



# TOWN OF LAKEVILLE MEETING POSTING & AGENDA REMOTE MEETING

Town Clerk's Time Stamp  
received & posted:

*K. DeCristo*  
LAKEVILLE TOWN CLERK  
RCVD 2022 JAN 25 AM 11:01  
48-hr notice effective  
when time stamped

Notice of every meeting of a local public body must be filed and time-stamped with the Town Clerk's Office at least 48 hours prior to such meeting (excluding Saturdays, Sundays and legal holidays) and posted thereafter in accordance with the provisions of the Open Meeting Law, MGL 30A §18-22 (Ch. 28-2009). Such notice shall contain a listing of topics the Chair reasonably anticipates will be discussed at the meeting.

Name of Board or Committee:	Planning Board
Date & Time of Meeting:	Thursday, January 27, 2022 at 7:00 p.m.
Location of Meeting:	<u>REMOTE MEETING</u>
Clerk/Board Member posting notice:	Cathy Murray

Cancelled/Postponed to: \_\_\_\_\_ (circle one)

Clerk/Board Member Cancelling/Postponing: \_\_\_\_\_

## A G E N D A

1. In accordance with the provisions allowed by Chapter 20 of the Acts of 2021, the January 27, 2022, public meeting of the Planning Board will be held remotely. However, to view this meeting in progress, please go to [facebook.com/LakeCAM](https://www.facebook.com/LakeCAM) (you do not need a Facebook account to view the meeting). This meeting will be recorded and available to be viewed at a later date at <http://www.lakecam.tv/>
2. 310 Kenneth W. Welch Drive – Discuss temporary parking plan
3. Master Plan Implementation - Fee Review Project-update
4. Adoption or amendments to the Zoning Bylaw
  - a. Sign By-law - update
  - b. Design Standards – update
  - c. MBTA Communities - update
  - d. Filling Station-corrections from 2018 Town Meeting
  - e. Open Space Residential Development (OSRD)
5. Housing Production Plan – update
6. Old Business
7. New Business
8. Next meeting. . . February 10, 2022
9. Any other business that may properly come before the Planning Board.
10. Adjourn

Please be aware that this agenda is subject to change. If other issues requiring immediate attention of the Planning Board arise after the posting of this agenda, they may be addressed at this meeting.

**Read the following into the record:**

In accordance with the provisions allowed by Chapter 20 of the Acts of 2021, signed by the Governor on June 16, 2021, the January 27, 2022, public meeting of the **Planning Board** will be held remotely. **However, to view this meeting in progress, please go to [facebook.com/lakecam](https://www.facebook.com/lakecam) (you do not need a Facebook account to view the meeting). This meeting will be recorded and available to be viewed at a later date at <http://www.lakecam.tv/>**



January 3, 2022

Town of Lakeville Planning Board  
346 Bedford Street  
Lakeville, MA 02347  
Attention: Mark Knox, Chairman

Re: Request for temporary expansion of parking lot at 310 Kenneth Welch Drive, Lakeville, MA

Dear Mr. Knox:

Reference is made to the Memorandum approved by the Town of Lakeville Planning Board (the "Board") dated October 22, 2021 which is attached hereto as **Exhibit A** (hereinafter referred to as the "Memo"). Pursuant to such Memo, the Board approved the site plan dated August 12, 2021 with subsequent revisions made as of August 19, 2021, August 23, 2021 and September 9, 2021 (the "Site Plan") submitted in connection with the above referenced location.

We hereby request a further revision of the Site Plan for the temporary expansion of the parking lot at the facility located at 310 Kenneth Welch Dr, Lakeville, MA. Such expansion shall allow for safe accommodations, conditions and additional parking spaces for the citizens of Lakeville Township and the patrons to the facility through the Winter and Spring. We anticipate a permanent solution will be in place before Summer 2022.

Please see the revised site plan CSK-003 dated December 17, 2021 attached hereto as **Exhibit B**. Pursuant to the revised site plan, the net gain of new parking spaces shall be a total of 33 spots. The breakdown of the proposed location for the 33 parking spaces is as follows: Thirteen (13) parking spaces shall be added to the West of the existing circular lot. Another eleven (11) parking spots shall be added to the East side of the circular lot in a tandem parking arrangement. Also, the current circular asphalt lot shall be expanded to the North to create an additional five (5) spaces, including another six (6) parking spots added to the center grass area. Please note that two (2) existing parking spaces in the circular lot shall be converted as an access route to the parking spaces to the West. The expansion will be constructed using 4" of compacted stone fill over a layer of filter fabric. A gravel parking lot at the front of the building will get us through the winter season while we work with our designer to complete a full set of engineering drawings for the permanent construction. Weather permitting, we anticipate that the permanent expansion of the parking lot to be completed by or before the end of Spring of 2022. A sketch for the proposed permanent solution has been attached as **Exhibit C**. This solution will result in a net gain of 37 spaces overall.

Should you have any questions or require additional information, please do not hesitate to contact me. We look forward to your response and appreciate the Board's consideration of this request.

Best regards,  
Jushi

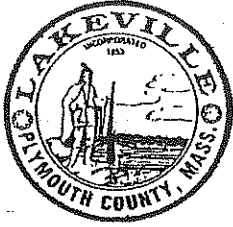
Antonio Velasco  
Digitally signed by Antonio Velasco  
DN: cn=Antonio Velasco, o=Jushi, ou=Construction, cn=Antonio Velasco  
Date: 2022.01.03 15:25:06-05'00'

By: \_\_\_\_\_  
Antonio Velasco, Project Manager  
(956) 324-9167

# .Jushi

Exhibit A

Memo dated October 22, 2021



## Town of Lakeville

PLANNING BOARD  
346 Bedford Street  
Lakeville, MA 02347  
508-946-3473

Mark Knox, Chairman  
Peter Conroy, Vice Chair  
John Lynch  
Michele T. MacEachern  
Barbara Mancovsky

## MEMORANDUM

**TO:** Board of Health  
Building Department  
Town Clerk

**FROM:** Planning Board

**DATE:** October 22, 2021

**SUBJECT:** 310 Kenneth W. Welch Drive, Site Plan Review

Please be advised the Lakeville Planning Board voted at their September 9, 2021, meeting to approve the Site Plan Review plan for 310 Kenneth W. Welch Drive, dated August 12, 2021, with revisions made on August 19, 2021, August 23, 2021, and September 9, 2021. The Site Plan consists of one page. It was prepared by Zenith Consulting Engineers, LLC.

This approval is with the following conditions:

- The note box will indicate there will be signage for Nature's Remedy's designated spaces rather than just painted markings on the pavement.
- The fire access comment will also be incorporated into the plan note box.

# Jushi

Exhibit B

Revised Site Plan

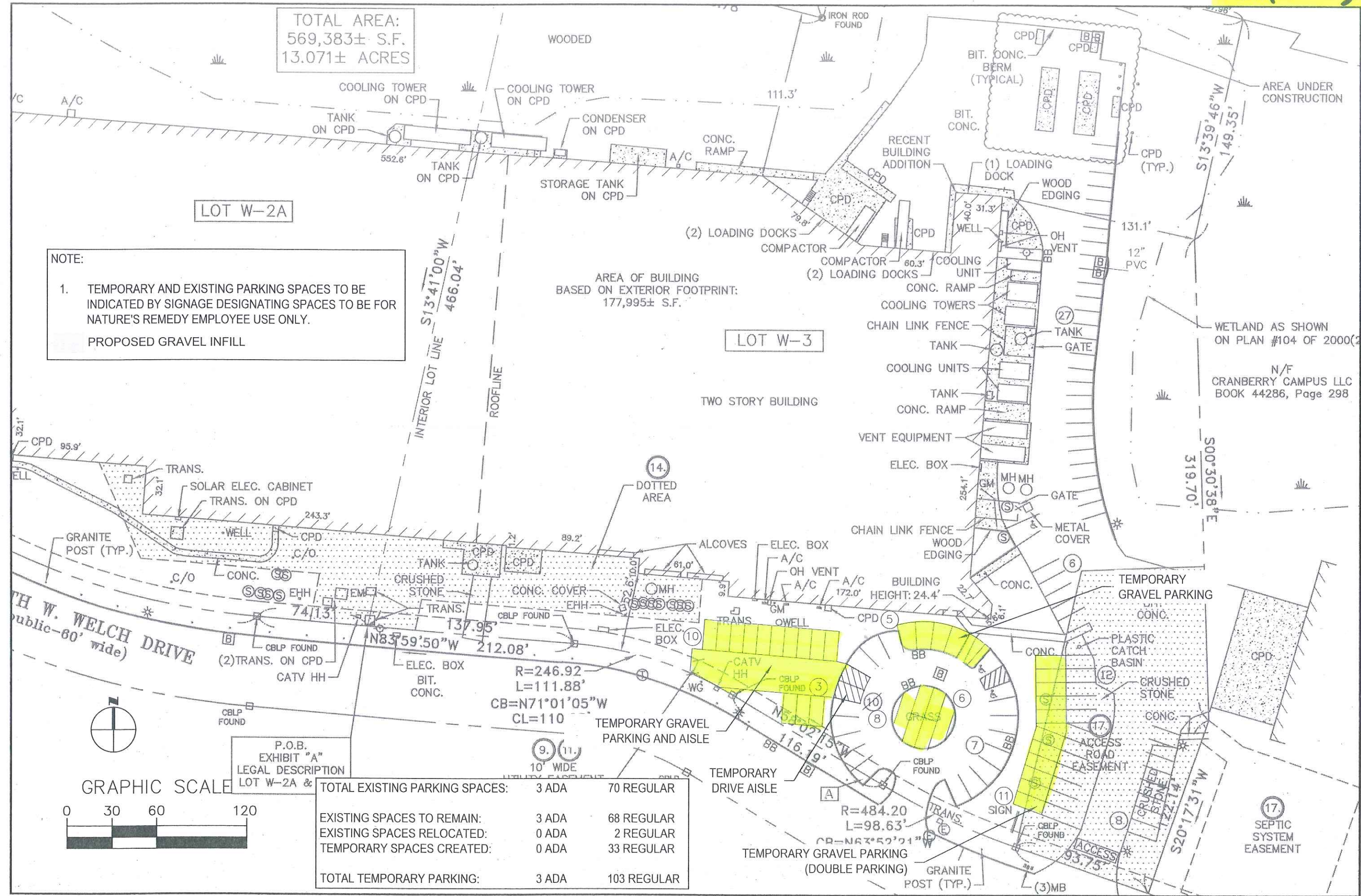
TOTAL AREA:  
569,383± S.F.  
13.071± ACRES

LOT W-2A

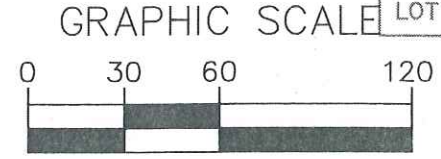
LOT W-3

NOTE:  
1. TEMPORARY AND EXISTING PARKING SPACES TO BE INDICATED BY SIGNAGE DESIGNATING SPACES TO BE FOR NATURE'S REMEDY EMPLOYEE USE ONLY.  
PROPOSED GRAVEL INFILL

AREA OF BUILDING  
BASED ON EXTERIOR FOOTPRINT:  
177,995± S.F.



TOTAL EXISTING PARKING SPACES:	3 ADA	70 REGULAR
EXISTING SPACES TO REMAIN:	3 ADA	68 REGULAR
EXISTING SPACES RELOCATED:	0 ADA	2 REGULAR
TEMPORARY SPACES CREATED:	0 ADA	33 REGULAR
TOTAL TEMPORARY PARKING:	3 ADA	103 REGULAR



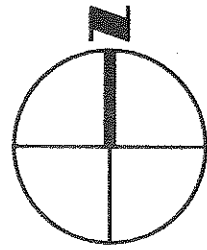
P.O.B.  
EXHIBIT "A"  
LEGAL DESCRIPTION  
LOT W-2A &

# Jushi

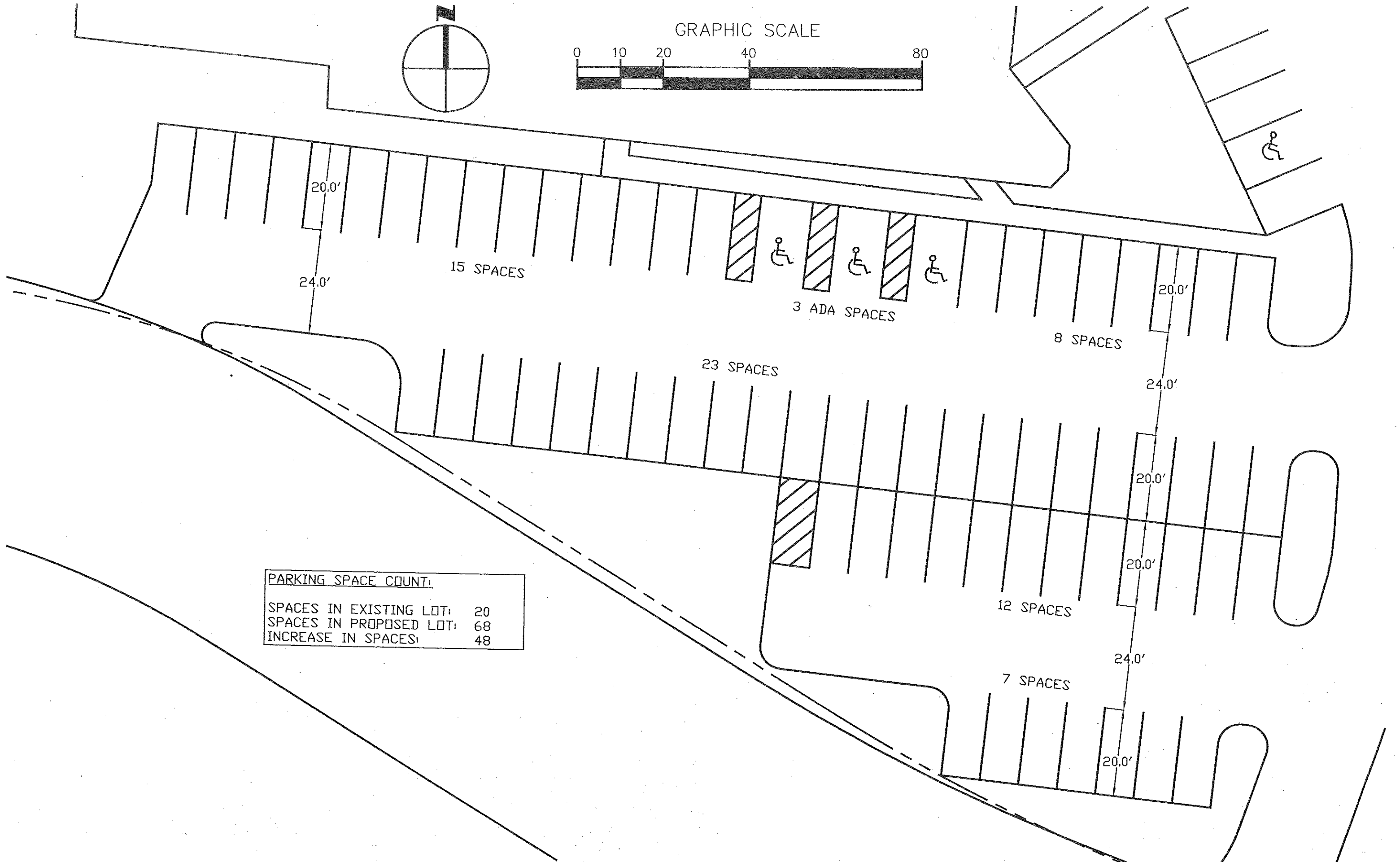
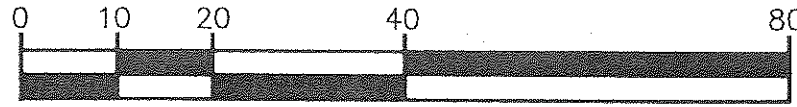
Exhibit C

Sketch for the proposed permanent solution





GRAPHIC SCALE



PARKING SPACE COUNT:	
SPACES IN EXISTING LOT:	20
SPACES IN PROPOSED LOT:	68
INCREASE IN SPACES:	48



Existing

TOTAL AREA:  
569,383± S.F.  
13.071± ACRES

LOT W-2A

LOT W-3

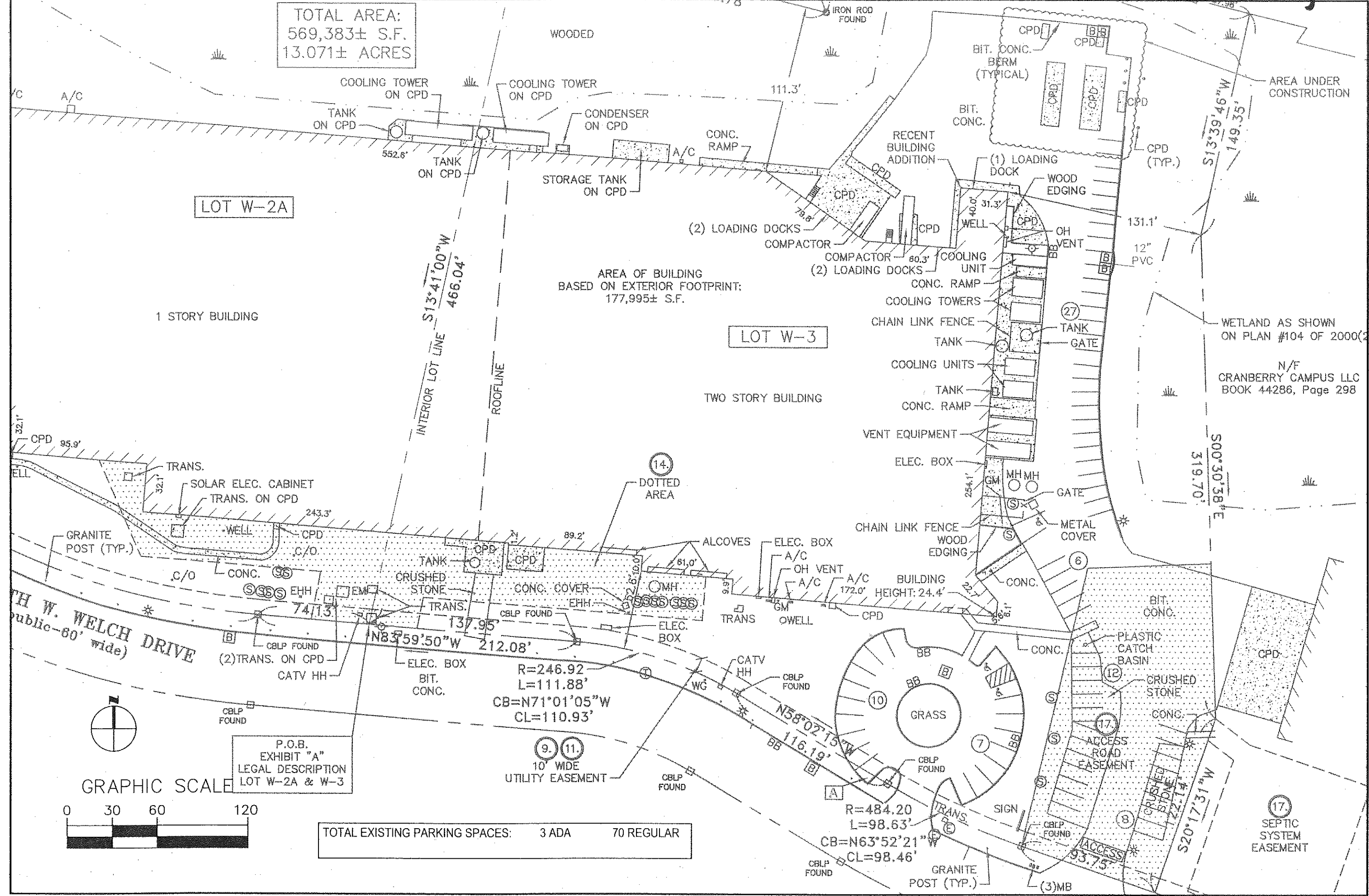
AREA OF BUILDING  
BASED ON EXTERIOR FOOTPRINT:  
177,995± S.F.

AREA UNDER  
CONSTRUCTION

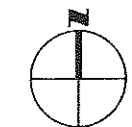
1 STORY BUILDING

TWO STORY BUILDING

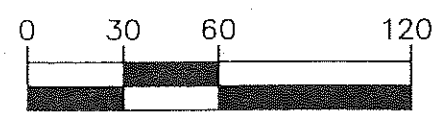
WETLAND AS SHOWN  
ON PLAN #104 OF 2000(2)  
N/F  
CRANBERRY CAMPUS LLC  
BOOK 44286, Page 298



W. WELCH DRIVE  
Public-60' wide



GRAPHIC SCALE



P.O.B.  
EXHIBIT "A"  
LEGAL DESCRIPTION  
LOT W-2A & W-3

TOTAL EXISTING PARKING SPACES: 3 ADA 70 REGULAR

December 15, 2021

### Jushi Lakeville Parking Lot Expansion - Design Schedule

2021			2022																							
12/13	12/20	12/27	1/3	1/10	1/17	1/24	1/31	2/7	2/14	2/21	2/28	3/7	3/14	3/21	3/28	4/4	4/11	4/18	4/25	5/2	5/9	5/16	5/23	5/30	6/6	
NTP																										
Survey Received																										
Request proposal for infiltration test																										
Proposals Accepted																										
Survey/Geotech Investigation (assumption)	12/23																									
Holiday Week 12/27/2021-12/31/21		12/31																								
Information relayed to Epstein (assumption)			1/4																							
4 Weeks for Engineering 1/10/22-2/4/22				1/10			2/4																			
3 Week Board Plan Review 2/7/22-2/24/22							2/4			2/24																
Plan Review Board Meeting 2/24/22										2/24																
Construction Start 3/4/2022 - 3/28/2022 End date contingent on the availability of asphalt												3/4													3/28	

- Survey Received
- Request proposal for infiltration test
- Proposals Accepted
- Survey/Geotech Investigation (assumption)
- Holiday Week 12/27/2021-12/31/21
- Information relayed to Epstein (assumption)
- 4 Weeks for Engineering 1/10/22-2/4/22
- 3 Week Board Plan Review 2/7/22-2/24/22
- Plan Review Board Meeting 2/24/22
- Construction Start 3/4/2022 - 3/28/2022  
End date contingent on the availability of asphalt

Lakeville Sign Bylaw

Possible sign changes 2022 – *Changes in Italics*

**ADD TO: Section 2.0 Definitions**

*Awnings: — An awning with lettering or logo advertising the name of the business shall constitute a sign. All such awnings over doorways and windows shall only count as one sign.*

*Changeable Copy Signs: Signs with letters which can be manually or mechanically moved in order to change the message or wording of the sign*

*Directional Signs: Shall be solely for pedestrian or vehicular traffic. Directional signs shall indicate parking entrances, exits, drive-thru's, etc. They shall not include any other information, advertising, or logos.*

*Electronic Message Boards: Electronically controlled signs which can change messages without the physical movement of the letters.*

*Electronic Outdoor Advertising: A use whereby an outdoor sign or billboard, whether double-faced, back-to-back, or V-shaped, with a screen(s) that serves to advertise, direct or call attention to any business, article, substance, or service, or anything that is digitally or electronically projected, on or by a structure of any kind on real property or upon the ground itself, and that advertises services, products or commodities that are not available on said real property or parcel.*

*Freestanding Sign: Any sign supported by a structure permanently anchored to the ground which is independent from any building.*

*Portable Signs: A sign or advertising display that is not permanent, affixed to a building, structure or the ground.*

*Public Events: An entertainment event open to the general public such as outdoor concerts, winter carnivals, parades, etc.*

*Shopping/Business Center Signs: Where more than one business is located in a building only one freestanding sign may be erected, which shall serve all of the businesses at that location.*

## 6.6 SIGN REGULATIONS

### 6.6.1 Purpose

To provide information to the public and for the identification of permitted activities from public ways, the erection and maintenance of signs shall be subject to regulation in order to preserve and enhance the visual appearance and character of the Town, to provide for the safety and general welfare of the public, and to prevent injurious and detrimental effects from the distracting demands for attention resulting from uncontrolled shapes, sizes, colors, motions, lighting, and inappropriate locations.

### ***ADD NEW SECTION: 6.6.2 Permit Required***

*ADD 6.6.2.1 No sign shall be erected, altered, or relocated without a permit issued by the Building Commissioner, except as otherwise provided herein.*

*ADD 6.6.2.2 The applicant proposing to erect, alter or relocate a sign shall submit to the Building Commissioner a completed sign permit application, together with the required application fee and sketches of all proposed signs. The drawings shall specify the building and sign dimensions, colors, attachment methods, location of the signs, method of illumination and any other pertinent information which may be required*

*ADD 6.6.2.3 Sign permit fees shall be determined by the Selectboard.*

### 6.6.3 General Sign Regulations

6.6.3. No sign shall be located closer than ten (10) feet from the street right-of-way, and no closer than thirty (30) feet from the side or rear property lines.

6.6.3.2 Signs shall be limited to a maximum height of twenty (20) feet as measured from the crown of the road directly perpendicular to the sign.

6.6.3.3 Signs shall be limited in number to two (2) signs for each business or industrial establishment or company.

Business or industrial sites containing more than one establishment (mill outlets, shopping centers, industrial parks, etc.) shall be limited to two (2) signs per establishment, one of which shall be attached to the structure to designate the establishment within the structure, and the other attached to or part of a central common directory sign. Business and Industrial subdivisions may have one (1) entrance sign, not being a directory sign, in addition to the above. Signs for this common directory sign and for the business and industrial subdivision entrance sign may be double-sided and a maximum of sixty-four (64) square feet in area.

6.6.3.4 Unless permitted elsewhere in this By-Law, no sign may exceed thirty-two (32) square feet in area.

6.6.3.5 Signs erected upon or attached to a building shall not project:

6.6.3.5.1 horizontally more than two (2) feet;

6.6.3.5.2 into or over any way;

6.6.3.5.3 above the highest part of the building, not exceeding twenty (20) feet from ground level.

6.6.3.6 No free-standing sign shall project more than two (2) feet horizontally from its means of support

6.6.3.7 The colors red, green or yellow shall not be used in a manner that might confuse the meaning or stop signs, stop lights or other traffic signs.

*ADD 6.6.3.8 Freestanding signs shall have landscaping at the base*

*ADD 6.6.3.9 All Signs must be maintained, this includes awning material, lettering, lighting, and landscaping.*

#### 6.6.4 Exemptions

6.6.4.1 Flags or insignia of the United States or any political subdivision thereof or any other nation or country when not used for commercial promotion or display.

6.6.4.2 Temporary posters, placards, or signs associated with a political campaign or current political issue. Any such sign must be removed within 48 hours after its relevance has expired.

6.6.4.3 Signs located on residential structures or driveways, so long as they do not exceed two (2) square feet and are for the primary purpose of indicating the name or names of the resident.

6.6.4.4 For sale, lease, or rent signs on real property or the signs of real estate agents or brokers, so long as they do not exceed six (6) square feet in area.

6.6.4.5 Signs less than two (2) square feet designating entry and egress from parking areas, and other directional traffic control and safety- related signs.

6.6.4.5 Normal highway control signs, hazard signs, and other state-approved highway safety signs.

*ADD 6.6.4.7 Temporary subdivision sales signs not to exceed 32 square feet.*

*ADD 6.6.4.8 Permanent subdivision or residential development identification signs shall not exceed 12 square feet. They may only be externally illuminated by spotlights and shall be set back 10 feet from property lines.*

*ADD 6.6.4.9 One sign not exceeding 32 square feet on a building or project under construction, repair, or renovation identifying the contractor, architect, and/or owner.*

*ADD 6.6.4.10 Fuel pump information signs, only as required by State law, are allowed and shall not affect the computation of allowable number of signs or aggregate sign size on a property.*

#### 6.6.5 Temporary Signs

6.6.5.1 Temporary exterior signs or mobile sign displays are permitted to advertise the opening of a business at a new location or to advertise a special event at its intended location.

6.6.5.2 Such signs shall not exceed thirty-two (32) square feet in area.

6.6.5.3 No two or more of such signs shall be closer than five hundred (500) feet apart.

6.6.5.4 The combined total number of days that one or more temporary signs may be displayed on the premises shall not exceed sixty (60) days in each twelve (12) month period per establishment.

6.6.5.5 Temporary signs shall be displayed in conformance with setback requirements for all signs.

6.6.5.6 At the end of the sixty (60) day period, the sign shall be removed by the initiative of the company, organization, or individual or their agents as indicated by the display of information.

6.6.5.7 All such temporary signs as herein described must meet the approval of the Building Commissioner regarding safety of construction, placement, mounting, and lighting. By written notice specifying the corrections needed, the Building Commissioner shall order the immediate action of the displayer to either correct the sign or have it removed.

If immediate action is not taken, the Building Commissioner may, at his own initiative or with the enlisted aid of any Town department, remove such sign



**ADD TO 6.6.6 the Section title: Special Permits**  
**RENUMBER THE EXISTING SECTION TO: 6.6.6.1**

6.6.6.1 Off-premise signs, signs larger in area or higher than specified or a greater number of signs, may be granted by Special Permit of the Board of Appeals.

**ADD 6.6.6.2** *A Special Permit may not be issued for signs prohibited by this by-law in Section 6.6.7*

**RENUMBER SECTION 6.6.2 General Sign Prohibitions TO SECTION 6.6.7 General Sign Prohibitions AND RENUMBER THE REMAINDER OF THIS SECTION ACCORDINGLY**

6.6.7.1 Signs, any part of which moves, flashes, or incorporates traveling or animated lights and all beacons and flashing devices whether a part of, attached to, or apart from a sign are prohibited.

6.6.7.2 No illumination shall be permitted which casts glare onto any residential premises, or onto any portion of a way so as to create a traffic hazard.

6.6.7.3 Any sign which is considered by the Building Commissioner, police department or fire department to be obstructive, hazardous, or dangerous because of age, damage, poor construction, or a potential danger in a severe storm must be removed immediately, but in no case later than seven (7) days following receipt of written notice from the Building Commissioner.

6.6.7.4 No sign shall be attached to or obstruct any fire escape, fire or emergency exit; no sign shall be located as to obstruct free passage of light and air to any door, window, skylight, or other similar opening.

**ADD 6.6.7.5** *Roof mounted Signs*

**ADD 6.6.7.6** *No sign shall be attached to utility poles, trees, or traffic control signs or devices, except for public event banners or flags.*

**ADD 6.6.7.7** *Portable Signs*

**ADD 6.6.7.8** *Banners, pennants, ribbons, streamers, spinners, balloons, string of lights not associated with a specific holiday or religious event, and flags other than those identifying a nation, state, city town, or institutional organization, unless otherwise exempted by this bylaw.*

**ADD 6.6.7.9** *Electronic message boards or the electronic message board portion of a sign shall not exceed 12 Square feet. They shall be turned off during the overnight hours from 11:00 pm until 6:00 am unless a facility providing medical care with hours of operation outside of these hours. In this case the applicant can apply for a special permit from the Zoning Board of Appeals.*

*ADD 6.6.7.10 Changeable copy signs or the portion of a sign that is changeable copy shall not exceed 12 square feet. They shall not be illuminated during the overnight hours from 11:00 pm until 6:am unless a facility providing medical care with hours of operation outside of these hours. In this case the applicant can apply for a special permit from the Zoning Board of Appeals.*

**ADD NEW SECTION: 6.6.8. Removal of signs**

*ADD 6.6.8.1 Any sign which is insecure, in danger of falling over, or is deemed unsafe by the Building Commissioner shall be removed.*

*ADD 6.6.8.2 Abandoned signs shall be removed by the sign permit holder and/or the owner of the building or premises at which the abandoned sign is located within ninety (90) days from the date the sign became abandoned*

**ADD NEW SECTION: 6.6.9 Nonconforming Signs**

*ADD 6.6.9.1 A lawfully existing non-conforming sign may have its surface and support renewed or replaced with new material without applying for a new permit if the replacement or renewal is for the same business and has the same dimensions, same copy and same location of the existing sign.*

*ADD 6.6.9.2 All non-conforming signs shall be removed or shall be altered so as to conform with the following provisions:*

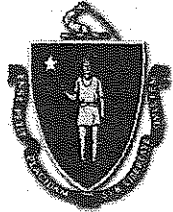
- 1. When the nature of the business changes and the sign is changed or modified in shape, size or legend; or*
- 2. When the name of the business changes and the sign is changed or modified in shape, size, or legend*

*Add 6.6.9.3 Any abandoned sign shall not be reestablished except in conformance with this bylaw.*

**ADD NEW SECTION 6.6.10 Administration, violations, appeals**

*ADD 6.6.9.1 It shall be the duty of the Building Commissioner to administer this bylaw.*

*ADD 6.6.9.2 Appeals of any decision taken by the Building Commissioner shall be made in accordance with Section 8.0 of this By-Law.*



4C

Commonwealth of Massachusetts  
DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Jennifer D. Maddox, Undersecretary

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

**1. Overview of Section 3A of the Zoning Act**

Section 18 of chapter 358 of the Acts of 2020 added a new section 3A to chapter 40A of the General Laws (the Zoning Act) applicable to MBTA communities (referred to herein as “Section 3A”). Subsection (a) of Section 3A provides:

*An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.*

The purpose of Section 3A is to encourage MBTA communities to adopt zoning districts where multi-family zoning is permitted as of right, and that meet other requirements set forth in the statute.

The Department of Housing and Community Development, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. DHCD promulgated preliminary guidance on January 29, 2021. DHCD updated that preliminary guidance on December 15, 2021. These guidelines provide further information on how MBTA communities may achieve compliance with Section 3A.

**2. Definitions**

“Adjacent community” means an MBTA community with no transit station within its border or within 0.5 mile of its border.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring occupancy by at least one person age 55 or older.



“Bus service community” means an MBTA community with a bus station within its borders or within 0.5 miles of its border, or an MBTA bus stop within its borders, and no subway station or commuter rail station within its border, or within 0.5 mile of its border.

“Bus station” means a building located at the intersection of two or more public bus lines, within which services are available to bus passengers; provided that a bus station does not include a shelter or other structure without walls and a foundation.

“Chief executive officer” means the mayor in a city, and the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

“Commonwealth’s sustainable development principles” means the principles set forth at <https://www.mass.gov/files/documents/2017/11/01/sustainable%20development%20principles.pdf> as such principles may be modified and updated from time to time.

“Commuter rail community” means an MBTA community with a commuter rail station within its borders, or within 0.5 mile of its border, and no subway station within its borders, or within 0.5 mile of its border.

“Developable land” means land on which multi-family housing units have been or can be permitted and constructed. Developable land shall not include land under water, wetland resource areas, areas lacking adequate water or wastewater infrastructure or capacity, publicly owned land that is dedicated to existing public uses, or privately owned land encumbered by any kind of use restriction that prohibits residential use.

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no legal restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“MBTA community” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.” A list of MBTA communities is attached, including the designation of each MBTA community as a rapid transit community, a bus service community, a commuter rail community or an adjacent community for purposes of these compliance guidelines.

“Multi-family housing” means a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

“Multi-family district” means a zoning district, including an overlay district, in which multi-family uses are allowed by right.

“Rapid transit community” means an MBTA community with a subway station within its borders, or within 0.5 mile of its border. An MBTA community with a subway station within its borders, or within 0.5 mile of its border, shall be deemed to be a rapid transit community even if there is one or more commuter rail stations or MBTA bus lines located in that community.

“Reasonable size” means not less than 50 contiguous acres of land with a unit capacity equal to or greater than the unit capacity specified in section 5 below.

“Residential dwelling unit” means a dwelling unit equipped with a full kitchen and bathroom.

“Unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within the multi-family district, made in accordance with the requirements of section 5.b below.

### **3. General Principles of Compliance**

a. These compliance guidelines describe how an MBTA community can comply with the requirements of Section 3A. The guidelines specifically address:

- What it means to permit multi-family housing “as of right”;
- The metrics that determine if a multi-family district is “of reasonable size”;
- How to determine if a multi-family district has a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code;
- The meaning of Section 3A’s mandate that “such multi-family housing shall be without age restrictions and shall be suitable for families with children”; and
- The extent to which MBTA communities have flexibility to choose the location of a multi-family district.

b. The following general principles have informed the more specific compliance criteria that follow:

- All MBTA communities should contribute to the production of new housing stock.
- MBTA communities with subway stations, commuter rail stations and other transit stations benefit from having these assets located within their boundaries and should provide opportunity for multi-family housing development around these assets. MBTA communities with no transit stations within their boundaries nonetheless benefit from being close to transit stations in nearby communities.
- MBTA communities should adopt multi-family districts that will lead to development of multi-family housing projects of a scale, density and character that are consistent with a community’s long-term planning goals.

- “Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family district that is “reasonable” in one city or town may not be reasonable in another city or town. Objective differences in community characteristics must be considered in determining what is “reasonable” for each community.
- To the maximum extent possible, multi-family districts should be in areas that have safe and convenient access to transit stations for pedestrians and bicyclists.

#### 4. Allowing Multi-Family Housing “As of Right”

To comply with Section 3A, a multi-family district must allow multi-family housing “as of right,” meaning that the construction and occupancy of multi-family housing is allowed in that district without the need to obtain any discretionary permit or approval. Site plan review and approval may be required for multi-family uses allowed as of right. Site plan review is a process by which a local board reviews a project’s site layout to ensure public safety and convenience. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review may not be used to deny a project that is allowed as of right, nor may it impose conditions that make it infeasible or impractical to proceed with a multi-family use that is allowed as of right.

#### 5. Determining “Reasonable Size”

In making determinations of “reasonable size,” DHCD will take into consideration both the area of the district and the district’s multi-family unit capacity (that is, the number of units of multi-family housing that can be developed as of right within the district).

##### a. *Minimum land area*

Section 3A’s requirement that a multi-family district be a “reasonable size” indicates that the purpose of the statute is to encourage zoning that allows for the development of a reasonable amount of multi-family housing in each MBTA community. A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. A district should not be a single development site on which the municipality is willing to permit a particular multi-family project. To comply with Section 3A’s “reasonable size” requirement, multi-family districts must comprise at least 50 acres of land—or approximately one-tenth of the land area within 0.5 mile of a transit station.

An overlay district is an acceptable way to achieve compliance with Section 3A, provided that such an overlay district should not consist of a collection of small, non-contiguous parcels. At least one portion of the overlay district land areas must include at least 25 contiguous acres of land. No portion of the district that is less than 5 contiguous acres land will count toward the minimum size requirement.

##### b. *Minimum multi-family unit capacity*

A reasonably sized multi-family district must also be able to accommodate a reasonable number of multi-family housing units as of right. MBTA communities seeking a determination of compliance with Section 3A must provide to DHCD an accurate assessment of the number of multi-family housing units that can be developed as of right within the multi-family district, referred to as the district’s unit capacity.

A compliant district's multi-family unit capacity must be equal to or greater than a specified percentage of the total number of housing units within the community. The required percentage will depend on the type of transit service in the community, as follows:

Category	Minimum multi-family units as a percentage of total housing stock
Rapid transit community	25%
Bus service community	20%
Commuter rail community	15%
Adjacent community	10%

The minimum unit capacity applicable to each MBTA community is determined by multiplying the number of housing units in that community by 0.25, 0.20, 0.15 or 0.10, depending on the type of service in that community. For example, a rapid transit community with 7,500 housing units is required to have a multi-family district with a multi-family unit capacity of  $7,500 \times 0.25 = 1,875$  multi-family units. When calculating the minimum unit capacity, each MBTA community should use 2020 census data to determine the number of total housing units, unless another data source has been approved by DHCD.

When determining the unit capacity for a specific multi-family district, each MBTA community must estimate how many units of multi-family housing could be constructed on each parcel of developable land within the district. The estimate should take into account the amount of developable land in the district, as well as the height limitations, lot coverage limitations, maximum floor area ratio, set back requirements and parking space requirements applicable in that district under the zoning ordinance or bylaw. The estimate must also take into account the restrictions and limitations set forth in any other municipal bylaws or ordinances; limitations on development resulting from inadequate water or wastewater infrastructure, and, in areas not served by public sewer, any applicable limitations under Title 5 of the state environmental code or local septic regulations; known title restrictions on use of the land within the district; and known limitations, if any, on the development of new multi-family housing within the district based on physical conditions such the presence of waterbodies, and wetlands.

If the estimate of the number of multi-family units that can be constructed in the multi-family district is less than the minimum unit capacity, then the MBTA community must change the boundaries of the multi-family district or make changes to dimensional regulations applicable to that district (or to other local ordinances or bylaws) to allow for the development of a greater number of multi-family units as of right.

It is important to understand that a multi-family district's unit capacity is not a mandate to construct a specified number of housing units, nor is it a housing production target. Section 3A requires only that each MBTA community has a multi-family zoning district of reasonable size. The law does not require the production of new multi-family housing units within that district. There is no requirement nor expectation that a multi-family district will be built out to its full unit capacity.

In some communities, there may be a significant number of multi-family units already existing in the multi-family district; those communities should generally expect fewer new units to be produced in the district, because it is more fully built out. Conversely, there may be some communities with relatively little multi-family housing in its multi-family district; there generally will be more opportunity for new

housing production in those districts in which there is a large gap between unit capacity and the number of existing multi-family units.

## 6. Minimum Gross Density

Section 3A states that a compliant multi-family district must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. DHCD will deem a zoning district to be compliant with Section 3A's minimum gross density requirement if the following criteria are met.

### a. *District-wide gross density*

Section 3A expressly requires that a multi-family district—not just the individual parcels of land within the district—must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. To comply with this requirement, the zoning must legally and practically allow for a district-wide gross density of 15 units per acre. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

To meet the district-wide gross density the municipality must demonstrate that the zoning for the district permits a gross density of 15 units per acre of land within the district, “include[ing] land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.” By way of example, to meet that requirement for a 50-acre multi-family district, the municipality must show at least 15 existing or potential new multi-family units per acre, or a total of at least 750 existing or potential new multi-family units.

### b. *Achieving district-wide gross density by sub-districts*

Zoning ordinances and bylaws typically limit the unit density on individual parcels of land. To comply with the statute's density requirement, an MBTA community may establish sub-districts within a multi-family district, with different density requirements and limitations for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre.

## 7. Determining Suitability for Families with Children

Section 3A states that a compliant multi-family district must be without age restrictions and must be suitable for families with children. DHCD will deem a multi-family district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions and does not place any limits or restrictions on the size of the units, the number of bedrooms, the size of bedrooms, or the number of occupants.



## 8. Location of Districts

Section 3A states that a compliant multi-family district shall “be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” DHCD will interpret that requirement consistent with the following guidelines.

### *a. General rule for measuring distance from a transit station.*

To maximize flexibility for all MBTA communities, the distance from a transit station may be measured from the boundary of any parcel of land owned by a public entity and used for purposes related to the transit station, such as an access roadway or parking lot.

### *b. MBTA communities with some land area within 0.5 miles of a transit station*

An MBTA community that has a transit station within its boundaries, or some land area within 0.5 mile of a transit station located in another MBTA community, shall comply with the statutory location requirement if a substantial portion of the multi-family district is located within the prescribed distance. Absent compelling circumstances, at least [one half] of the land area of the multi-family district should be located within 0.5 mile of the transit station. The multi-family district may include land areas that are further than 0.5 mile from the transit station, provided that such areas are easily accessible to the transit station based on existing street patterns and pedestrian connections.

In unusual cases, the most appropriate location for a multi-family district may be in a land area that is further than 0.5 miles of a transit station. Where none of the land area within 0.5 mile of transit station is appropriate for development of multi-family housing—for example, because it comprises wetlands or land publicly owned for recreation or conservation purposes—the MBTA community may propose a multi-family use district that has less than one-half of its land area within 0.5 miles of a transit station. To the maximum extent feasible, the land areas within such a district should be easily accessible to the transit station based on existing street patterns, pedestrian connections, and bicycle lanes.

### *c. MBTA communities with no land area within 0.5 miles of a transit station*

When an MBTA community has no land area within 0.5 mile of a transit station, 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—for example, near an existing downtown or village center, near an RTA bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

## 9. Determinations of Compliance

DHCD will make determinations of compliance with Section 3A upon request from an MBTA community, in accordance with the following criteria and schedule. An MBTA community may receive a determination of full compliance when it has a multi-family district that meets all of the requirements of Section 3A. An MBTA community may receive a determination of interim compliance for a limited duration to allow time to enact a new multi-family district or amend an existing zoning district in order to achieve full compliance with Section 3A.

*a. Requests for determination of compliance*

When an MBTA community believes it has a multi-family district that complies with the requirements for Section 3A, as set forth in these guidelines, it may request a determination of compliance from DHCD. Such a request may be made for a multi-family district that was in existence on the date that Section 3A became law, or for a multi-family district that was created or amended after the enactment of Section 3A. In either case, such request shall be made on a form required by DHCD and shall include, at a minimum, the following information, which shall be provided in a format or on a template prescribed by DHCD:

General district information

- i. A map showing the municipal boundaries and the boundaries of the multi-family district;
- ii. A copy of those provisions in the municipal zoning code necessary to determine the uses permitted as of right in the multi-family district and the dimensional limitation and requirements applicable in the multi-family district;
- iii. A plan showing the boundaries of each parcel of land located within the district, and the area and ownership of each parcel as indicated on current assessor records;

Location of districts

- iv. A map showing the location of the nearest transit station and how much of the multi-family district is within 0.5 miles of that transit station;
- v. In cases where no portion of the multi-family district is located within 0.5 miles of a transit station, a statement describing how the development of new multi-family housing within the district would be consistent with the Commonwealth's sustainable development principles;

Reasonable size metrics

- vi. A calculation of the total land area within the multi-family district;
- vii. A calculation of the multi-family district's unit capacity, along with a statement describing the methodology by which unit capacity was determined, together with:
  - a. A description of the water and wastewater infrastructure serving the district, and whether that infrastructure is sufficient to serve any new multi-family units included in the unit capacity;
  - b. A description of any known physical conditions, legal restrictions or regulatory requirements that would restrict or limit the development of multi-family housing within the district;
  - c. The number and age of multi-family housing units already existing within the multi-family district, if any.

District gross density

- viii. The gross density for the multi-family district, calculated in accordance with section 6 of these guidelines.

## Housing suitable for families

- ix. An attestation that the zoning bylaw or ordinance does not place any limits or restrictions on the size of the units, the number of bedrooms, the size of bedrooms, or the number of occupants in multi-family housing units within the multi-family district.

## Attestation

- x. An attestation that the application is accurate and complete, signed by the MBTA community's chief executive officer.

As soon as practical after receipt of a request for determination of compliance, DHCD will either send the requesting MBTA community a notice that it has provided all of the required information, or identify the additional information that is required to process the request. Upon reviewing a complete application, DHCD will provide the MBTA community a written determination either stating that the existing multi-family use district complies with Section 3A, or identifying the reasons why the multi-family use district fails to comply with Section 3A and the steps that must be taken to achieve compliance.

An MBTA community shall be deemed to be in compliance with Section 3A for the period of time during which a request for determination of compliance, with all required information, is pending at DHCD.

### *b. Action plans and interim compliance—New or amended district*

Many MBTA communities do not currently have a multi-family district of reasonable size that complies with all of the requirements set out in Section 3A and these guidelines. These MBTA communities must take affirmative steps towards the creation of a compliant multi-family district within a reasonable time. To achieve interim compliance, the MBTA community must, by no later than the dates specified in section 9.c, send to DHCD written notice that a new multi-family district, or amendment of an existing multi-family district, must be adopted to come into compliance with Section 3A. The MBTA community must then take the following actions to maintain interim compliance:

- i. *Creation of an action plan.* Each MBTA community must provide DHCD with a proposed action plan and timeline for any planning studies or community outreach activities it intends to undertake in order to adopt a multi-family district that complies with Section 3A. DHCD may approve or require changes to the proposed action plan and timeline by sending the MBTA community written notice of such approval or changes. Rapid transit communities and bus service communities must obtain DHCD approval of an action plan by no later than March 31, 2023. Commuter rail communities and adjacent communities must obtain DHCD approval of a timeline and action plan by no later than July 1, 2023.
- ii. *Implementation of the action plan.* The MBTA community must timely achieve each of the milestones set forth in the DHCD-approved action plan, including but not limited to the drafting of the proposed zoning amendment and the commencement of public hearings on the proposed zoning amendment.

- iii. *Adoption of zoning amendment.* An MBTA community must adopt the zoning amendment by the date specified in the action plan and timeline approved by DHCD. For rapid transit communities and bus service communities, DHCD will not approve an action plan with an adoption date later than December 31, 2023. For commuter rail communities and adjacent communities, DHCD will not approve an action plan with an adoption date later than December 31, 2024.
- iv. *Determination of full compliance.* Within [90] days after adoption of the zoning amendment, the MBTA community must submit to DHCD a complete application requesting a determination of full compliance. The application must include data and analysis demonstrating that a district complies with all of the compliance criteria set forth in these guidelines, including without limitation the district's land area, unit capacity, gross density and location.

During the period that an MBTA community is creating and implementing its action plan, DHCD will endeavor to respond to inquiries about whether a proposed zoning amendment will create a multi-family district that complies with Section 3A. However, DHCD will issue a determination of full compliance only after final adoption of the proposed zoning amendment and receipt of a complete application demonstrating the unit capacity.

*c. Timeframes for submissions by MBTA communities*

To remain in interim compliance with Section 3A, an MBTA community must take one of the following actions by no later than December 31, 2022:

- i. Submit a complete request for a determination of compliance as set forth in section 9.a above; or
- ii. Notify DHCD that there is no existing multi-family district that fully complies with these guidelines, and submit a proposed action plan as described in section 9.b above.

**10. Renewals and Rescission of a Determination of Compliance**

*a. Term and renewal of a determination of compliance*

A determination of compliance shall have a term of 10 years. Each MBTA community shall apply to renew its certificate of compliance at least 6 months prior to its expiration. DHCD may require, as a condition of renewal, that the MBTA community report on the production of new housing within MBTA community, and in the multi-family district that was the basis for compliance. Applications for renewal shall be made on a form proscribed by DHCD.

*b. Rescission of a determination of compliance*

DHCD reserves the right to rescind a determination of compliance if DHCD determines that (i) the MBTA community submitted inaccurate information in its application for a determination of compliance, (ii) the MBTA community amended its zoning or enacted a general bylaw or other rule or regulation that materially alters the Unit capacity in the applicable multi-family use district.

11. Effect of Noncompliance

If at any point DHCD determines that an MBTA community is not in compliance with Section 3A, that MBTA community will not be eligible for funds from the following grant programs: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2E of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A. DHCD may, in its discretion, take non-compliance into consideration when making other discretionary grant awards.

**MBTA COMMUNITIES**  
**FREQUENTLY ASKED QUESTIONS**

**A. General**

***A1. What role does DHCD play in determining compliance with the new section 3A of the Zoning Act (“Section 3A”)?***

Section 3A gives DHCD, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, discretion to promulgate guidelines to determine if an MBTA community complies with Section 3A. DHCD released draft guidelines on December 15, 2021. The draft guidelines clarify what is required to comply with the statute, for example by defining what it means for a district to be of “reasonable size,” and explaining how communities demonstrate that a district meets the law’s minimum gross density requirement. The draft guidelines do not impose mandates or create restrictions that are not in the law.

***A2. Can you clarify how DHCD determined if a particular MBTA community is a rapid transit community, a bus service community, a commuter rail community, or an adjacent community?***

MBTA communities were categorized based on whether they have transit service located within the municipality or within 0.5 miles of the municipal boundary, and if so what type of transit service. A community with access to more than one transit type is classified in the category with the higher unit capacity requirement. More specifically:

- A rapid transit community has an MBTA subway station located within its borders, or within 0.5 miles of its border. Note, a rapid transit community may also have other types of transit stations.
- A bus service community has no subway station within its border or within 0.5 miles of its border, but does have an MBTA bus route with one or more bus stops located within the community. Note, a bus community that happens also to have a commuter rail station within its borders is placed within the bus community category due to the presence of the bus route.
- A commuter rail community has a commuter rail station within its borders or within 0.5 miles of its border, but has no bus route or subway station.
- An adjacent community abuts a rapid transit community, bus service community or commuter rail community, has no subway station or commuter rail station within its boundaries or within 0.5 miles of its border, and has no MBTA bus route running through it.

**B. Location of Districts**

***B1. How much discretion does each MBTA community have with respect to where a multi-family district is located?***

A multi-family zoning district must be located within 0.5 miles of a transit station, with at least half of the district's land area within the 0.5-mile radius, when that is possible. Where it is not possible to locate a district within 0.5 miles of a transit station, cities and towns otherwise have considerable flexibility to decide where to locate these districts. These districts may be located where there are existing single-family, multi-family, commercial or other existing uses and structures, or in areas ready for redevelopment. DHCD strongly encourages cities and towns to consider multi-family districts where there is existing or planned pedestrian and bicycle access to a transit station, or that otherwise are in areas of concentrated development. Regardless of location, each community must demonstrate that the zoning allows for multi-family housing that meets or exceeds the required unit capacity and at a density that meets the statutory minimum.

***B2. What if my community has more than one transit station—for example, a subway station and a separate commuter rail station, or multiple commuter rail stations? Do I need a multi-family zoning district in proximity to each station? If not, can I choose which transit station the district?***

Section 3A requires each MBTA community to “have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right ....” An MBTA community may have more than 1 such multi-family zoning district, but a single district is all that Section 3A requires. If an MBTA community has more than one transit station, it may locate the multi-family zoning district within 0.5 miles of any of them.

***B3. Can my town establish a multi-family district in an area where there is already significant multi-family development?***

Yes, but you still must demonstrate the district meets the “reasonable size” criteria, including the minimum unit capacity, and at the required minimum gross density.

***B4. Can my town establish a multi-family district in an area where there are many single family homes on small lots?***

Yes, but it may be difficult to demonstrate such a district meets the minimum multi-family unit capacity and gross density requirements, because the zoning is unlikely to allow for the construction of the required number and density of multi-family housing units on small parcels.

**B5.** *My community has been categorized as a “bus service community” because we have an MBTA bus route, with several bus stops in town. Are bus stops or park-and-ride locations the same as “bus stations,” and do we have to locate our multi-family zoning district within 0.5 miles of one of a bus stop or park-and-ride location if we have one?*

No. Neither a bus stop nor a park-and-ride location is considered to be a bus station. The draft guidelines attempted to make this point by including a definition of bus station.

**C.** Size of Districts

**C1.** *How do the draft compliance guidelines define reasonable size?*

The draft compliance guidelines consider two factors in determining if a zoning district is of reasonable size. First, they require the land area in the district be at least 50 acres. Second, the draft guidelines consider the number of multi-family units that the zoning allows in the district—what the guidelines refer to as the district’s “multi-family unit capacity.” The minimum multi-family unit capacity for each district depends on the type of transit service in a particular community, if any, and ranges from 10 to 25 percent of the community’s total housing stock. This may at first sound like a large number of units, but keep in mind that “unit capacity” is just a measure of the number of multi-family units allowed by right in the district—many of which may already exist. Unit capacity is not a requirement to construct a particular number of units, or any units at all. Section 3A requires multi-family by right zoning, not housing production.

**C2.** *A minimum land area of 50 acres seems like a lot—isn’t that too big for most communities?*

The intent of Section 3A is to require the creation of multi-family zoning districts within 0.5 miles of a transit station, where applicable. For reference, a circle with a half-mile radius and a transit station at its center comprises about 500 acres. The minimum district size of 50 acres is approximately one-tenth of that land area. In most MBTA communities, 50 acres will be well under 1 percent of the community’s total land area. A minimum land area of 50 acres will encourage long-term, neighborhood-scale planning, instead of using zoning as a way to permit proposed projects on specific sites. But 50 acres is still only a small fraction of the land area in a town and gives communities significant flexibility on where to locate a district in the half-mile radius around a transit station.

**C3.** *Section 5.a of the draft guidelines states that portions of an overlay district can be a minimum of 5 acres as long as one portion of the overlay district is 25 acres. Does this apply to “base districts” as well?*

Yes, base districts and overlay districts have the same minimum land area requirements.



- C4. *My community has 2500 total housing units and is categorized as an “adjacent community.” Is the required unit capacity 250 (10% of the total housing units) or 750 (50 acres x 15 units/acre)?***

Your town’s minimum unit capacity is 250 as that term is defined in the draft guidelines. But, to comply with Section 3A, the multi-family zoning district also must meet the minimum gross density requirement of not less than 750 multi-family units (for a 50-acre district). Because the guidelines establish a minimum land area of 50 acres and the statute requires a minimum gross density of 15 units per acre, the result is that every MBTA community, regardless of its size, must provide a zoning district that allows at least 750 multi-family units as of right. This requirement is a floor on the number of units a zoning district must allow—many MBTA communities are required to have a district with a larger unit capacity. In other words, because of the minimum gross density requirement, a compliant district must allow at least 750 units regardless of the number of housing units in the community.

- C5. *My community is categorized as a “commuter rail community” because we have a commuter rail station. We have almost 10,000 housing units. Are you saying we need to construct new multi-family units equal to 15% of our total housing stock?***

No, your community does not have to produce 1,500 new housing units. Your community must adopt a multi-family zoning district that can accommodate that many units. Those units may be existing units, as long as they would be allowed to be built as of right under the district’s zoning; or they may be new units that potentially could be constructed by right sometime in the future; or a combination of existing and potential new units.

- C6. *According to the draft guidelines, my community must have a zoning district with a unit capacity of 970 units. We have an area in town with 800 multi-family units already. Some of these units were built by special permit, and others were built under chapter 40B. Can we create a new zoning district in this area and count the existing units?***

The zoning district must allow for 970 multi-family units by right. To determine the unit capacity of a new or existing multi-family zoning district, you do not “count” existing units—you instead determine how many multi-family units the zoning district would allow by right on that parcel if it were undeveloped. Depending on the density, height, open space, setbacks, parking and other requirements that apply in the district, and the amount of developable land on each parcel, it is possible that all of the existing 800 units could be constructed by right—or even more than the existing 800 units. The important thing to understand is that you are counting what the zoning allows by right, not the number of units that currently exist. Note that in addition to meeting the unit capacity requirement, the district must meet the minimum gross density requirement as well. In some cases, the zoning for a district will need to allow for more multi-family units to meet the minimum gross density requirement.

**D. Minimum Gross Density**

***D1. What does it mean to have a minimum gross density of 15 units per acre?***

Section 3A states that each multi-family zoning district of reasonable size “shall ... have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A.” The law defines gross density as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.” The law clearly states that the gross density requirement applies to the district as a whole, rather than to individual parcels or projects within that district. The draft guidelines provide further instruction on how to calculate the gross density of an existing or proposed multi-family zoning district.

***D2. Can the multi-family district have subdistricts with varying degrees of density as long as the average gross density is 15 units/acre?***

Yes. The draft guidelines permit the multi-family district to contain sub-districts that may have varying densities (higher and lower than a gross density of 15 units/acre) as long as the gross density for the entire district is at least 15 units/acre.

***D3. Is a district that allows or requires mixed use and residential gross density of at least 15 units per acre acceptable to meet the guidelines?***

Yes, commercial and other uses can also be permitted by right or by special permit in a multi-family zoning district. A mixed-use district will be deemed to comply with Section 3A as long as it meets the unit capacity, density and other requirements in the guidelines.

**E. Interim Compliance Requirements**

***E1. DHCD released draft guidelines on December 15. What is expected of us until these draft guidelines are issued as final guidelines?***

While DHCD is collecting public comment on the draft guidelines, and until final guidelines are issued, an MBTA community can remain in compliance with Section 3A by taking the following actions set forth in the “How to Comply for 2022 for MBTA Communities” which can be [found here](#). If you would like to submit comments on the draft guidelines, you may do so [online here](#).

***E2. Who signs the attestation required in section 9 of the guidelines? We are concerned our small town doesn't have the expertise to make this statement.***

The attestation must be signed by each municipality’s chief executive officer—the mayor in a city and the board of selectmen in a town, unless some other municipal office is designated

to be the chief executive officer under the provisions of a local charter. Technical assistance will be available after the guidelines are finalized and you may also consult with your Regional Planning Agency for assistance.

***E3. What happens if my community does not comply with Section 3A?***

MBTA communities that do not timely comply with Section 3A will not be eligible to receive Massworks or Housing Choice funding through the 2022 Community One-Stop Application. Non-compliant MBTA communities will also be ineligible to receive funding from the Local Capital Projects Fund established in section 2EEEE of chapter 29. The compliance requirements in effect until the issuance of final guidelines can be [found here](#).

**F. Technical Assistance**

***F1. Where can I find help understanding the new law and how best to comply with it?***

Additional resources are available at [mass.gov/MBTACommunities](http://mass.gov/MBTACommunities). Funding opportunities for planning and other technical assistance will be available in next year's One Stop application. Further information on the One Stop application is available at [mass.gov/onestop](http://mass.gov/onestop). Other technical assistance will be offered by the Massachusetts Housing Partnership (MHP) and regional planning agencies. Details about MHP's technical assistance are available at [www.mhp.net/mbtazoning](http://www.mhp.net/mbtazoning).

**G. Miscellaneous**

***G1. What if I already have a zoning district in which multi-family housing is allowed by special permit? Does that count?***

No, the law requires that multi-family uses be allowed by right in the district. Those uses may be subject to site plan review and design review, but multi-family uses cannot be subject to special permits or other discretionary permits that a local board can deny the use, or impose conditions unrelated to site layout, pedestrian safety, internal circulation of automobiles, and public safety considerations.

***G2. Can an MBTA community's zoning require that multi-family projects within a multi-family zoning district include a specified percentage of affordable units?***

Yes, reasonable affordability requirements are allowed, as long as they are financially feasible and do not unduly impede the construction of new multi-family housing in the district. At least 140 cities and towns in the Commonwealth have some form of "inclusionary" zoning requiring that a percentage of units in new housing developments be affordable. Any affordability requirements in a zoning ordinance or bylaw will be reviewed on a case-by-case basis to ensure that they are reasonable.

**G3. *Can a project within the multi-family zoning district be required to have an adequate number of parking spaces?***

Requiring too many parking spaces for multi-family housing projects can practically impede the number of multi-family units that can be constructed within the district. A municipality should consider reducing or eliminating any minimum parking requirements in the multi-family zoning district—particularly for projects that are within walking or biking distance to a transit station—to allow for a greater density of multi-family units on each parcel. In all cases, a municipality must consider whether the unit capacity and minimum gross density requirements are met given the amount of parking required.

**G4. *My community does not currently provide a public sewer system. Are we required to design and construct a public sewer system and offer sewer hook ups to support higher density housing? If so, how can we pay for that expensive infrastructure?***

No. Multi-family housing can be created at the required density using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, private developers may be able to support the cost of necessary water and sewer extensions. Communities are encouraged to consider the location of any municipal water sources and other nitrogen-sensitive areas when siting multi-family zoning districts to minimize barriers to installing septic and wastewater systems that can serve the needs of multi-family housing development in the district. Cities and towns seeking to affirmatively plan for growth may also be eligible for state grants to defray the cost of new or expanded public infrastructure.

**G5. *My community is concerned that new multi-family housing will mean many more children in the school system. Our school system is already at capacity and we do not have the resources to accommodate more children. What can we do?***

The new law does not require immediate housing production—only the creation of compliant zoning districts where multi-family housing *may* be created as of right. It is unlikely that communities will see an immediate increase in school attendance, given the time needed to assemble land for development, design and build housing. Moreover, studies have shown that in most cases new multi-family housing development has no negative impact on a community's school system.