affordable Housing Units

On-site affordable housing units constructed or otherwise provided under this Section shall be proportionately distributed throughout the project in terms of both location and unit size/type. For example, a development consisting of a mix of single-family homes, townhouses, and a small apartment building shall include affordable housing units of each housing type. On-site affordable housing units shall also, on average, be as accessible to common amenities, such as open space or services, as the market-rate housing units in the same development.

Applications to the Planning Board shall include a plan showing the proposed locations of the affordable housing units.

6.11.6.2 Minimum Design and Construction Standards

On- and off-site affordable housing units shall comply with the EOHLC LIP's minimum design and construction standards for SHI as they may be amended. Requirements for the following conditions shall be complied with as specified, in addition to compliance with the above.

- a. New construction of market-rate and affordable housing units. Affordable housing units shall be comparable in size, number of bedrooms, design, appearance, construction and quality of materials with market-rate housing units, though designer and high-end finishes, fixtures and appliances are not required. Mechanical systems and energy efficiency shall conform to the same specifications as apply to the market-rate housing units. Affordable housing units shall have the same floor area as the median market-rate housing units of the same number of bedrooms. The number of bedrooms in affordable housing units shall be comparable to the bedroom mix in market-rate housing units in the development, unless otherwise required to count on the SHI.

- b. Affordable housing units provided on- or off-site by restricting existing homes as affordable housing units, rather than creating new construction. Units do not have to appear similar in terms of design and appearance to market-rate housing units. Home inspections by a licensed inspector are required, and all systems and major items must have more than ten (10) years of useful life remaining.

6.11.7 Marketing and Affordability of Affordable Housing Units

6.11.7.1 Marketing Plan

Applicants under this bylaw shall submit a marketing plan which describes how the affordable housing units will be marketed to potential homebuyers. The plan shall meet all requirements of EOHLIC and applicable state and federal laws and regulations so that the affordable housing units are eligible to be placed on the Town's SHI. No Building Permit for any units in the development subject to this Section shall be issued until the marketing plan is approved by EOHLIC.

6.11.7.2 Local Preference

The maximum local preference units under EOHLIC guidelines shall be provided.

6.11.7.3 Income Requirements and Selling/Renting Prices

The maximum housing purchase price or rent for affordable housing units created under this Section shall be consistent with affordability guidelines established by EOHLIC or a successor agency for eligible households, and shall not exceed the maximum purchase price or rent guidelines of the program used to qualify affordable housing units for inclusion on the SHI.

6.11.7.4 Preservation of Affordability

As a condition of development, all affordable housing units provided under this Section shall be subject to an affordable housing restriction in a form consistent with LIP or any other applicable guidelines issued by EOHLIC, acceptable to the Planning Board, and that ensures affordable housing units can be counted toward Wilmington's SHI. The affordable housing restriction shall run with the land and be in force in perpetuity or for the maximum period allowed by law, and be enforceable under the provisions of M.G.L. Chapter 184, Section 26 or Sections 31 and 32.

The affordable housing restriction shall contain limitations on use, occupancy, resale price and rents, and provide for periodic monitoring, by the Town or its designee as named in the deed rider as the monitoring agent, to verify compliance with and enforce said restriction. The purchaser of an affordable housing unit developed under this Section shall agree to execute a deed rider prepared by the Town, consistent with model riders prepared by EOHLIC, granting, among other things, the Town, or its designee, a right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.

The affordable housing restriction shall provide that in the event that any affordable rental unit is converted to a condominium unit, the condominium unit shall be restricted in perpetuity to ensure that it remains affordable to households in the same income range as prior to the condominium conversion.

The occupancy permit for any units in the development shall not be issued until the Regulatory Agreement in a form and format acceptable to the Town and EOHLC is recorded at the Registry of Deeds or Registry District of the Land Court, and a copy provided to the Planning Board.

The affordable housing restriction shall provide that initial sales and rentals of affordable housing units and subsequent re-sales and re-rentals shall comply with federal, state and local fair housing laws, regulations, and EOHLC LIP guidelines.

The applicant shall be responsible for preparing and complying with any documentation that may be required by EOHLC to qualify affordable units for listing on the Chapter 40B SHI as LIP units.

6.11.8 Fees

The applicant shall be responsible for all consultant fees, including engineering, architectural, legal, housing consultant and planning fees, incurred by the Planning Board in connection with the application, review of relevant plans and documents, and ensuring that the affordable housing units are included on the Town's SHI.

6.11.9 Conflict with Other Bylaws or Sections

The provisions of this Section shall be considered supplemental of existing sections of the Wilmington Zoning Bylaw. To the extent that a conflict exists between this Section and others, the more restrictive section, or provisions therein, shall apply.

6.11.10 Severability

In the event that one or more of the provisions of this Section are found or determined to be illegal or unenforceable, or held invalid by a court of competent jurisdiction, such finding shall not affect the validity of any other provisions of this Section, which provisions will remain in full force and effect.

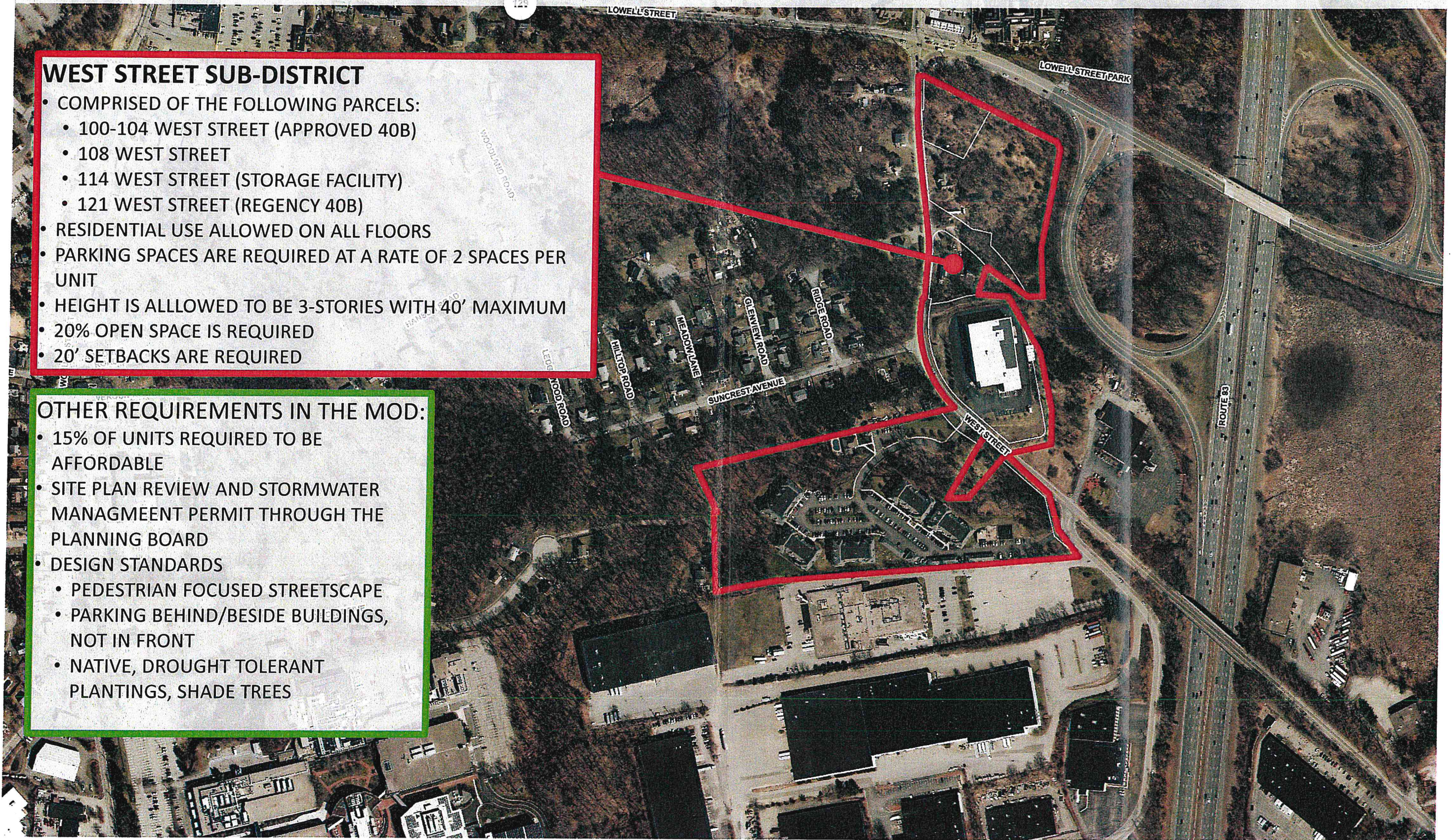
MBTA COMMUNITIES MULTI-FAMILY OVERLAY DISTRICT (MOD)

WEST STREET SUB-DISTRICT

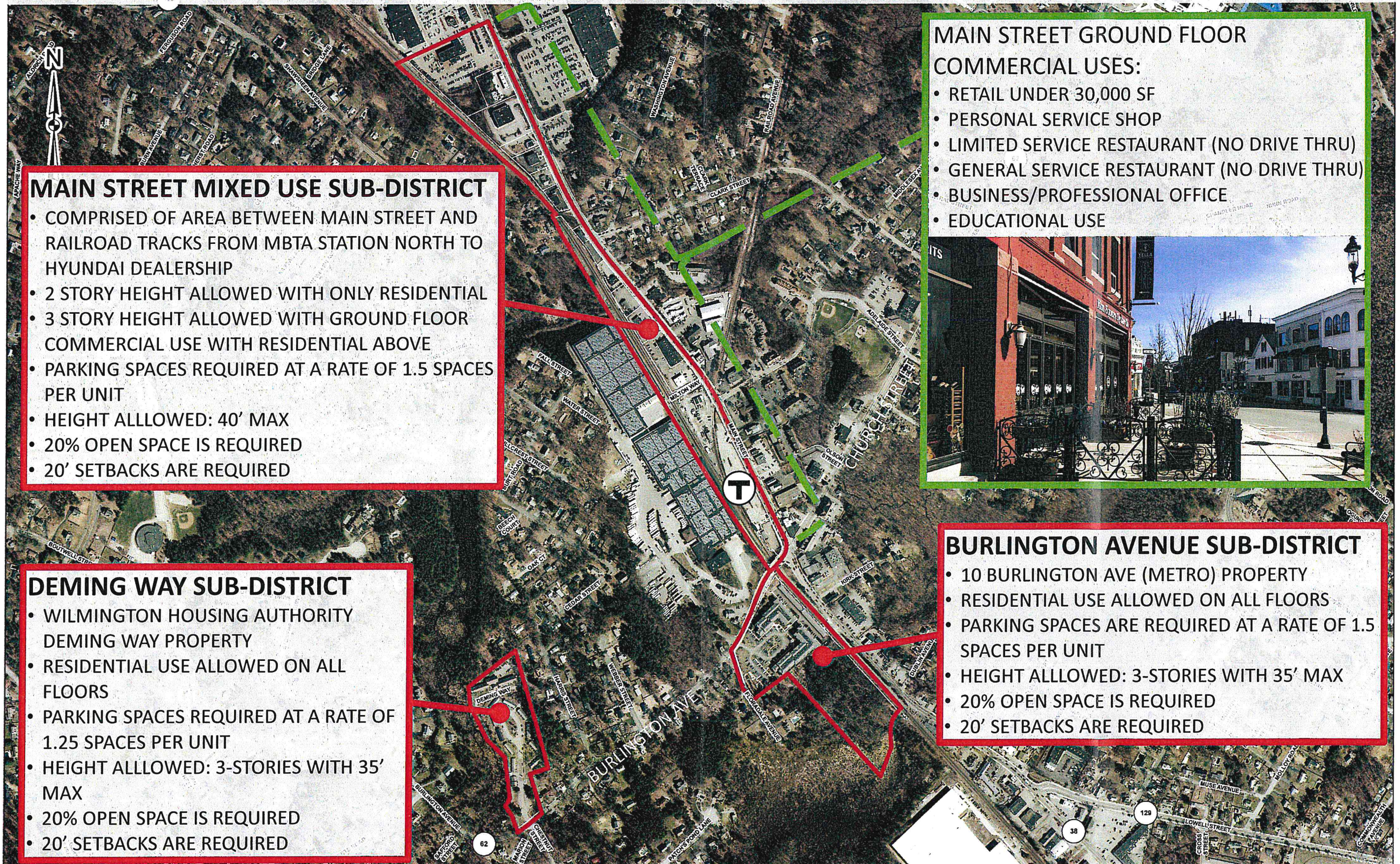
- COMPRISED OF THE FOLLOWING PARCELS:
 - 100-104 WEST STREET (APPROVED 40B)
 - 108 WEST STREET
 - 114 WEST STREET (STORAGE FACILITY)
 - 121 WEST STREET (REGENCY 40B)
- RESIDENTIAL USE ALLOWED ON ALL FLOORS
- PARKING SPACES ARE REQUIRED AT A RATE OF 2 SPACES PER UNIT
- HEIGHT IS ALLOWED TO BE 3-STORIES WITH 40' MAXIMUM
- 20% OPEN SPACE IS REQUIRED
- 20' SETBACKS ARE REQUIRED

OTHER REQUIREMENTS IN THE MOD:

- 15% OF UNITS REQUIRED TO BE AFFORDABLE
- SITE PLAN REVIEW AND STORMWATER MANAGMEENT PERMIT THROUGH THE PLANNING BOARD
- DESIGN STANDARDS
 - PEDESTRIAN FOCUSED STREETSCAPE
 - PARKING BEHIND/BESIDE BUILDINGS, NOT IN FRONT
 - NATIVE, DROUGHT TOLERANT PLANTINGS, SHADE TREES



MBTA COMMUNITIES MULTI-FAMILY OVERLAY DISTRICT (MOD)



MAIN STREET MIXED USE SUB-DISTRICT

- COMPRISED OF AREA BETWEEN MAIN STREET AND RAILROAD TRACKS FROM MBTA STATION NORTH TO HYUNDAI DEALERSHIP
- 2 STORY HEIGHT ALLOWED WITH ONLY RESIDENTIAL
- 3 STORY HEIGHT ALLOWED WITH GROUND FLOOR COMMERCIAL USE WITH RESIDENTIAL ABOVE
- PARKING SPACES REQUIRED AT A RATE OF 1.5 SPACES PER UNIT
- HEIGHT ALLOWED: 40' MAX
- 20% OPEN SPACE IS REQUIRED
- 20' SETBACKS ARE REQUIRED

DEMING WAY SUB-DISTRICT

- WILMINGTON HOUSING AUTHORITY DEMING WAY PROPERTY
- RESIDENTIAL USE ALLOWED ON ALL FLOORS
- PARKING SPACES REQUIRED AT A RATE OF 1.25 SPACES PER UNIT
- HEIGHT ALLOWED: 3-STORIES WITH 35' MAX
- 20% OPEN SPACE IS REQUIRED
- 20' SETBACKS ARE REQUIRED

MAIN STREET GROUND FLOOR COMMERCIAL USES:

- RETAIL UNDER 30,000 SF
- PERSONAL SERVICE SHOP
- LIMITED SERVICE RESTAURANT (NO DRIVE THRU)
- GENERAL SERVICE RESTAURANT (NO DRIVE THRU)
- BUSINESS/PROFESSIONAL OFFICE
- EDUCATIONAL USE



BURLINGTON AVENUE SUB-DISTRICT

- 10 BURLINGTON AVE (METRO) PROPERTY
- RESIDENTIAL USE ALLOWED ON ALL FLOORS
- PARKING SPACES ARE REQUIRED AT A RATE OF 1.5 SPACES PER UNIT
- HEIGHT ALLOWED: 3-STORIES WITH 35' MAX
- 20% OPEN SPACE IS REQUIRED
- 20' SETBACKS ARE REQUIRED

From: Hugh VanDeMark, Jr.
81 Nichols St
Wilmington, MA 01887

Cc: Town of Wilmington, Conservation Commission; Town of Wilmington, Zoning Board of Appeals; Town of Wilmington, Town Manager; Town of Wilmington, Select Board.

RE: Concerns Regarding Proposed 40B Development at 79 Nichols St.

After careful consideration of the available information regarding the proposed development for 79 Nichols St, I have the following concerns that I do not believe have been adequately addressed by the plans or process:

1. **The ability for the project to control stormwater and the impact on my property.** The removal of the existing mature trees adjacent to my property will dramatically alter the ground's ability to absorb rainfall into what is already a high water table. The predictions contained within the current plans do not consider the effects of removing the existing tree canopy. The existing drainage ditch currently has high flow and is fed from Ohio Street. As currently configured, it cannot tolerate the contemplated increase in water volume and will inevitably lead to devastating impacts on the surrounding areas.
2. **The planned for shared forced sewer main has never been approved in the town for various valid reasons, some of which are:**
 - a. **No backup generators in case of power failure.** Each individual unit will have a 500-gallon holding tank that will pump effluent into the shared sewer main. In the event of a power failure, these holding tanks will quickly fill and effluent, following the path of least resistance, will flow back into the individual units.
 - b. **The system incorporates the use of backflow valves.** These valves are not foolproof. If just one valve becomes stuck in the open position, then all the units will pump their effluent into a home *not* into the shared main.
 - c. **The applicant proposes a 1200' forced 3-inch main to connect to the existing line at Shawsheen, Lake and Hopkins.** This intersection has recently been upgraded and there is a five-year moratorium in place that precludes alterations to the intersection. The Town should enforce the five-year moratorium.
 - d. **The property is in a non-sewer district.** Therefore, all Town residents can expect an increase in their individual rates.

3. **Additional traffic to an already heavily congested neighborhood.** No information regarding controlling construction traffic to the site has been made available to the public. Further, there is no proposed limit to active work hours or to the amount of material that may be imported to or exported from the site on a daily basis. Currently, Nichols Street experiences heavy traffic and adding construction vehicles, especially without any apparent limitation, will disrupt and endanger the lives of residents. In addition, Nichols Street will, for all practical purposes, be narrowed during the construction project because construction vehicles and workers will park on the street. This will create another major safety concern for anyone driving on this road, especially as Nichols Street leads to a very busy intersection. For these reasons, at a bare minimum, there must be a police detail during construction.
4. **No information on elevations or cut and fill amounts and where and how they transition onto my property.** If, as I suspect, this construction results in significant standing water on my property, who will be liable and required to remediate the situation?
5. **The Middlesex Canal is a National Historic Site and requires a 75' setback from any buildings.** The current proposal does not acknowledge or incorporate this requirement in any way.
6. **There is no information available as to how these homes will be heated.** The original plan called for 100-gallon propane tanks that would sit behind each unit. These propane tanks would be close to my property and home and would create a very dangerous situation.
7. **The plans do not include any landscaping along the buffer zone between the development and my property.** This will result in the accumulation of debris along my land that no one will be responsible for maintaining.
8. **The builder's original proposal for 5 units, which was turned down by the Town, has now become a 12-unit proposal which still does not address any of the deficiencies in the original proposal.**
9. **I have no reason to question the integrity of the Zoning Board of Appeals, but I do believe there is a conflict of interest involving the Board's Chair.** It is public knowledge that the Chair worked and shared office space with Applicant's attorney. In addition, applicant's attorney played a pivotal role in the Chairman being appointed to his position. Therefore, the Chairman should recuse himself from all deliberations and votes regarding this proposal.

Respectfully,

Hugh VanDeMark, Jr.

From: Selectman Frank West
Sent: Thursday, February 22, 2024 1:02:40 PM
To: Selectman Gary DePalma <gdepalma@wilmingtonma.gov>
Subject: North Wilmington Train Station update

Good afternoon Gary-

After a brief phone call yesterday, I received the following text from Brian Kane at the MBTA Advisory Committee :
Frank: I spoke to some old colleagues. North Wilmington is nearing final design completion and the t has identified the necessary funding.

I replied to the text looking for a timetable with construction milestones and awaiting a reply.

Hope this helps and I will reply with further details once I receive them from Mr Kane.

Frank West, Member
Wilmington Select Board