

City of Newburyport

MBTA Communities Zoning Requirements & Storey Ave Area Village Center Rezoning



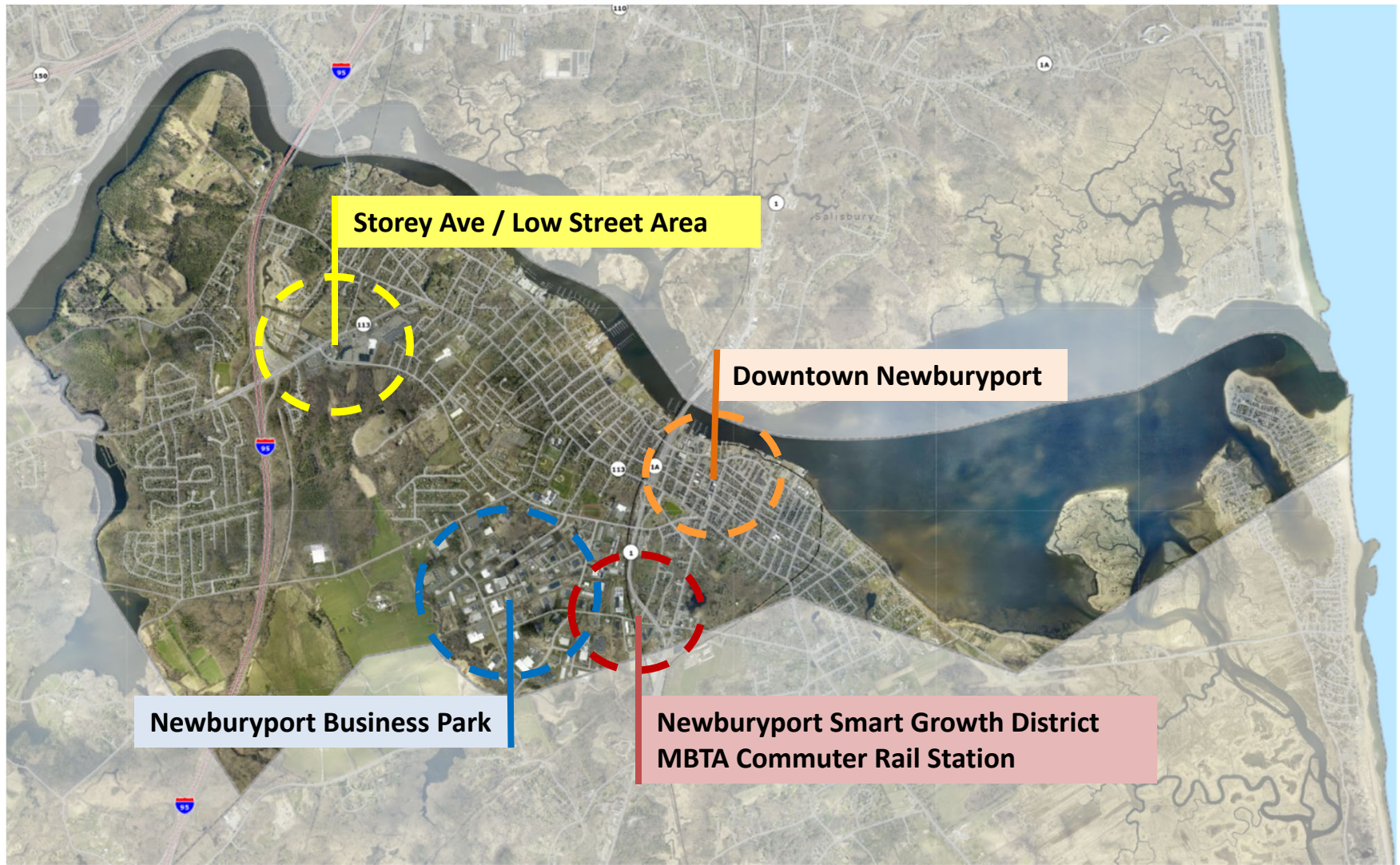
Andrew R. Port

Director of Planning & Development

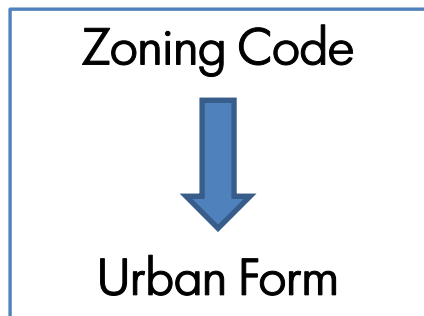
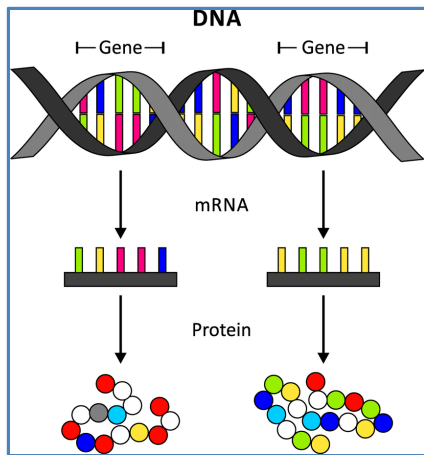
Purpose of Presentation

1. Background & Context for the new State Mandate
2. Overview of Relevant Geographic Areas in the City
3. Review Newburyport's Overall Approach
4. Review Key Factors & Options for Consideration
5. Review Timeframes/Resources/Process for Establishing New Zoning
6. Discuss Key Policy Considerations Like Affordable Housing Requirements
7. Identify Council Questions, Concerns & Overall Preferences

MBTA Communities & Storey Ave Study Area



What is Zoning for and what does it do?



1. Just as DNA Codes for Proteins, Zoning Codes for Land Use & Development Patterns
2. Zoning is Not Static & Evolves Over Time (informed by statutory framework, relevant case law, evolving policy goals and local preferences)
3. Euclidean Zoning & Separation of Uses (decades of sprawl, prohibits traditional land use patterns and mix of uses necessary for a village center – e.g. downtown)
4. Density & Mix of Uses (at appropriate locations supported by transit & infrastructure – e.g. village centers)
5. Site & Architectural Design Standards
6. Affordable Housing (baseline inclusionary requirements vs. density bonuses – carrot vs. stick approaches)

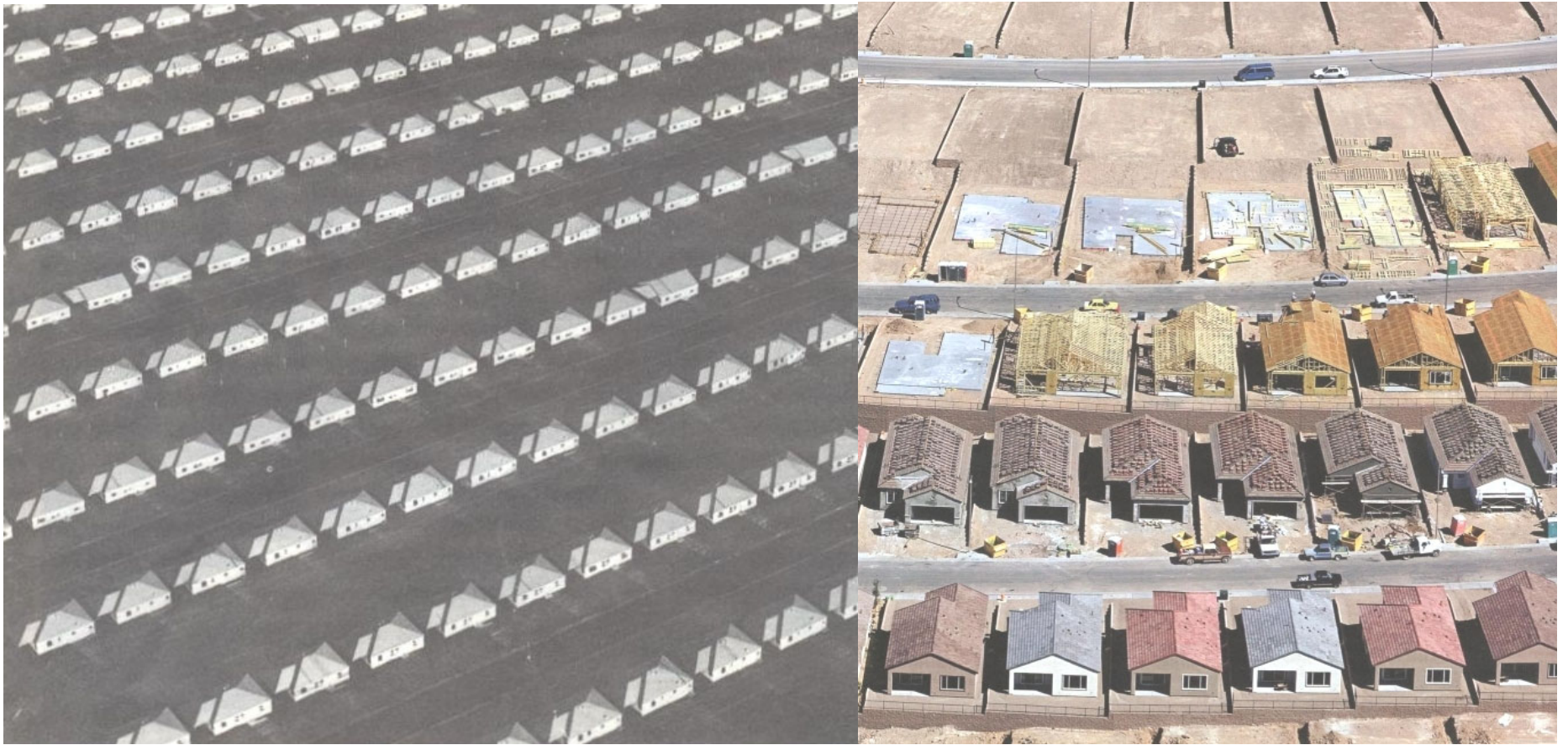
The Frequent Problem with Local Zoning



Primarily in the US: Presumption that All Density is Bad, Based on Poor Examples

Newburyport, MA – MBTA Communities & Storey Ave Area Rezoning February 20, 2024

The Frequent Problem with Local Zoning



Cookie Cutter (Copy-and-Paste) Euclidean Zoning (Separation of Uses)
Unwalkable Neighborhoods, Dependence on the Automobile, Traffic Congestion, High
Cost of Land/Housing, Loss of Pedestrian Scale, Social Cohesion & Sense of Place

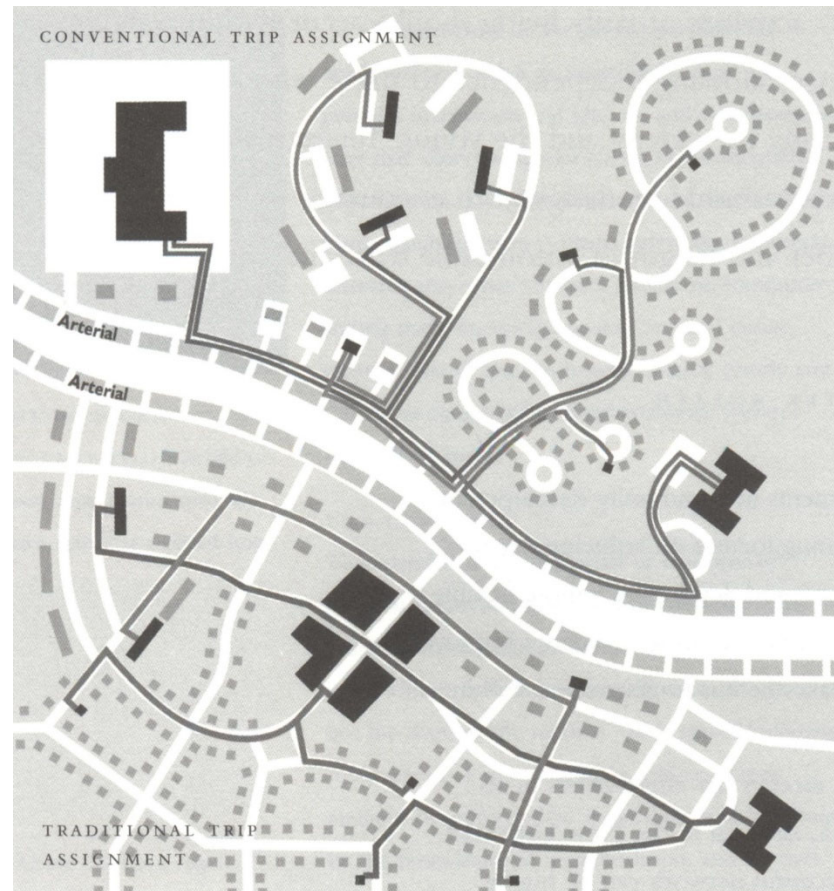
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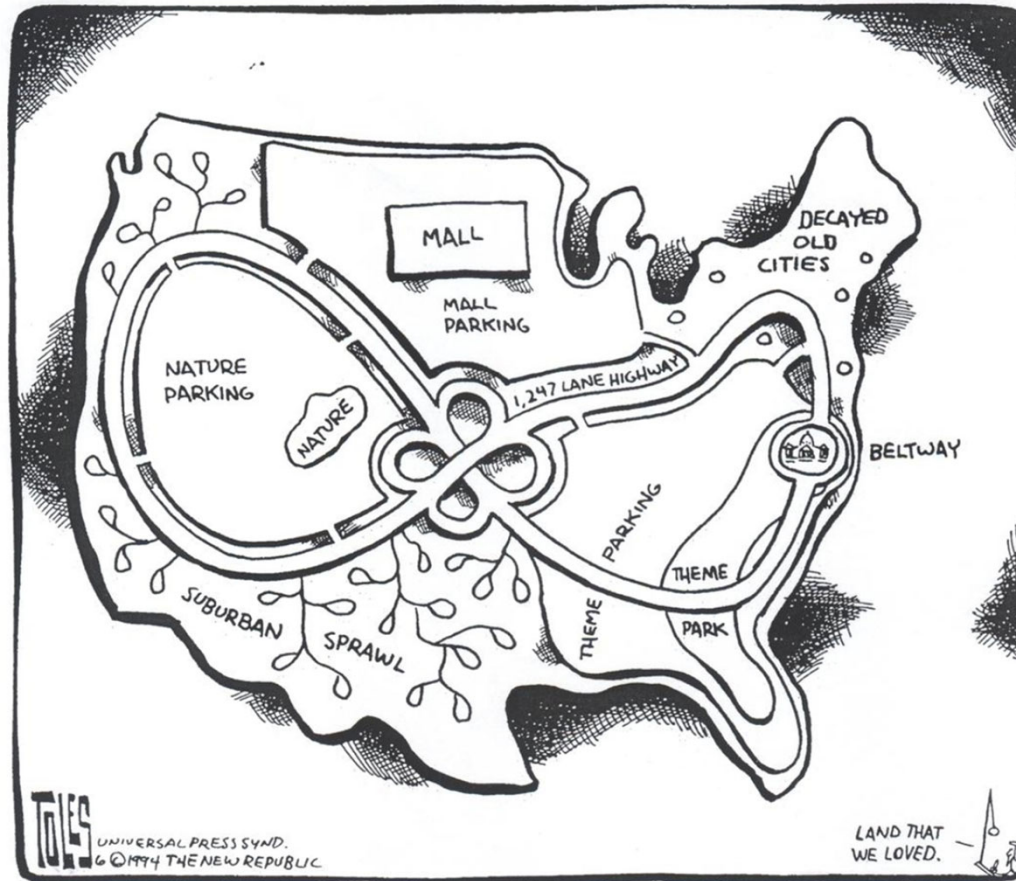
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Larger Context for the New State Mandate

Home Rule & Rigid Adherence to Outdated Zoning Standards Have Resulted in Land Use Patterns Which: Do Not Support the Transit System, Prevent the Creation of Walkable Neighborhoods & Promote Excessive Dependence on the Automobile



Irony: Our Own Regulations Often Prevent What is Necessary & Preferred

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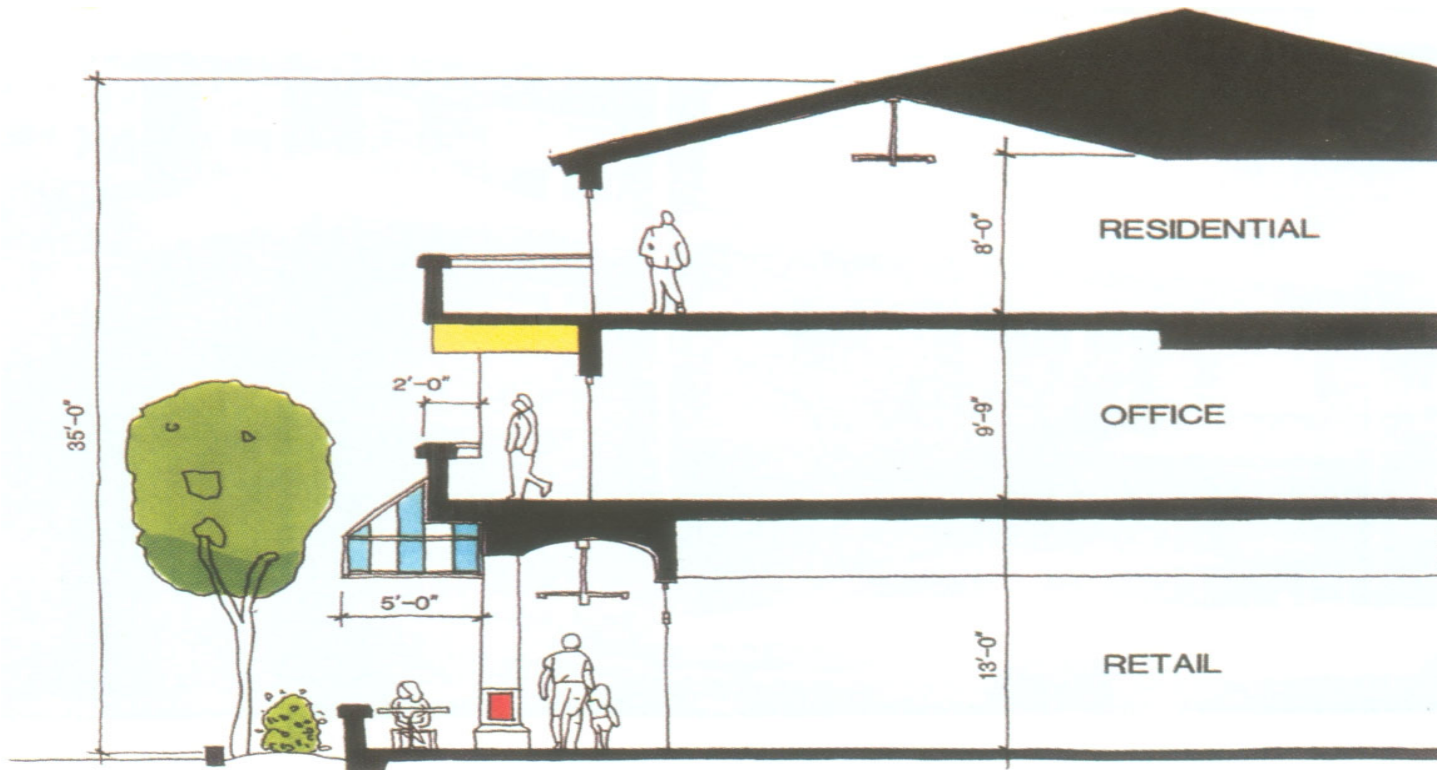
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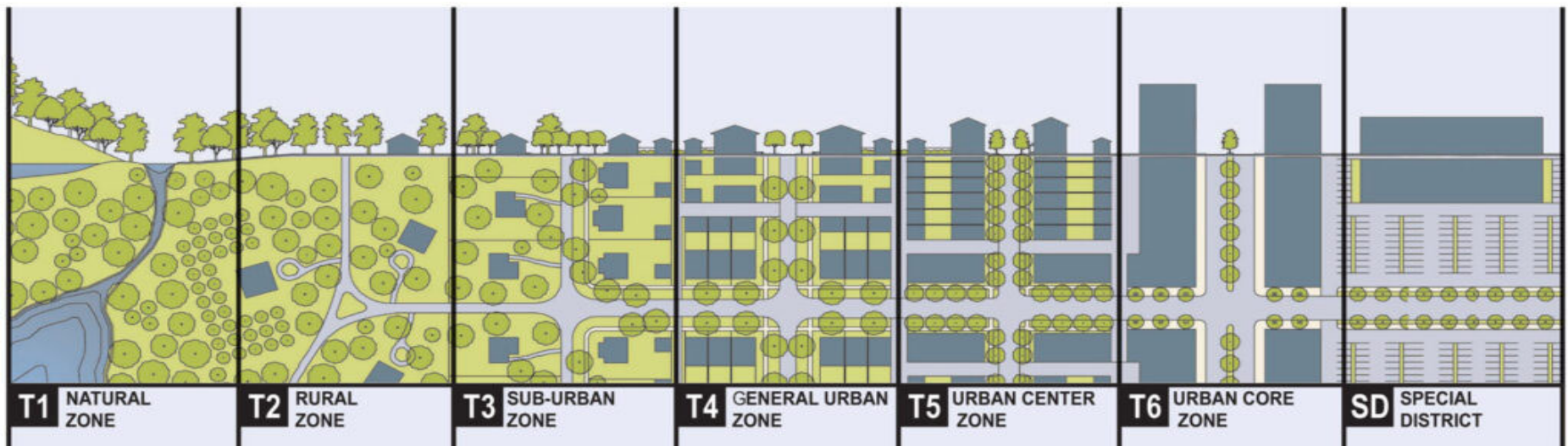
Downtown Newburyport as a Reference Point



Historic Mix of Uses, Pedestrian Scale and Walkable Urban Form

Larger Context for the New State Mandate

1. Housing Crisis (lack of housing)
2. Affordable Housing Crisis (lack of affordable housing)
3. Home Rule, Local Zoning Decisions, N.I.M.B.Y.-ism, Proportion of cookie cutter zoning for Large Lot Single Family “Sprawl”
4. Absence of a transect to our urban form, the “missing middle”



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Larger Context for the New State Mandate

Widespread Prevalence of Large Lot Single Family “Sprawl”

Percent Land Area by Zoning	
District	Percent
Residential	86 %
Commercial	4 %
Industrial	3 %
Limited Industrial	2 %
Business	2 %
Shopping Center	2 %
Fireworks	1 %
TOTAL	100 %

Example: Hanover, MA (circa 2010)

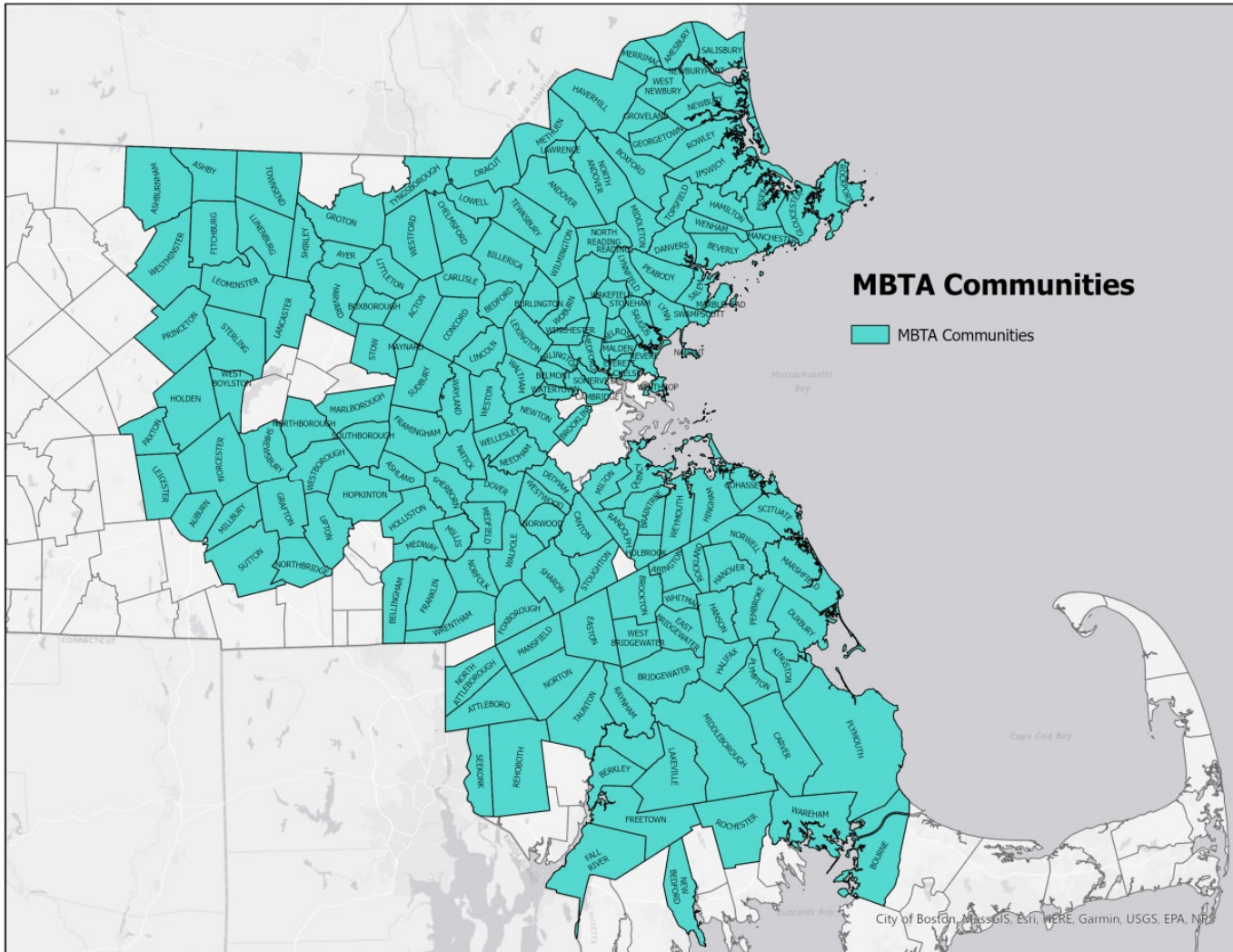


86% Large Lot Single Family Sprawl

Statutory Framework, Mandates & Local “Home Rule”

- **MGL 40A (Zoning ~~Enabling~~ Act)**
general police powers, home rule, otherwise limited by certain statutes/provisions, carrot/stick - usually as grant incentives
- **MGL 40B (Comprehensive Permits)**
override of local zoning for dense housing developments if at least 25% of units are “affordable”, “safe harbor” at 10% or with .5% yearly progress towards “Housing Production” (Housing Production Plan)
- **MGL 40R (Smart Growth Districts)** multifamily as-of-right, near transit
- **2021 Economic Development Bill** ← **MBTA Communities**
embedded within larger package – Section 3A added to MGL 40A, as-of-right multi-family housing for MBTA Communities, latitude for detailed regulations and parameters given to EOHLC (formerly DHCD)
- **2024 Affordable Homes Act / Housing Bond Bill** ← **In the Pipeline**
proposed by Healey Administration, pending review by state legislature
Accessory Dwelling Units (ADUs) as-of-right, funding for various programs

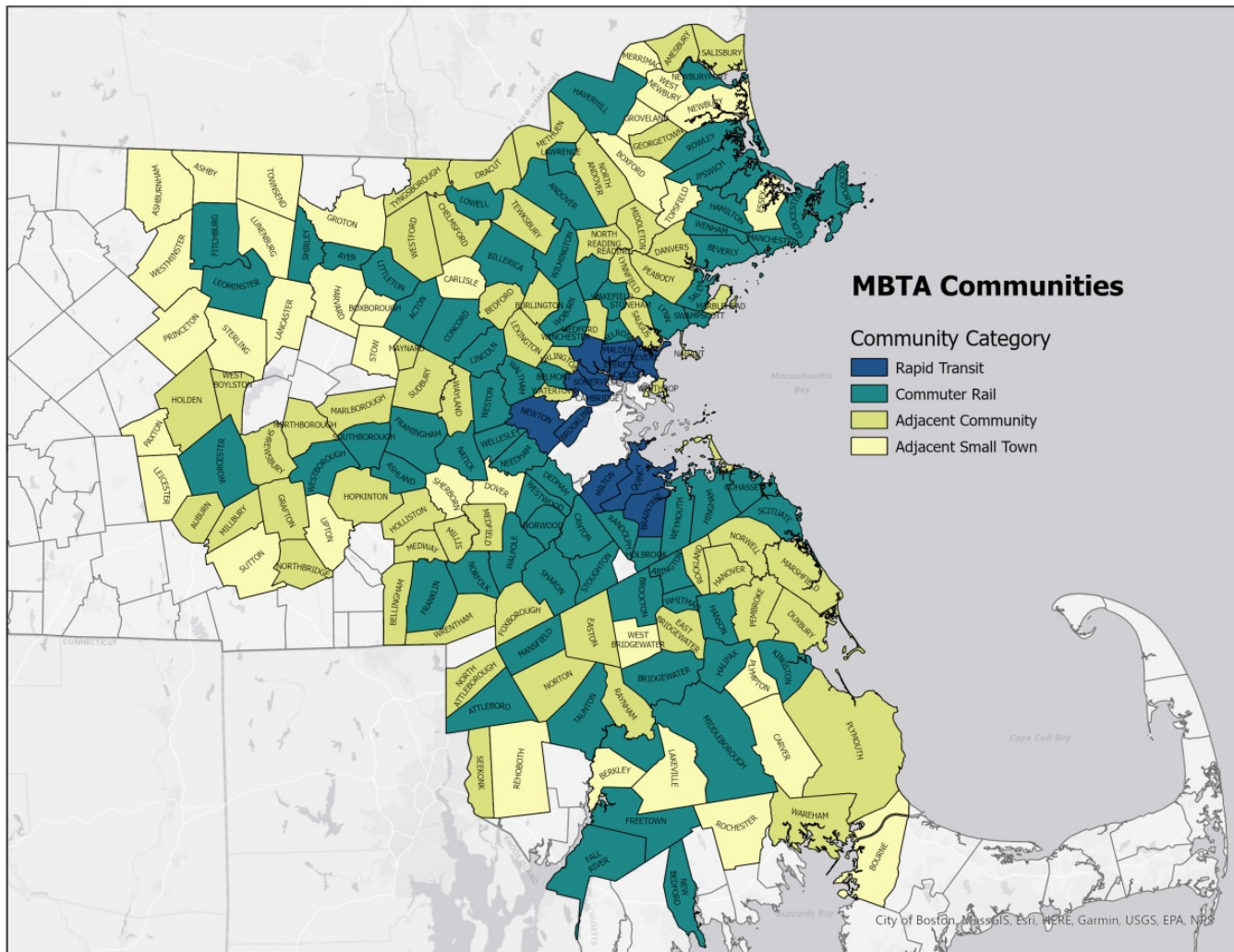
MBTA Communities & The Policy Objectives



Policy Objectives:

- **Increase Statewide Housing Production**
(Streamline Permitting for Missing Middle” of Housing Stock)
- *(Market Saturation vs. “Affordable” Housing?)*
- **In the Right Locations**
(transit/infrastructure)
- **At Densities Necessary to Bolster MBTA Ridership** *(increase use of transit System)*

MBTA Communities, Timelines & Relative Densities



Deadline for New Zoning:

Rapid Transit Community
12/31/2023
(Milton)

Commuter Rail Community
12/31/2024 ←
(Newburyport)

Adjacent Community
12/31/2024
(Amesbury/Salisbury)

Adjacent Small Town
12/31/2025
(Newbury/West Newbury)

A Summary of Newburyport's Obligation

- Zoning Required for: **Multifamily Use Permitted “As-of-Right”**
- Minimum District Size: **35 acres** (*40R District is 49.40 acres*)
- Minimum Gross Density: **15 units/acre** (*40R District is mostly 40 units/acre, 30 units/acre for portion extending up State Street*)
- Minimum Multifamily Unit Capacity: **1,292 units** (*40R District projected at 540 new units, not including “substantially developed” land*)
- Minimum Percent of District within 0.5 Miles of MBTA Station: **20%**
- No Age Restrictions & Suitable for Families (*no limits on size of units, or caps on the number of bedrooms or occupants*)
- Affordable Housing: **10%**, and up to **20% maximum with a justified EFA**

Newburyport's new zoning should satisfy the state mandate while taking into account local context and preferences for appropriate development patterns, preservation of historic neighborhoods, etc.

Potential Consequences for Failure to Comply

1. State Fines/Litigation (*e.g. Milton, TBD*)
2. Loss of Eligibility for State Grants/Funding
3. Invalidation of Local Zoning Inconsistent with State Mandate

The impact of this MBTA Communities mandate on Newburyport should not be as drastic compared to other communities, and there are local benefits to adopting comparable/compliant zoning in certain areas of the City.

Recommended Approach for Newburyport

1. **Utilize Existing 40R Smart Growth Overlay District**
*(baseline buildout at station, grandfathered 25% affordable requirement)
(multifamily as-of-right with design review, 540 new units projected at buildout, not including “substantially developed” portions of the 49-acre district, 252 units permitted to date in 3 projects, at roughly 38 units/acre, all within ½ mile radius)*
2. **Extend 40R District/New MBTA Overlay District up Route One**
(credit for existing buildout, with limited potential for adverse impacts)
3. **Establish New Overlay District(s) at Storey Ave/Low Street**
(Near Term: Kmart/Hodgie’s sites) (cars & parking lots >> walkable village center)
 - *Create new housing, require/encourage affordability*
 - *Implement design guidelines to ensure high quality development*
 - *Use redevelopment process to improve character of Storey Ave area*
 - *Satisfy state requirements & implement 2017 Master Plan recommendation*
 - *Direct new housing growth into these village nodes, reducing pressure for infill in historic neighborhoods*

2017 Master Plan Recommendation for Storey Ave Area

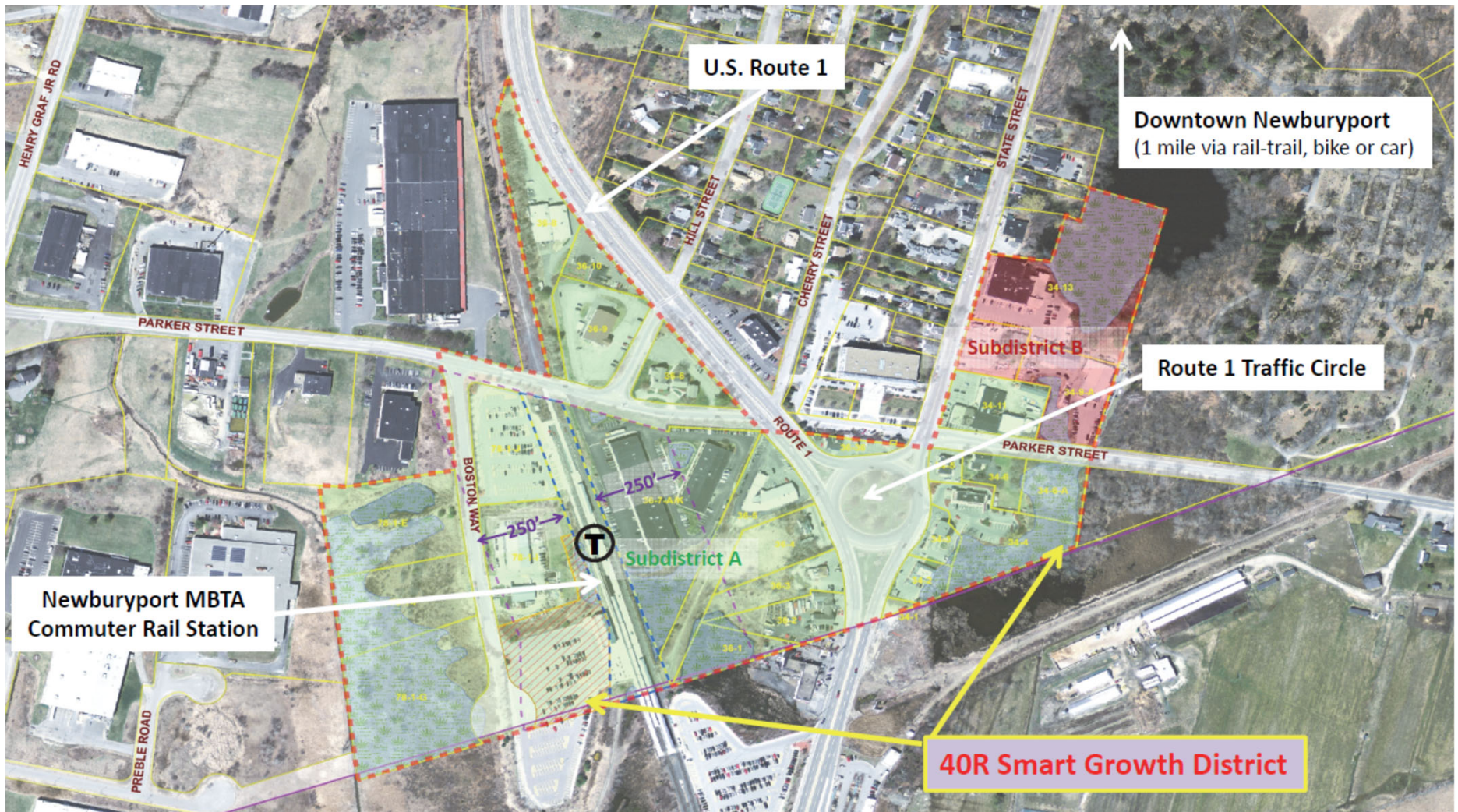
Goal 1: Preserve Newburyport's Sense of Place

Objective 2: Preserve the character of historic streets and enhance the quality of life within the City's neighborhoods.

Strategy 3: Transform the Storey Avenue area into a Gateway to the City

Action 1: Consider reviewing and revising the Zoning Ordinance to allow for the transformation of the Storey Avenue corridor into a walkable, bike-able, mixed-use neighborhood with the incorporation of the Commonwealth's "Complete Streets" initiative.

40R Smart Growth District at MBTA Station

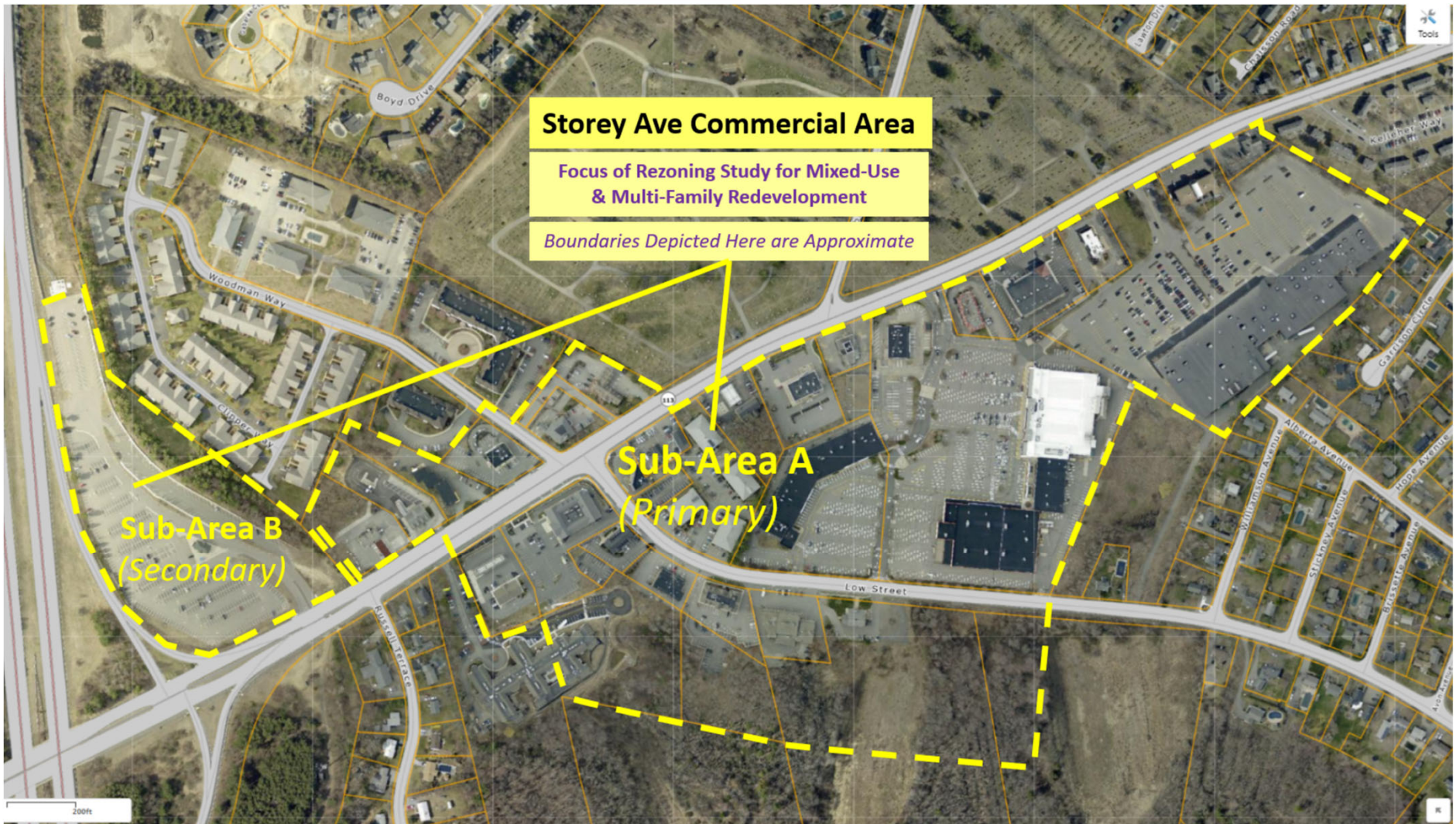


40R Smart Growth District at MBTA Station



At 40 units/acre (*30 units/acre along State Street*) the Existing 40R District density allowance (*e.g. 1 & 3 Boston Way, 166 Route One/Haley's Site*) is substantially higher than the minimum 15 units/acre required under MBTA Communities. However, decreased density may require larger overall district area(s) due to the minimum total unit capacity required.

Storey Ave/Low Street Study Area



Storey Ave/Low Street Study Area



Near Term Improvements (“Low Hanging Fruit”) vs. Longer Term Potential

Credit for Existing Developments

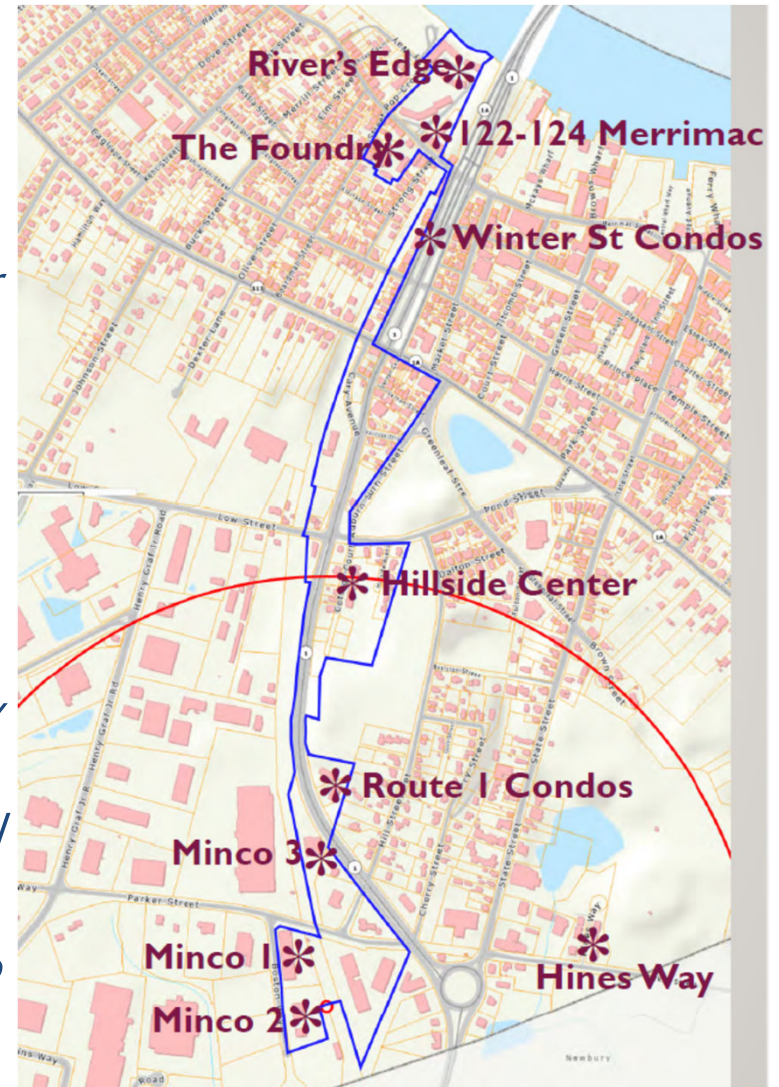
1. Create/Extend 40R/MBTA District(s) to Encompass Existing Multifamily Developments

Limited/No Impact to Newburyport for Practical Purposes

2. Use Rail Trail Corridor as Transit Station Connection

3. This Conceptual District:

- *Is About 49 Acres in area, mostly within 1/2 mile of station*
- *Contains approx. 450 existing and approved multi-family dwellings*
- *Remaining Capacity Needed to Comply: $1,292 - 450 = 842$ units*



Relative Housing Densities – Local Examples



15-29 Munroe Street (Historic Row Houses): 8 units on .4 acres = 20 units/acre

Relative Housing Densities – Local Examples



126 Merrimac St. (River's Edge Condos): 65 units on 4.2 acres = 15.5 units/acre

Relative Housing Densities – Local Examples



129 Merrimac Street (Foundry Square): 20 units on 1.26 acres = 15.8 units/acre

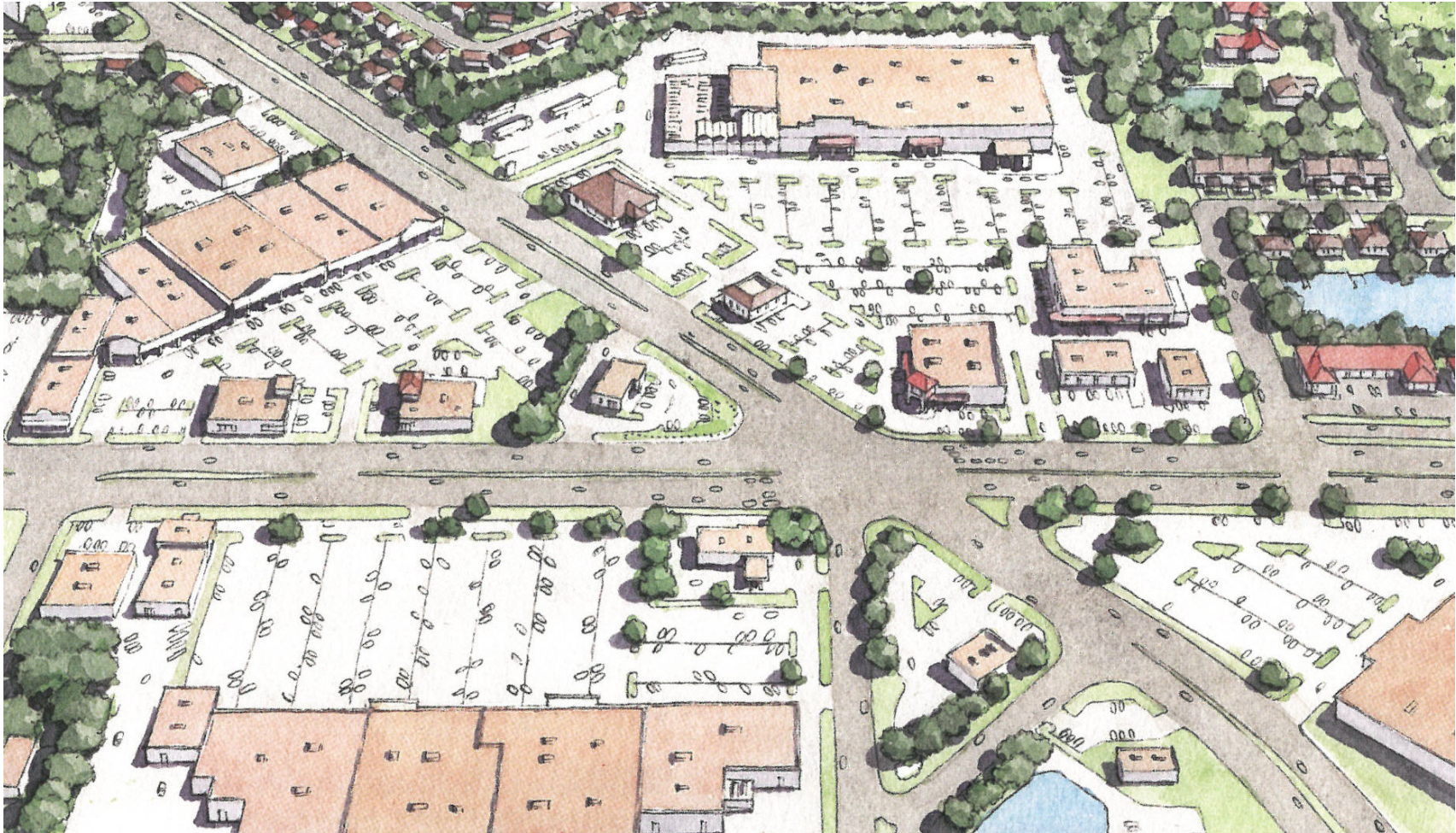
Timeline, Tools & Resources

1. **Planning Assistance Grant deadline (6/30/2024)**
draft zoning, map, related deliverables to state/Council
 2. **MBTA Communities Compliant Zoning (12/31/2024)**
allow 3 months for review by EOHLC (*formerly DHCD*)
-
- A. **Zoning Advisory Group** (informal stakeholder working group)
 - B. **Technical Assistance** (Consultants/MVPC/MHP)
draft zoning, district map(s), buildout analysis, economic feasibility analysis (EFA), visualization (renderings/3D massing model), review of water/sewer capacity
 - C. **Harvard Kennedy School** (Applied Field Lab)
visualization, fiscal impact analysis (*unit types/bedroom counts, school age children, tax revenue/new growth*), economic feasibility analysis

Realistic Timeline For Newburyport Process

- Complete Draft for Submission to EOHLC: **6/30** *(or earlier)*
- Planning Board Meeting to Review Draft: **7/3**
- EOHLC review: **7/15 - 10/15** *(90 days)*
- Formal Submission to Council: **10/28**
- Joint Public Hearing *(City Council/Planning Board)*: **11/6**
- 2nd P&D Meeting *(if needed)*: **11/19**
- 2nd Planning Board Meeting *(if needed)*: **11/20**
- First reading: **11/25**
- Second reading: **12/16** *(only December meeting)*

Before & After Visual Comparisons



Sprawl Repair Manual (Converting Commercial Strip Malls to New Urbanist Ideals)

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Before & After Visual Comparisons



San Jose California (Urban Advantage)

Before & After Visual Comparisons



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Affordable Housing – A Counterintuitive Approach?

- **Market Saturation of Housing Units**
Streamlined as-of-right zoning for multi-family housing, support for transit
- **Market Competition vs. Affordable Housing Requirements**
10% (40B), 20-25% (40R), 10% potentially 20% max (MBTA Communities)
- **What Percentage of Newburyport’s Population Qualifies?**
According to MVPC, 45% of Newburyport residents make 80% of the Area Median Income (AMI) or below, based both off of the 2023 HUD income limits for the Boston metro area (\$94,800 for a two person household) and a general calculation of what the 80% threshold would be for Newburyport specifically if using the 2020 median income of \$110,740. **This is almost 50% of our residents.**
- 10% has been deemed “economically feasible.”
- Communities must justify any higher thresholds with an Economic Feasibility Analysis (EFA) subject to EOHLC approval (permissible density matters for the EFA and can impact the affordable housing ratio)

What is 80% Area Median Income (AMI)

Unit Size	Household Size	80% AMI	Monthly Income	Maximum Rent *
Studio	1	\$82,950	\$6,912	\$2,073
1 Bedroom	2	\$94,800	\$7,900	\$2,370
2 Bedroom	3	\$106,650	\$8,887	\$2,666
3 Bedroom	4	\$118,450	\$9,870	\$2,961

Notes:

* 30% of monthly earnings towards rent is considered “affordable”

100% AMI for a Family of Four is \$149,300

Sources: 2023 HUD Income Limits, MCO Housing Services

Newburyport is in the Greater Boston Area

Rent Comparisons – Affordable vs. Market Rate

Unit Size	Market Rate (1 Boston Way)	Affordable (1 Boston Way)	Market Rate (3 Boston Way)	Affordable (3 Boston Way)
Studio	\$2,185	\$1,877	\$2,329	\$2,073 **
1 Bedroom	\$2,558	\$2,124	\$2,683	\$2,370 **
2 Bedroom	\$3,275	\$2,351	\$3,509	\$2,666 **
3 Bedroom	\$3,885	\$2,571	\$4,044	\$2,961 **

Notes:

** Maximum Rent Permissible at 80% AMI

1 Boston Way market rents do not include utilities.

3 Boston Way market rents include heat and air-conditioning.

3 Boston Way affordable rents include utilities.

“Affordable” = for those qualifying at 80% AMI

Request for Council Input – Overall Preferences?

- **Review Existing 40R Smart Growth Overlay District (Section XXIX)**
“As-of-Right” multi-family housing, with design standards, map with height allowances (3, 4 & 5 stories), 25% affordability requirement
- **Typical Zoning Parameters**
 - District Size/Area? *(proportion subject to state review/control? ranking of three mapping options to secure overall compliance?)*
 - Permitted Uses?
 - Dimensional Requirements/Allowances?
 - Parking Requirements *(base ratios, shared parking, vehicles/bicycles, EV charging spaces, placement/footprint consolidation)*
- **Increased Density or Height in Subdistricts?**
 - Kmart/Low Street sites? *(likely first redevelopment potentials)*
 - Park & Ride Lot at I-95? *(TBD w/by Healey Administration/MassDOT)*
- **Site & Architectural Design Standards?** *(use “as-of-right” w/consistency)*
- **Permitting Procedure/Plan Review Process?** *(Planning Board)*
- **Proportion of Multi-Family vs. Mixed-Use?** *(utilize incentives?)*
- **Affordability Requirement(s)?** *10%,12%,15%,20%,25%? Subdistrict Variation?*