



**CITY OF NEWBURYPORT**  
**OFFICE OF PLANNING AND DEVELOPMENT**  
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**MEMORANDUM**

**TO: Newburyport City Council**

**FROM: Andrew R. Port, Director of Planning & Development**

**CC: Sean R. Reardon, Mayor  
Newburyport Planning Board**

**RE: Update Regarding Zoning Studies & Amendments Related to Storey Ave & “MBTA Communities”**

**DATE: January 23, 2024**

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With this communication, I respectfully request that the Council schedule a meeting as P&D/COTW (*Planning & Development Committee, posted as Committee of the Whole*) wherein I can present an overview of the above two – somewhat interrelated – zoning update efforts now underway. I defer to the Council’s preference on how to handle this communication, but recommend this format since it would be assigned to the typical committee with subject matter jurisdiction (P&D), and COTW would allow all Councilors to participate in the meeting and discussion. Recognizing the importance of Council consensus for any zoning changes to be adopted for these two areas (*Storey Ave, and in/around our 40R Smart Growth District*), I request this forum as an opportunity to obtain early input from the Council on a conceptual level, in advance of submitting any formal draft zoning or map amendments in relation thereto. My presentation will cover these areas in more depth, with various illustrative maps and graphics, and will allow for discussion about the pros and cons of various options available to us. This input will allow us to better address these questions or concerns as part of any package of zoning changes ultimately brought forward. Following is a brief summary of key parameters we should keep in mind, for each study area:

**Zoning Updates Necessary to Comply with “MBTA Communities” Guidelines Issued by the State**

Newburyport is obligated, like many other communities around the Boston area, to adopt new zoning which will comply with mandates adopted by the state legislature and codified into the state Zoning Act, which effectively delegated authority to the Executive Office of Housing and Livable Communities (*EOHLC, formerly DHCD*) to determine “*reasonable size*”, *density and overall buildout* required by the subject local zoning. This is a notable departure from “home rule” authority, which is the typical basis for local zoning throughout the Commonwealth. In this case the key parameters for local zoning must address the following:

*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:*

- *Minimum gross density of 15 units per acre*
- *Located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable*
  
- Minimum Multifamily Unit Capacity of zoning district(s) used to satisfy the new guidelines: **1,292 units** (*Note: For comparison purposes, our existing 40R District, which was developed under a slightly different set of state parameters, projected newly enabled residential buildout at 540 units.*)
- Minimum Land Area: **35 acres** (*Note: For comparison purposes, our existing 40R District is about 49 acres.*)
- Minimum Percentage of District(s) within 0.5 Mile Station Area: **20%**
- District Density: **15 units per acre minimum** (*Note: For comparison purposes, our existing 40R District – e.g. the 1 and 3 Boston Way developments – permits up to 40 units/acre. A minimally sized district/area at 35 acres (per the above requirement) would require a higher overall district density to achieve the minimum overall buildout/unit capacity of 1,292 – roughly 36.9 units per acre.*)
  
- No age restrictions and suitable for families with children (the zoning district cannot have limits on the size of units or caps on the number of bedrooms or occupants)
- Existing multifamily units count toward the zoned capacity (zoning map/provisions must allow compliant density/permitting/development, even though the subject properties may already be developed and near-term redevelopment seems unlikely to occur)
- Deadline for Council adoption of “compliant” new zoning: 12/31/2024

As of this time, and for starters, we are proposing to qualify (*and update as may be necessary*) the City’s existing 40R Smart Growth District around the MBTA Commuter Rail Station, where credit for this existing zoning around the MBTA Station can be obtained under the new guidelines. We have benefited substantially in recent years from the 25% affordability requirement within this District, and would like to maintain this moving forward.

It should be noted that the new MBTA Communities Guidelines would preclude a 25% affordability requirement moving forward, for any areas used to satisfy the new state guidelines. The regulations set a baseline allowance as high as 10%, and the ability to submit an “Economic Feasibility Analysis” to the EOHLC in an effort to raise that percentage higher, but in no case higher than 20%. This seems counterintuitive to be sure, and would have adverse impact on our ability to reach and maintain a 10% Citywide affordable housing stock for purposes of “safe harbor” under MGL Chapter 40B. Nevertheless, the state has in essence: (a) accepted arguments from developers that a 25% threshold is “uneconomical” or “financially infeasible” (*notwithstanding the success of recent projects like 1 and 3 Boston Way*); and (b) decided to focus on a “saturation” of market-rate housing units for the Commonwealth, and in close proximity to transit facilities, with the presumption that free market competition will indirectly result in lower overall housing prices for the region/commonwealth. Notwithstanding any objections we may have to these assumptions, we are now statutorily obligated to adopt complaint zoning changes before the end of 2024, and the percentage of affordable units required must be determined absent clear guidance from the Commonwealth (*at this time at least*) as to what will make for an “economically feasible” development proforma (*something communities are paying consultants to analyze in order to go higher than 10%*).

Our goal is to fulfill state requirements, while achieving local objectives for overall development patterns, forms, densities and community character within the City. It is likely that we will use both: (a) a combination of updates to qualify/utilize the existing 40R District; and (b) new zoning for the Storey Ave area (*see below*), to satisfy the applicable “MBTA Communities” Guidelines.

### **Storey Ave Village Center (Re)Zoning – Planning Assistance Grant**

Like other communities, we will be making changes to local zoning before the end of 2024 to provide further *as-of-right* permitting of multi-family housing development surrounding the MBTA Station, and other eligible locations, in accordance with new state requirements. Newburyport has another so-called “village node” along Storey Ave (*where Route 113 intersects with I-95*) which is presently comprised primarily of isolated land uses and auto-dependent commercial establishments. In recent years there has been growing interest about the prospect of *re-envisioning* and redeveloping this area as a proper walkable mixed-use district, integrating multi-family housing with commercial uses. To leverage these changes in the coming years (*of benefit to both the City and State*) we must first develop new zoning for this area which would better accommodate multi-family housing and the proper mixture of uses that a village center provides. Concentrating future growth and redevelopment in this manner could replace large swaths of parking with multi-story buildings bearing closer resemblance to downtown Newburyport or new multi-family development within our 40R Smart Growth District. This more efficient use of previously developed land will concentrate a mix of uses, expand housing opportunities, and provide for economic development and “new growth.” Permitting multi-family and mixed-use housing in this area, along with the 40R/MBTA area, can also help to alleviate the pressure for further infill within our densely developed areas like the National Register Historic District.

We applied for a so-called “Planning Assistance Grant” from the Commonwealth last year to assist in this zoning work, given the limited staff hours and resources available in-house. A \$50K grant was awarded for the purpose of engaging three types of consultant assistance:

1. Drafting new zoning provisions (text) for the Storey Ave area, accompanied by new zoning districts/overlays (map boundaries), consistent with City objectives.
2. Generating renderings and/or a 3D “massing” model to illustrate the urban design improvements (e.g. the spatial relationship between architecture and site layout) we would expect to see over time, based on phased redevelopment of this area in accordance with the new zoning.
3. An assessment of the City’s overall capacity to support the newly anticipated residential and mixed-use “buildout” corresponding to the above, with a particular focus on our Water and Sewer Treatment Plant infrastructure, and with full consideration for potential new growth expected elsewhere in the City (*e.g. 40R/MBTA and Waterfront West*) as well as outside the City (e.g. Intermunicipal Agreements with Newbury and West Newbury for water and sewer service to these adjacent communities).

As noted above, our decisions relative to Storey Ave rezoning must contemplate potential [partial] satisfaction of MBTA Community Guidelines for the City.

## Suggestions & Requests for Council Input Moving Forward

Generally speaking, it is fair to assume that Newburyport's approach to MBTA Communities Compliance, and the Storey Ave Rezoning will be based on regulations and permitting procedures parallel to our existing 40R District. In particular, this is because the District allows multi-family uses "as-of-right" as required by the Commonwealth, but also imposes reasonable site and architectural design standards through Planning Board review of development plans thereunder.

In the coming days I will be pulling together an informal advisory group to discuss the above in further detail, and to assist this Department (*and consultants engaged*) in the review of draft zoning text, maps and visualization materials that will ultimately be returned to the Council as formal zoning changes recommended for your consideration and adoption. This group, comprised of a few key staff and members of the Council and Planning Board, will allow us to vet the full range of considerations and some finer grain details before the Council is expected to spend time in formal public hearings to address sponsored zoning amendments. Aside from this working group, we and our selected consultants would appreciate your thoughts and preferences for these specific zoning changes, and potentially others like "housekeeping" updates and improvements to our existing Business Park zoning. I request, and strongly encourage, all members of the Council to reach out to convey any thoughts, concerns or preferences regarding zoning and development patterns at a time of your convenience. These may be conveyed verbally, with an emailed bullet list, or in the form of specific "markup" to existing zoning ordinances.

To frame the related question(s) better, I would encourage Councilors to review our existing 40R Smart Growth District zoning, and those uses presently permitted within the Storey Ave B-1 District, in order to provide your input on desired changes or improvements to same, for purposes of the above. For example:

1. What should we allow for Permitted Uses?
2. What dimensional requirements/allowances should apply?
3. What parking ratios/requirements should apply?
4. What Architectural & Site Design Standards should apply?

Thank you in advance, and I look forward to discussing these zoning updates further with you in the weeks and months ahead.