

## **SCITUATE PLANNING BOARD MINUTES December 7, 2023**

Members Present: Patricia Lambert, Chair; Rebecca Lewis, Vice Chair; Ann Burbine, Clerk; Stephen Pritchard, Bob MacLean and Patrick Niebauer, Alternate.

Others Present: Karen Joseph, Town Planner; Shari Young, Administrative Assistant

Members absent:

See Sign-in List for names of others present at this meeting.

Location of meeting: Select Board Hearing Room, Town Hall, 600 C J Cushing Highway, Scituate.

Chair Lambert called the meeting to order at 6:30 P.M. The meeting was being recorded for airing on local cable television and streaming live on Facebook with in-person and remote access available.

### **Documents**

- 12/7/23 Planning Board Agenda

ACCEPTANCE OF AGENDA: Chair Lambert indicated there was a posted agenda. Ms. Burbine seconded the motion for the posted agenda a vote was taken the vote was unanimously in favor.

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### **Continued - Public Hearing – Major Site Plan Review – 18 Drew Place**

**Assessor's Map/Block/Lot 53-5-7-0**

**Applicant: David Larsen**

**Owner: Drew Place Realty, LLC**

### **Documents**

- PDF 2023-11-16 Narrative
- PDF 23104-3rdPeerReview-ScituatePB – 18 Drew Place
- PDF Building Specifications
- PDF Building Floor Plan Info – prepared by DL
- PDF Cover Letter
- PDF Graphic depiction of new building
- PDF Post Construction O&M
- PDF Response to Peer Review
- PDF Site Plan 18 Drew Place
- PDF Stormwater Report
- DOC DRAFT Motion Form 3<sup>rd</sup> Continuance

Attendees: David Larsen, Applicant/Owner

Mr. Larsen said he is hoping to classify the building type this evening.

Ms. Joseph indicated she has met a couple times with Mr. Larsen and the Board needs to opine on a building type; there are 2 possibilities.

- Flex Space/Fabrication Building (FSFB)

- 2 waivers would be required
  - Public Street requirement
  - Side yard requirement
    - Building type requires a 20' front yard, 20' side yard and rear yard setback
      - Because of site constraints only way to do this type of building is to allow for 10' side yard
  - Flex Space/Fabrication Building fits more in line with the definition of a shop for a plumber.
- General Commercial Building (GC)
  - Waivers
    - Front yard requirement is 0' - 20'
      - Proposed building is set back 31.38'
    - Street Facing wall requirement is 60' – 100'
      - Proposed building is 32'

Ms. Joseph opined the waivers under the FSFB are less onerous than those under a General Commercial building. She said the FSFB is an allowed building type, the project would have an allowed use and allowed building type, but the Board would have to grant a couple of waivers.

Mr. Pritchard asked what is adjacent to the 10' setback. Mr. Larsen said the MBTA is on the left side and there is a residence on the right-hand side.

Ms. Joseph also said the drainage has been removed from the Water Resource Protection District (WRPD), which is a plus. A landscape screen is being proposed between the proposed new building and the adjacent property. The landscape screen proposed is low shrubs; Ms. Joseph said the proposed shrubs will need to be changed out so that there really is a screen. The landscape needs to be addressed along the setback side.

Ms. Joseph opined there are not really any other issues, drainage should be resolved with next submission.

There was discussion that Drew Place is used like a public street, with regards to the waiver. The Town does plow the street.

The Board has not ever approved a FSFB.

Mr. Larsen commented about the landscaping that along the left side and back of the property there are trees. He said he planted 12 hydrangeas in front of the house. Mr. Larsen asked about the fence and if it needed to be moved. Ms. Joseph said she does not think the fence needs to be moved. She said there just needs to be a beefed-up screening next to the side with the residential property.

Ms. Joseph also indicated that with a FSFB the mezzanine and office space will not be needed.

Ms. Joseph said some improvements have been made to the exterior of the proposed building, a cupola has been added and the outside now looks like board-and-batten siding. New images have been provided to the Board, but it is not to scale.

Mr. Larsen said the new building height is proposed at 26', the existing building is 25'. There was discussion if the height could be reduced since the mezzanine is no longer required. Mr. Larsen said it should be the same height as the existing building. The garage door heights are 14'tall. The buildings will be the same colors, black doors, and white windows.

The neighbor behind the proposed project is Mr. John O'Keefe and Service Master; the building is a wooden building with some board-and-batten siding in a weathered look. It was permitted as a mixed-use special permit under different zoning.

Ms. Joseph said this will have to be continued and next time there will be a decision; she will work with Mr. Larsen on the landscape screening. She will have the revised plans reviewed from the Peer Reviewer.

The Board is willing to go with the FSFB and grant the two waivers.

*Motion:*

Ms. Burbine moved to accept the applicants request to continue the public hearing for Major Site Plan Administrative Review and Special Permit for a general commercial building in the Village Center and Neighborhood District – Greenbush Driveway Gateway District – Greenbush Village Center Subdistrict (VCN-GDG-GVC) until February 8, 2024 at 7:15 pm and to continue the time for action for filing with the Town Clerk until March 29, 2024

Ms. Lewis seconded the motion; a vote was taken and was unanimously in favor.

**Accounting  
Documents**

PO #2404680 (\$140.00), PO #2404681 (\$1,120.00), PO #2405105 (\$1,440.00)

Ms. Burbine moved to approve the requisition of \$1,120.00 to Chessia Consulting for peer review services for 19 Ford Place, for \$140.00 to Chessia Consulting for peer review services for 533 Country Way, for \$1,440.00 to TEC, Inc. for peer review services for 817 Country Way.

Ms. Lewis seconded the motion; a vote was taken and was unanimously in favor.

**Minutes  
Documents**

- Meeting Minutes 11.16.23

Ms. Burbine moved to approve the meeting minutes for November 16, 2023.

Ms. Lewis seconded the motion; a vote was taken and was unanimously in favor.

**Liaison Reports:**

No Liaison reports.



Ms. Lambert said she watched the meeting on the new school, there were only about 25 participants. The demolition of the Cushing School was not in the budget, there was not a lot of discussion about money, but it looks like a beautiful school.

**Bicycle Committee – reported by Mr. Niebauer:**

- Still in early stages of organization
- Prioritizing how to get funding
- Encouraged the Committee to keep an eye out on Planning Board agendas that could affect them with development and public ways
- Chair of Bike Committee may reach out Ms. Joseph

The Board discussed issues with Affordable Housing and how it is not affordable. The State has to address these issues.

Ms. Lambert said there is a lot of discussion at the Advisory Committee regarding the hiring of Police Officers. Police Department is looking to hire 7 new officers; State no longer allows part-time officers to be hired.

**Planning and Development – reported by Ms. Joseph:**

- Sidewalk done in front of 533 Country Way before the snow
  - Both houses have full Certificates of Occupancy
  - Holding some surety
- No further progress at Seaside at Scituate
- Site visit on Monday to review 14 -16 Old Country Way, Local Action unit was approved.
- 14-16 Old Country Way bond expires next week, may be looking for a surety reduction prior to December 15<sup>th</sup>. No letter has been provided yet.
- Met with new Town Counsel effective January 1, 2024
  - Harrington Heap, LLP
  - Reviewing Zoning
  - Overview of projects that are in the works, etc.
- Group home on Country Way will be coming in on December 14, 2023 for an informal discussion
- Meeting this week with potential developers
  - Infrastructure is the biggest issue for developers

**Zoning Public Workshop:**

**Documents**

- Doc 2Potential change to wireless bylaw
- Power Point Workshop 12.7.23
- Doc Scituate MBTA Final PB Zoning Amendments

***MBTA/Section 3A Compliance:***

Ms. Joseph reviewed a power point presentation. PRESENTATION ATTACHED.



There was discussion about the how many units the increase in by-right units to 15 units/acre actually is over the 50 acre district. Ms. Joseph said it is not a huge increase, but we can look to see if we can get a number of units from the compliance model. It could be around 150 units or less because the GWB, NRN and GVC do not make the entire 50 acres.

Ms. Joseph indicated that we hope to have the Mandatory Mixed-Use Districts submitted prior to our public hearings; they must be submitted to the State at least 90 days prior to Town Meeting. She said we hope to submit them next week. At the same time, we hope to submit the entire plan for pre-approval of our zoning and compliance models so that when we go to Town Meeting we have received input from the State.

Ms. Joseph reiterate that this is a "shall" which means the Town must comply. There was some discussion that we should be prepared with what Grants and how much the Town has received over the years. Some Towns have already complied with this new zoning, i.e. Newton just passed their zoning. The Attorney General has threatened to take Towns to court if they do not comply. Ms. Joseph said it is unknown what other implications there could be besides some of the grants that the State could take away. She said the Town became a Housing Choice Community and so now is eligible for new housing grants and that could be taken away for not complying with Section 3A.

Ms. Joseph said the State, the Secretary of EOHLC, understands that if they want this housing, they need to help Towns with the infrastructure. There is a Bill that is in the legislature now that is supposed to provide other funding sources to help make improvements to infrastructure.

Ms. Joseph said there will be one Zoning Article for Section 3A/MBTA Compliance. The article includes the following:

- Change DHCH – Department of Housing and Community Development to EOHLC - Executive Office of Housing and Livable Communities
- Amend Zoning Map
  - Small Section of the pedestrian frontage zone has to change
  - Change one parcel in the OV of North Scituate to the VC of North Scituate, parking lot for the Ford Building so property is all in one district
- Adding definitions
  - Affordable Unit, Applicant, Area Median Income (AMI), Commuter Rail Station, EOHLC, MBTA, Mandatory Mixed-Use District, Sub-district, change Multi-Family Dwelling to Multi-Family Dwelling/Multi-Family Building
- Section 310 adding Mandatory Mixed-Use and clarify the sub-districts
- Table of Uses
  - Deleting Multi-Family Dwelling Complex – does not apply to anything
  - Amending Garage for Commercial Vehicles
  - Adding Flex Space/Fabrication Building, putting it in the Table
  - Correction on heading for NRCR
  - Allowing for Multi-family in the GWB district by right not SP
- Deleting Section 430.3- does not apply to anything, no district was ever zoned
- Amending purpose section of 580.2. D to clarify the location of the pedestrian frontage zone
- Striking phrase in 580.3.D - "or Board of Appeals"

- Residential Density Table updating the GWB, NRN and GVC to 15 units/acre by-right
- Semantic changes in 580.9
- Amending Fair Housing and Affordability Standards to clarify by-right development units to 10% affordable required for by right developments
- Removing sentence in 754.1.B.2 that makes no sense
- Changing the Monitoring Agent is selected by the Select Board to the Planning Board and Applicant
- Updating CMR 45.00 to CMR 56.00
- Parking requirements
  - No commercial parking is required in the VCN-GDG-NDTV and VCN-NS-OV for by-right projects
- Cleaning up language in Section K

Mr. MacLean said the biggest change is the 15 units/acre by-right from 12 units/acre by-right and the other stuff is more housekeeping. Ms. Joseph agreed, most of this is housekeeping and is not a big deal. She said with the zoning changes made in 2019 had the Town set in good condition for the impending changes. She did say this is all banking on the Town getting the Mandatory Mixed-Use Districts, the 25% off-set really helps the Town.

Ms. Joseph said for the 3A Compliance the Town just has to zone for the units, they do not have to be built. But, there are several projects the Board has already approved that have not yet started construction. She said the States theory is the more housing that is built will hopefully drop the prices of rents, etc. She said the Town's Zoning was developed so housing could be built near the Town's transit stations; this really is just housekeeping. She said the Town got a grant from MHP for the Town to work with a Consultant on developing the compliance models and zoning for Section 3A/MBTA Communities.

Mr. MacLean also said it will be important at Town Meeting to acknowledge that we are bringing Greenbush to the same levels as North Scituate at 15 units/acre by-right.

There was also some discussion about not having commercial parking; there is the MBTA station in Greenbush and a public parking lot in North Scituate and the MBTA station so there should be plenty of parking. Residential parking still would be required. The idea is to have transit-oriented development with walking zones; there are pedestrian frontage zones so the building are pulled up to the front of the street, there are sidewalks to encourage people to park once and walk.

Ms. Joseph said there was a committee that met multiple times to work on the zonings with the Consultant.

*No public comment.*

#### ***Wireless Communications:***

Ms. Joseph asked the Board if they want to pursue a change to the Wireless Small Cell Attachment Bylaw. She explained at an internal meeting with Town officials where it was indicated the Town



does not support the 47-page Draft Bylaw funded by a resident. She noted some other small changes were distributed to the Board for review.

There was discussion on the proposed changes regarding a setback at 20'. She explained how she arrived at the 20' set back to residential properties. There was discussion if the 20' was just an arbitrary number. The original request had been for 50' or 100'. She said we are trying to work to get any type of setback to housing which was brought up with the Small Cell Attachment hearings this past summer. There is a perceived health impact when they are placed too close to residences. She said the only thing the Town will support is 20'. There was discussion that 20' is not even the setback required for a house from the street.

Mr. Pritchard opined he would be more concerned about the proliferation of these devices in a single location; proponents should have to evaluate the entire area and identify a plan. He said the 20' is arbitrary and does not think it is any different than not having anything particularly when a house set back is 30'. Ms. Joseph said there are still a lot of pre-existing non-conforming lots in Town where homes are much closer to the street, which is why 20' was used.

Ms. Lewis said she personally does not feel 20' is enough, but understands we have to allow the devices in Town. She said there is a fine line.

Ms. Joseph explained the Town does not have FIOS and will never get it as the opportunity to get it was passed over, so the Town relies on Comcast and the way of the future is wireless communication. The Town is reluctant to prohibit any type of devices, i.e. Small Cell Attachments.

Ms. Joseph said it is the Board's choice if they would like to put this on the warrant. This could come forward as a Citizen's Petition. Does the Board want to put an article forward for Town Meeting?

Mr. Pritchard opined that to put forward a setback of 20' says there is some rationale that it is tied to aesthetic, having enough buffer so as not harm anyone, but he feels this is just an arbitrary number and he cannot support that. He said if the Board wants to do something then more time needs to be spent on it, but to just pick 20' he cannot support.

Ms. Joseph said there is an inconsistency in the Bylaw currently that says a Major Site Plan Review is needed and 2 sentences later that a Special Permit is required. The Board agreed to clean that up and make it consistent that a Special Permit is required.

Ms. Lewis said she agrees with everything, but the Board is going to have to do something, people have spoken. The Town does have a Bylaw and there are some requirements for an applicant. Ms. Joseph said a lot of people felt like our Bylaw doesn't do enough.

Mr. Pritchard said it is twofold: 1. It is the proliferation of these devices and 2. The medical argument that people brought forward. He said at 20' the medical argument will never be addressed and the Board should not pretend to be addressing it. He agrees that the 47-page document was too much and was written as to not allow anything. He opined that maybe there should be changes to account for more rigor in the review plan for the Special Permit and set standards so there is a better and more well thought out distribution of these devices.



Ms. Lambert said this right now is a reaction. She agrees with Mr. Pritchard and would not support this because it is a total reaction.

There was further discussion about making the setback be 30' to be in sync with the 30' building setback. Ms. Joseph explained that could be an affective prohibition because the Town has places where pre-existing non-conforming lots exist. Sandhills and the Light House area could be places where these devices could never go and those are areas that needs coverage.

The Board continued to debate the number and decided that they would not move forward with an article that proposed a setback.

The Board decided to do the housekeeping change to make the Bylaw consistent within itself and clarify a Special Permit is required not a Major Site Plan Review. The Special Permit does give the Board more control on what is approved/not approved.

Ms. Joseph said maybe at some point in the future if the Board wants to tackle this issue a meeting can be set up with Town Counsel who has some experience with Small Cell Attachments. After Town Meeting the Board will sit down and decide their priorities for the future.

Mr. Niebauer said it is the Board's job to take their time and get it right.

Ms. Joseph indicated the public hearing for Zoning will be on January 11, 2024.

*Not Public Comment.*

#### **Documents**

- Email to the Board from Shari Young dated 12.1.23 with meeting agenda 12.7.23 and DRAFT Minutes 11.16.23
- Email to the Board from Karen Joseph dated 12.1.23 with meeting materials for 18 Drew Place and Zoning Public Workshop
- Email to the Board from Karen Joseph dated 12.4.23 with meeting materials for 18 Drew Place.

These items were distributed to the Board electronically. Ms. Burbine moved to adjourn the meeting at 7:52 pm, Ms. Lewis seconded the motion; a vote was taken and was unanimously in favor.

Respectfully submitted,

Shari Young  
Planning Board Administrative Assistant

Ann Burbine, Clerk  
Date Approved: December 14, 2023



# THE OBJECTIVE OF 3A COMPLIANCE

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"If Massachusetts is to remain a desirable place for individuals, families, and businesses, then we need to confront the housing crisis together. **This law is not a housing production mandate. It is all about setting the table for more transit-oriented housing** in the years and decades ahead—which is not just good housing policy, but good climate and transportation policy, too."

*Source: Letter from EOHED Secretary and DHCD Undersecretary*

p: 617-221-4003    w: JMGOLDSON.COM





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# ADDITIONAL STATUTORY REQUIREMENTS

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- EOHLC revised the Guidelines to receive some credit for mixed-use development zoning districts (August 10, 2023).
- Allow "offset" of up to 25% of the unit capacity of a mixed-use zoning district that requires a ground floor non-residential component.
- Only available in approved locations (e.g. village-style or downtown development).
- Must seek approval no less than 90 days prior to town meeting vote.
- Mixed-use can only be required on the ground floor, and not more than 33% of overall square footage
- No minimum parking for commercial uses allowed.
- Maximum 10% affordability by-right without a Financial Feasibility Analysis



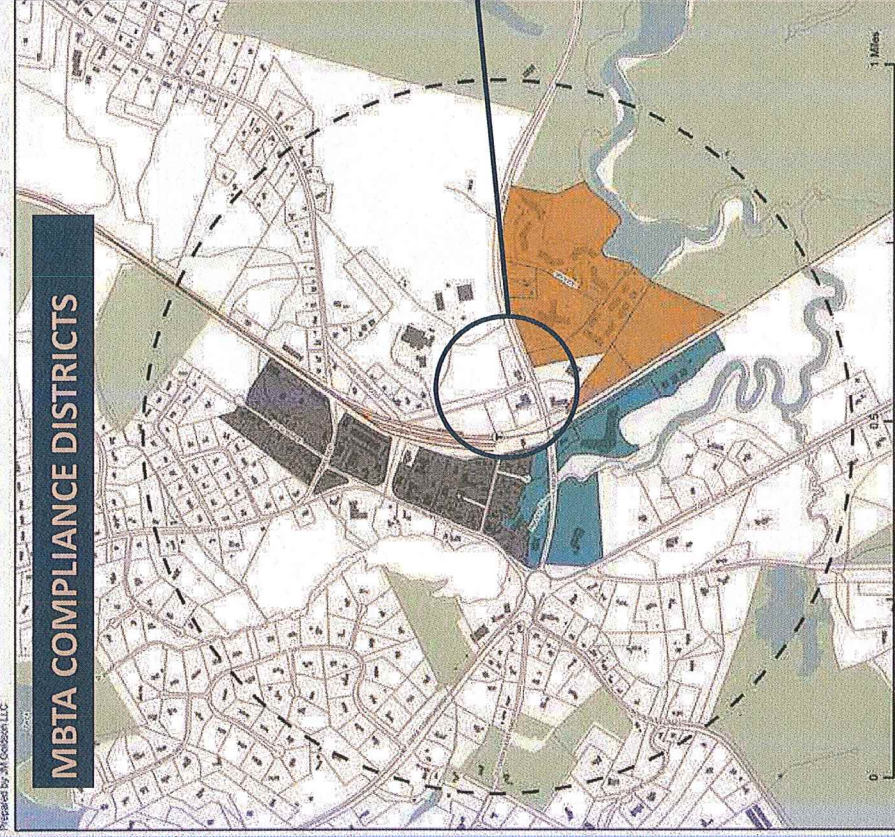
# ZONING FOR UNIT CAPACITY

"Minimum unit capacity is a measure of whether a multi-family zoning district is of a reasonable size, not a requirement to produce housing units. Nothing in Section 3A or these guidelines should be interpreted as a mandate to construct a specified number of housing units, nor as a housing production target. Demonstrating compliance with the minimum multi-family unit capacity requires only that an MBTA community show that the zoning allows multi-family housing as of right and that a sufficient number of multi-family housing units could be added to or replace existing uses and structures over time—even though such additions or replacements may be unlikely to occur soon."

Source: *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act, issued by DHCD*

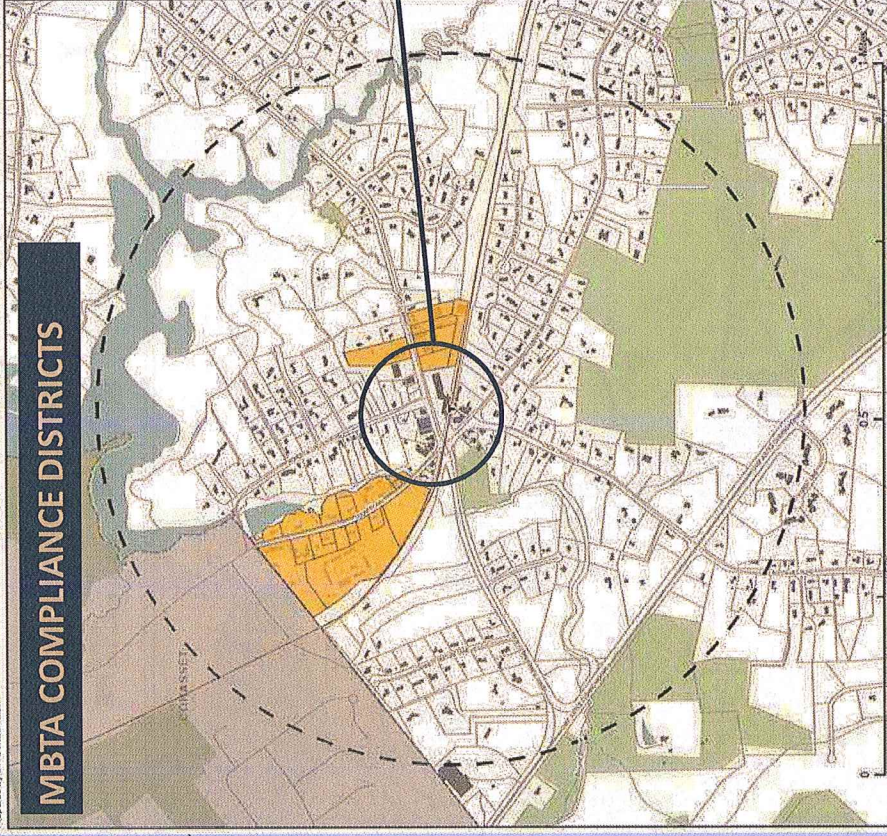
Community	Community category	2020 Housing Units	Minimum multi-family unit capacity*	Minimum land area**	Developable station area***	% of district to be located in station area
Scituate	Commuter Rail	8,260	1,239	50	373	40%







# MBTA COMPLIANCE DISTRICTS



- Schools
- Buildings
- Parcels
- Trails
- Water bodies
- Open
- North Scituate Outer Village
- Transit 1/2 Mile Buffer

Sources: MassGIS, MassDEP, MAPC Trimap

# MANDATORY MIXED-USE DISTRICT



- Schools
- Buildings
- Parcels
- Trails
- Water bodies
- Open space
- Commuter Rail Station
- North Scituate Village Center
- .5 mile Station Buffer

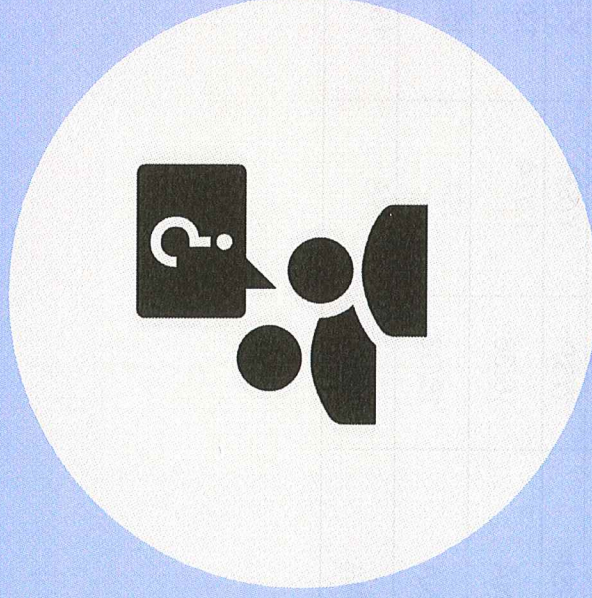
Sources: MassGIS, MassDEP, MAPC Trimap



# CAPACITY OF MMUS

## Current Zoning

Data Metric	District 1	District 2	Totals
District Name	North Scituate Village - Village Center	Greenbush-Driftway Gateway - New Driftway Transit Village Subdistrict	
Modeled Unit Capacity	411	181	592
Dwelling Units per Acre Limit	205	152	357
District Unit Cap Limit			0
Max Lot Coverage Limit	1,422	1,325	2,746
Lot Area per Dwelling Unit Limit			0
Max Units per Lot Limit	411	181	592
FAR Limit			0
Final Unit Capacity per District	145	64	209



- **Current minimum multi-family unit capacity: 1,239**
- **When considering MMU capacity offset: 209 offset, or 1030**



TABLE 2 – VCN RESIDENTIAL DENSITY BY BUILDING TYPE & DISTRICT										
D.U.s PER ACRE (BY RIGHT/BY SPECIAL PERMIT)										
RESIDENTIAL/MIXED USE BUILDINGS		Greenbush-Driftway Gateway						North Scituate Village		
		GWB	NRN	GVC	DBP/NRCR/DCR	NDTV	VC	OV		
		Y/SP	Y/SP	Y/SP	Y/SP	Y/SP	Y/SP	Y/SP		
MDB	Mixed Use Buildings – Current Unit Zoning	12/24	12/24 <sup>3</sup>	12/24	NA	16/36	12/24	12/24		
MDF	Multi-Family Buildings – Current Unit Zoning	12/24	12/24 <sup>3</sup>	12/24	NA	16/36	NA	15/24		
	<b>Multi-Family Buildings - Proposed Unit Zoning Changes</b>	<b>15/24</b>	<b>15/24</b>	<b>15/24</b>	NA	16/36	NA	15/24		



# CHANGES TO ZONING (NOT INCLUSIVE)

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- Replace DHCD with EOHLC throughout the Bylaw
- Section 200 Definitions – Adding pertinent definitions related to Section 3A/MBTA Communities
- Section 310, Types of Districts – add Mandatory Mixed-Use District under VCN (NDTV and NSV-VC)
- Section 420, Table of Use Regulations – Multi-family must be allowed by right in all districts, currently allowable by Special Permit in GWB.
- Clarify Multifamily Dwelling Complex vs. MFD – remove Section 430.3 Multifamily Dwelling Complex
- Section 580.2 – Clarify location of Pedestrian Frontage Zone
- Section 580.4, VCN Residential Density – revise by right densities in the GDG – NRN, GVC and GWB (Greenbush).



## CHANGES TO ZONING (NOT INCLUSIVE) – CONT'D

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- Section 580.9.B, North Scituate Village – update the location of the pedestrian frontage zone.
- Section 580.8, Affordable Housing requirements – allow for 10% affordable in the VCN by-right projects only
- Section 580.9, VCN Districts and Development standards – updates to purposes of compliant subdistricts.
- Section 760 Parking – Eliminate commercial parking in VCN for Mixed-use District ONLY



# FAILURE TO COMPLY - DRAFT

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Failure to comply makes the community ineligible for funds from:

- MassWorks Infrastructure Program
- Housing Choice Grants
- Local Capital Fund Projects
- Community Planning Grants
- Massachusetts Downtown Initiative
- Urban Agenda
- Rural and Small Town Development Fund
- Brownfields Redevelopment Fund, Mass Development
- Site Readiness Program
- Underutilized Properties Program, Mass Development
- Collaborative Workspace Program, Mass Development
- Real Estate Services Technical Assistance, Mass Development
- Commonwealth Places Programs, Mass Development
- Land Use Planning Grants
- Local Acquisitions for Natural Diversity (LAND) Grants
- Municipal Vulnerability Preparedness(MVP) Planning and Project Grants
- Informs funding decisions by EOHED, EOHLC, the MBTA, and other state agencies which consider local housing policies when evaluating discretionary grant programs.

