



Director of Community and Economic Development

UPDATE

January 24, 2022

■ Ayer Road Market Study Progress Report

Howard Kohn of The Chesapeake Group will give the Planning Board a brief update on progress related to the survey and other tasks. Please see more information about this project further down in this UPDATE.

■ Strategic Planning Goals

The priorities listed for FY 2022 include the following:

- Ayer Road, Commercial District, economic development
- Open Space residential Development & Senior Housing - Spring 2022;
- Town Center Zoning
- Multifamily re-writing zoning and mapping
- Rural Life/Ag Tourism
- Re-codify Zoning Bylaw

Related to progress, the Ayer Road project, Phase 1, has been progressing well with The Chesapeake Group having released a survey and have now begun setting up interviews with local officials. I have given over 30 names. If you can think of people that Howard should speak to about the local or regional market, pass them along and I will get them to him. OSRD progress is noted below. Town Center Zoning is not being pursued through grants at this time but we could at any point. I was hoping to have a chance to make more progress related to a Form-Based Code for the Ayer Road Corridor before broaching this for the Center. Multifamily progress is noted below as is recodification of the Bylaw. There has been no progress on Rural Life but occasionally I am asked about it by Tim Bragan or Rich Maiore.

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

Here is the information from the Memo I sent last week. Look forward to the discussion on Monday night.

On Wednesday, December 15th, the Department of Housing and Community Development released Compliance Guidelines for the requirements for MBTA communities to establish an as-of-right (by-right) multifamily housing zoning district. I also attended a webinar conducted by the state to provide more clarity related to the draft guidelines. Therefore, please see what Harvard would be required to do as follows:

Draft Guidelines Summary

1. Must establish a district of a “reasonable” size (at least 50 acres of land).
2. May have sub-districts with differing densities as long as the overall district meets the minimum requirement.
3. Must allow at least 15 units/acre (minimum gross density).
4. Must be without any age restrictions.
5. Must be legally and practically allowed.
6. Should be in areas that have safe and convenient access to transit by bicycles and pedestrians.
7. Must allow for at least 10% of units as share of total housing stock but also must allow at least 750 units (50 acres x 15 units/acre). The 750 unit minimum for Harvard was confirmed today. I expect that we can determine how lack of current water and sewer infrastructure might impact this number. I understand that this is a “freak out” number but to me and my research, it is not ambiguous, and it is important that we be transparent about this but also emphasize that we may make formal comments to the state pushing back at this threshold.
8. Communities must estimate the unit capacity for each district. The minimum required capacity must be attainable in the district(s). The state and MHP will be developing tools that communities can use to make these calculations on a per lot basis.
9. Districts may be established that already include existing multifamily units. Therefore, Foxglove, Bowers Brook, and Harvard Green can be included in such a district and count toward both units and density if we wish.
10. When an MBTA community has no land area within 0.5 mile of a transit station (Harvard), 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.

11. DHCD must make a “Determination of Compliance” for each applicable community, which may be interim, allowing Harvard to establish the requisite bylaws and mapped area(s).
12. Interim compliance requires:
 - a. Creation of an Action Plan
 - b. Implementation of Action Plan
 - c. Adoption of Zoning Amendment
 - d. Request Determination of Full Compliance
13. Effect of Non-Compliance – The MBTA community will not be eligible for funds from the following grant programs:
 - a. the Housing Choice Initiative;
 - b. the Local Capital Projects Fund; or
 - c. the MassWorks infrastructure program.
14. To remain in compliance while DHCD is collecting public comment on the Draft Guidelines, an MBTA community must:
 - Submit the MBTA Community Information Form by 5:00 p.m. on May 2, 2022.
 - Hold a briefing of your City Council, Town Council or Select Board on the Draft Compliance Guidance no later than May 2, 2022 and attest to that on the MBTA Community Information Form.

More on this will be noted below under **Important Dates**

Some Initial Thoughts

1. I asked in the webinar whether the guidelines can be met as part of a mixed-use zoning as long as the 15 units/acre is incorporated. The question was not answered but if the answer turns out to be yes, then it seems clear that we can incorporate this mandate within our Ayer Road commercial district ultimately as part of our vision plan and a form-based code regime.
2. I also wonder whether it could be a part of a MGL 40R and 40S district which involves the payment of funds from the state to communities for the units and for school children. I can provide more details about this later.
3. If this cannot be achieved before December 31, 2024 (see below), perhaps we could preliminarily modify the ARV-SP to incorporate these requirements and then later integrate it into the Ayer Road Form Based Code?
4. Erin McBee asked the question as to whether Harvard can become de-listed as an MBTA Community and if this is possible and desirable by the Town, further inquiry

is unnecessary. However, Harvard would lose somewhere in the vicinity of \$30,000 annually.

The Planning Board meeting should cover the following three (3) key issues:

- 1. *Initial thoughts should be prepared for the Select Board. This should include a recommended pathway and plan of action—plus what comments should be packaged up and sent out to the state.***
- 2. *What specific comments or questions do we wish to submit to MRPC and EOHEd? Some initial thoughts include:***
 - a. How to reduce the 750 to a manageable number for Harvard?
 - b. How can limitations due to lack of water and sewer impact our requirement?
 - c. Can we meet the guidelines as part of a mixed-use development zoning?
- 3. *We need to take the following steps after speaking to SB and sending out comments:***
 - a. Community Information Form – Needs to be completed by May 2nd.
 - b. Action Plan – We need to begin thinking about the development of an “Action Plan” due next year. What steps do we want to take to achieve compliance?

Available Resources for Harvard

Today’s webinar noted a range of technical resources available to assist MBTA communities to respond to the guidelines. These include:

1. Mass Housing Partnership – MHP has a Housing Toolbox on their website but is also offering personalized technical assistance to six (6) communities on a first come-first served basis with an application due in May.
2. One Stop for Growth Grant Program – This grant program, where we previously applied for Ayer Road but were declined, will now be prioritized for MBTA communities. We could revise our previous application to include these requirements and resubmit.
3. EEA Planning Technical Assistance Grant Program – This is the FY 2023 cycle of the grant we received for Ayer Road (\$45,000) this year. I understand that EEA will prioritize 2023 applications for MBTA communities.
4. DLTA Grant Program – As Stacia has already reported, MRPC is prioritizing DLTA grant applications for MBTA community projects.

Important Dates

Please see below the set of important dates related to the new MBTA multifamily zoning district guidelines. We should add them to our calendars.

- **March 31, 2022** – Deadline for submitting comments on Draft Guidelines.
 - Before **May 2, 2022** – The Select Board must hold a briefing on the Draft Compliance Guidance.
 - **May 2, 2022 @ 5:00 pm** – The MBTA Community Information Form must be submitted.
 - **July 1, 2023** – Deadline for obtaining DHCD approval of a timeline and action plan.
 - **December 31, 2024** – Deadline for adopting an appropriate zoning amendment that complies with guidelines.
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■ Other Topics in Planning and Development

OSRD – I have updated both the Bylaw and the Rules plus created a guidebook to accompany everything that hopefully makes it easier for members (and others) to understand the process and the content. In doing this piece, I was able to confirm, at least in my mind, the logic of the structure of the documents. While the two documents could be combined, I see some merit in separating them due to the length. But at this point, I am still awaiting any feedback from members.

I would like to recommend another way to consider our review of OSRD. In reality, I'd guess that 85% of what is in these chapters is of little or no consequence to residents a.k.a. Town Meeting voters. What they really care about is:

“What could this result in for Harvard?”

“What would it look like”

“Where would it go”

What impact would it have?”

I suggest that they do not care much about process...applications, review steps, paperwork, etc. They probably don't care much about how open space is calculated or pedestrian connections or anything that doesn't have to do with the end product or where it will or could be located.

I'd recommend first focusing on getting the product and distribution right and then once we have that, we can tweak process, procedure, and those other details. First and foremost, it needs to be a non-threatening product. I think it should be easy to have a chart that compares what we have now to what we are proposing. Something like this:

CURRENT OSC-PRD BYLAW

Base Development Density = 1 unit per 1.5 acres

Development Incentive (Density Bonus)

Up to a 25% density bonus for:

1. More open space and preservation of agriculture (5%)
2. Public improvements or amenities (5%)
3. Small attached dwellings (5%)
4. Affordable housing (20%)

Minimum Open Space = 50% of parcel

Permitted Uses: single-family, attached units, agriculture and horticulture, open space, trails, passive recreation, education and religious uses, accessory residential



PROPOSED OSRD BYLAW

Base Development Density = 1 unit per 1.5 acres

Density Bonus

Up to a 50% density bonus for:

1. More open space (5%)
2. Affordable housing (15%)
3. Age restricted housing (10%)
4. Starter homes (10%)
5. Green score (10%)
6. Sustainable development (5%)

Minimum Open Space = 50% of parcel

Permitted Uses: single-family, two, family, townhouses, agriculture and horticulture, open space, accessory residential, clubhouse, civic uses

MBTA Multifamily – I have now attended two sessions covering this topic and read and re-read the guidelines. I have also conferred with peers. I am confident that the memo I just sent out and repeated above ↑ reflects my latest and deepest understanding of the issues involved. In summary, I think we could meet the spirit and intent if we focus on the Ayer Road Commercial Corridor and use the current process for the 3-phase project to move in that direction. While we could craft interim regulations for ARV-SP that could bridge to a more permanent solution, I think that if we continue to move forward on phases 2 and 3 without delay, that we will not need to do that. Key now is making sure citizens know the timing and consequences of all of this.

Zoning Rewrite – This is just an FYI because I am taking some preliminary steps to see if we may be able to 100% grant fund a large 2016 Master Plan project that it didn't seem apparent where the funding would come from. In reviewing both the MVP and One Stop grant awards, I have seen several projects ask for funding for zoning projects. So, I began to look into opportunities to address the action item in the Master Plan to update the Bylaw, rewrite the Bylaw. My idea was, similar to the transportation plan update, to tackle multiple goals with one megaproject. This effort is essentially broken into two parts, each based on a specific grant, as follows:

- One Stop for Growth: Apply for the larger comprehensive rewrite with this grant.
- MVP Action: Apply for a range of climate action and environmental provisions similar to Marlborough or Wrentham.

I'd be glad to show you how I have described the scopes of work for each in the RFI documents that I have crafted. I will not have time to execute the climate action RFI but I might be able to pull off the One Stop related RFI.

Just as background, as noted above, the Master Plan has an action item of recodifying the entire Bylaw. This has been a master plan action item back to at least 2002 and likely before. The 2002 Master Plan actually included a Zoning Diagnostic identifying all of the perceived flaws at that time. It's gotten worse sense then hence the 2016 Master Plan action item. This project is also a priority for this year.

I won't mince words and say it'll be easy, but it may not be as bad as we may think. A consultant will be heavily responsible for the public process and will have to show their expertise at that. Many towns are doing this as evident on **MassPlanners** listserv. I have actually completed three in my career elsewhere—internally. I would not attempt that here as you may understand why. It's comparable to a master planning process in terms of time and work, but again, the consultant will do 90% of it and do the public outreach hand holding, with our assistance.

It is deeply needed and users such as present and past Building Commissioners, local engineers, developers have all emphasized, and a rewrite will accomplish many things including making things much easier for boards, staff, and users. There are other benefits but I'll leave it at that for now. Be glad to elaborate.

Transportation Plan – The draft transportation plan from MRPC is now in hand and needs some work. I have distributed to the Planning Board, Transportation Advisory Committee, the HCIC, and Mr. Kilhart. We must determine a process for comments and edits and convey back to MRPC. After they finalize the plan, MRPC will present to Select Board and perhaps we can make this a joint meeting with all the stakeholder boards there. Let me know what you think.

Hazard Mitigation Plan – I have been going through the process of evaluating proposals (4), sending follow up questions to respondents, and just finished reference checks for 3 of the 4. The last step has been more difficult and time-consuming than expected, but it is done. I just sent the review team the reference information and asked them to direct me to what they want to do next. We should have a selected consultant sometime next week and will confer with Tim B. on the recommended selection.

Devens – A lot is happening with Devens and some may elbow its way into Planning Board domain. You may be aware of the Jaime Eldridge letter that has been circulating. If not, let me know and I can send it to you...or I can send to the full Board. In this letter, essentially Eldridge is 1) supporting VBS and affordable housing at Devens generally, saying that MassDevelopment needs to be a leader in this area. He also is asking MassDevelopment to assist in funding the member towns on the consultant study on impact, as the Framework Committee has called for. I see this letter as leading to pressure on Harvard to be willing to allow VBS to be rezoned and the CAP increased. I don't think the HDJC is going to be swayed. The HDJC has developed a memo or position paper that seeks support from boards and committees in Town for their intended track of trying to bring back historical lands of Harvard as the solution. They have already asked the Planning Board for this support and it will be on the 1/24 agenda.

I did finally have a chance to speak to Rich Maiore and he is in general agreement with us about the progress of this group and their pathway. Based on this and other discussions,

the Board should consider asking Victor to widen the scope to consider other possible outcomes and have the consultant look at multiple scenarios...and in a much-reduced time frame than 2033.

Therefore, I would recommend that the Board discuss this request and consider asking the HDJC to widen their scope and consider options for jurisdiction that do not include taking back historical lands. These options should be creative, innovative, and consider outside the box thinking. But in this vein, the Planning Board can support the HDJC preferred outcome should it prove to be the most beneficial to Harvard with the lowest down side.

CRWG – I do not put much time into this anymore but do help from time to time. They are nearing being formalized but I am not sure of SB timeframe. I know all current members have refiled their volunteer forms, but the SB may not take all of them, who knows. But the climate action plan is being rapidly developed and I have contributed a bit to that. I am also helping them find staffing solution through the Nashoba Health Board. Ellen and I met with state rep Hillary King on grant application ideas.

The CRWG was just made the Harvard Climate Initiative Committee (HCIC) on Tuesday evening. I would recommend taking action to dissolve the CRWG as soon as they are ready to meet as the new group.

DLTA – DLTA applications are due very soon and the Board needs to determine what ONE project, if any, we'd like to apply for. I suggest the update of the Housing Production Plan, which is expiring in June. Other ideas are welcome. Note that this year, 70% of DLTA funds will be earmarked to helping MBTA communities address the new guidelines. I don't think we need that type of help, but we could make a claim that updating the HPP will help facilitate multifamily development and that it is related...so could be part of the 70%.

Culvert – Another possible MVP Action Grant is for Apple Country recommended culvert replacement. One on the AC list was one that Tim Kilhart also sees merit in pursuing. So I am now working with BSC Group, the consultants who developed the Apple Country Report, to come up with the necessary information for the Intent to Apply online form due on 2/1.

Budget – Attended FinCom and gave brief update on proposed staffing changes and also withdrew the Reserve Fund Transfer request for local match for Old Mill path to Devens. I have noted that CPIC has not yet reinstated the full amount that we asked for...a concern.

Market Analysis – The final scope and contract should be finalized this week. I have been working to get the word out about the market behavior survey over the last two weeks. There has been some good feedback and a lot of not-so-great feedback. We need to do a better job of getting the word out regarding the survey. It is on the Town home page and the Planning Board page, but frankly nobody goes there. I tried to create a Facebook page but it is more trouble and time than it is worth. It also costs at least \$35.00.

I also gave 27 names of people and organizations to Howard to begin making calls regarding interviews and/or focus groups. This is the second step in garnering data for the analysis.

Town Report – Latest version available for Board member review and comment. It is due to TA by 1/31/22.

Economic Development – I met/spoke with the new Appleworks owner this week. Bill Buckley of GFI Partners noted that they bought the building and the 23 acres at 325 Ayer Road. Sounds like they are eager to do something on the vacant piece...maybe sooner than later. They may be supportive of Vision Plan work though and could provide good market data to our consultant.

■ OSRD Review Discussion

As noted in the comments document sent on 12/15, So far I have received comments from four individuals. I have made edits to the primary document, the proposed Chapter 125-35, plus both accompanying documents, Chapter 125-2 and Chapter 133-60 and had previously recommended that we focus on specific review subjects as follows:

1. Overall Document Organization and Structure
2. Errors, Omissions, Inconsistencies, Conflicts
3. Key Question #1: By-Right, Special Permit, or Both
4. Key Question #2: The Economics of OSRD (Public and Private)
5. Key Question #3: Open Space Ownership and Maintenance
6. Dimensions, Calculations, and the Overall Math of the Bylaw
7. Other Issues

We had previously begun to discuss organization and structure and there were several comments received that asked to address this. In the process of trying to address all comments received, I did take another look at structure. At this point in time, I chose not to make any changes to the structure after making a number of edits in response to other comments and after developing a guidebook, I made the judgement that these changes and the guidebook clarify some of the perceived ambiguity.

Importantly, I also noted that what might have created some of the confusion emanates from the decision to decouple the processes and procedures from earlier drafts and move this material over to Chapter 133. Comments on how other bylaws from other towns are easier to understand have noted that process is integrated into these bylaws and that is correct. They do have everything self contained. We chose to move process out because at that time, the draft was over 20 pages long and members were concerned that this length was excessive and would never pass Town Meeting. So let me summarize that changes that have been made since the last draft and hope that this has simplified things slightly:

1. Added a contents section at the top. While our Bylaw has not done this previously, many other bylaws around the country do (see the one I did for Brookline [HERE](#)).
2. I moved B(2) to Chapter 133-60.
3. I added a preliminary statement to the Open Space section explaining that since open space is the central organizing principle for the Bylaw, this is why it is located here.
4. Changed C(1) from Generally to Calculation of Open Space.

5. Eliminated some extraneous open space language including non-common OS.
6. Changed Permanent Open Space to Open Space Logistics.
7. Increased additional density from 25% to 33%.
8. Eliminated conditional uses and blended all uses together in one section.
9. Modified language for starter home bonus and added language for MGL 40R.
10. Eliminated the hybrid or subdivision option.
11. Deleted the first dimensional table and put the criteria in text.
12. Modified the second dimensional table.
13. Summarized the four-step design process in 133-60 in G.
14. Summarized the application process in 133-60 in H.

I have also developed a draft OSRD Guidebook intended to explain what it is and how it works. I am hoping that these explanations plus the Guidebook will clarify things and make them easier to understand.

As noted above, I would recommend approaching the review going forward in decending order of priority related to who we need to “sell” on this which includes, 1) the public, 2) users like local engineers, and 3) property owners. Obviously selling Town Meeting is the highest priority and they are mostly concerned about what projects will look like, function, impact, and where they will be located. So, I’d start with this content including density, dimensions, and design. We may also want to consider a limitation or cap—either annual, total, or both.
