

TOWN OF SOUTHBOROUGH

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PLANNING BOARD

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February 7, 2024

James Hegarty
Town Clerk
Town of Southborough
17 Common Street
Southborough, MA 01772

PUBLIC HEARING NOTICE MBTA Communities – Chapter 40A, Section 3A Adoption of Multi-Family Zoning By-Right Bylaw

Per Section MGL, 40A, Section 5, the Planning Board of the Town of Southborough shall hold a public hearing on **Monday, February 26, 2024 at 7:15 PM**, in the McAuliffe Hearing Room, 17 Common St. Southborough, MA, and via Zoom, to consider the adoption of a new Bylaw required under MGL, Chapter 40A, Section 3A-MBTA Communities, to create Overlay Districts for Multi-Family Housing by-right.

These hearings concern proposed Overlay Districts that will allow multi-family housing by right.

A copy of the proposal may be viewed on the Planning Board's web page:
<https://www.southboroughtown.com/planning-board> or in person at the Southborough Town House during normal business hours.

Persons wishing to participate in this meeting can do so in person or via Zoom remote participation by going online to <https://www.southboroughtown.com/remotemeetings>

Legal ad to run 2/12/2024 and 2/19/2024

Meme Luttrell, Chair
Southborough Planning Board



40R Merrimac Street, Suite 201 W
Newburyport, MA 01950

MEMORANDUM

To Angela Botto, Sr. Design Engineer, Bohler Engineering
 Zachary Richards, P.E., Sr. Project Manager, Bohler Engineering

From Emily Keys Innes, AICP, LEED AP ND, President

Date February 1, 2024

Project 23162 – Southborough: MBTA Communities Act

Subject Draft Zoning for Team and Town Review

The following changes are intended to bring the Town into compliance with the MBTA Communities Act and are based on the emails and attachments sent to Innes Associates by Bohler on January 22 and 23, 2024. These consist of the Compliance Model and related maps Bohler ran for the Town of Southborough and Southborough's most recent zoning bylaws. Bohler also confirmed the affordability percentages shown in the proposed § 174-10.3 and indicated the Town wished to use its current site plan review process via email and a verbal discussion on January 22, 2024.

Innes Associates used the Sample Zoning provided by the Executive Office of Housing and Livable Communities (EOHLC) and modified it based on our understanding of the Town's preferences. We understand that the Planning Board and other Town officials will review the draft text and assume that this will include Town Counsel. We will be happy to work with Bohler and the Town to address comments.

Please note that text to be added is in **bold**, other than § 174-10.3, where the proposed change is the addition of the entire section.

Article XYZ

To see if the Town will vote to add a new **§ 174-10.3** to the Town of Southborough's Zoning Bylaws, amend the zoning map, amend certain other sections to integrate the new section into the current zoning bylaw, and make any minor modifications to the text required for consistency with the existing format of the bylaws.

Add the following definitions to **§ 174-2. Definitions**.

B. Definitions

Add definitions here if the Town would prefer them to be in the main section rather than the MCMOD zoning. The current definition of Lot is similar, so I retained the Town's. The Town's definitions of Dwelling, Multifamily, Dwelling Unit, and Open Space were sufficiently different, so I left those in. See § 174-10.3.C.

Add the following text to: **§ 174-3. Districts enumerated**.

N. MBTA Communities Multi-family Overlay District, referred to as MCMOD.

Add the following text to: **§ 174-10. Site plan approval**

A. The purpose of the site plan review procedure is to encourage a desirable and compatible character of development within the Town of Southborough and to assure safety, promote logic, imagination and innovation in the design process while complying with all zoning requirements. The requirements of this section shall be applicable to the following:

(6) All multi-family development with more than 10 units within the MCMOD (§174-10.3).

Add the following text to: **§ 174-12.1. Outdoor illumination**

(3) LZ-2: moderate ambient lighting

- (a) Areas of human activity where the vision of human residents and users is adapted to moderate light levels. Lighting may typically be used for safety and convenience, but it is not necessarily uniform or continuous. After curfew, lighting may be extinguished or reduced as activity levels decline.
- (b) Zoning District: Business Village, MCMOD

Add the following section:

§ 174-10.3: MBTA Communities Multi-family Overlay District

A. Purpose

The purpose of the MBTA Communities Multi-family Overlay District (MCMOD) is to allow multi-family housing as of right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). This zoning provides for as of right multi-family housing to accomplish the following purposes:

- (1) Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels;
- (2) Support vibrant neighborhoods by encouraging an appropriate mix and intensity of uses to support an active public space that provides equal access to housing, jobs, gathering spaces, recreational opportunities, goods, and services within a half-mile of a transit station.
- (3) Locate housing within walking distance of public transit [and downtowns or town centers] to promote general public health, reduce the number of vehicular miles travelled, support economic development, and meet community-based environmental goals, including reducing greenhouse gases and improving air quality.
- (4) Preserve open space in a community by locating new housing within or adjacent to existing developed areas and infrastructure.
- (5) Support public investment in public transit and pedestrian- and bike-friendly infrastructure.
- (6) Increase the municipal tax base through private investment in new residential developments.

B. Establishment and Applicability

This MCMOD is an overlay district having a land area of approximately 53.9 acres in size that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map.

- (1) **Applicability of MCMOD.** An applicant may develop multi-family housing located within a MCMOD in accordance with the provisions of this § 174-10.3.
- (2) **Underlying Zoning.** The MCMOD is an overlay district superimposed on underlying zoning districts. The regulations for use, dimensions, and all other provisions of the Town of Southborough's Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as of right or by special permit in the MCMOD. Uses that are not identified in § 174-10.3 are governed by the requirements of the underlying zoning district(s).

- (a) The requirements of § 174-10.13.2 Major residential development do not apply to the MCMOD.
- (b) The requirements of § 174-10.13.3 Lower impact development may be used as a component of site plan review under § 174-10.3.J, but the Planning Board may not require a separate special permit for a multifamily use within the MCMOD.
- (c) The requirements of § 174-10.13.4 Water resource protection may be used as a component of site plan review under § 174-10.3.J, but the Planning Board may not require a separate special permit for a multifamily use within the MCMOD.

(3) **Sub-districts.** The MCMOD contains the following sub-districts, all of which are shown on the MCMOD Boundary Map: Subdistrict A and Subdistrict B.

C. Definitions.

For purposes of this § 174-10.3, the following definitions shall apply.

- (1) **Affordable unit.** A multi-family housing unit that is subject to a use restriction recorded in its chain of title limiting the sale price or rent or limiting occupancy to an individual or household of a specified income, or both.
- (2) **Affordable housing.** Housing that contains Affordable Units as defined by this § 174-10.3.
- (3) **Applicant.** A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.
- (4) **Area Median Income (AMI).** The median family income for the metropolitan statistical region that includes the Town] of Southborough, as defined by the U.S. Department of Housing and Urban Development (HUD).
- (5) **As of right.** Development that may proceed under the Zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.
- (6) **Development standards.** Provisions of § 174-10.3: G. General Development Standards made applicable to projects within the MCMOD.
- (7) **EOHLC.** The Massachusetts Executive Office of Housing and Livable Communities, DHCD's successor agency.
- (8) **Multi-family housing.** A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.
- (9) **Multi-family zoning district.** A zoning district, either a base district or an overlay district, in which multi-family housing is allowed as of right.
- (10) **Open space.** Contiguous undeveloped land within a parcel boundary.
- (11) **Parking, structured.** A structure in which vehicle parking is accommodated on

multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, but is entirely covered, and has a parking surface at least eight feet below grade. Structured Parking does not include surface parking or carports, including solar carports.

- (12) **Parking, surface.** One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.
- (13) **Residential dwelling unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- (14) **Site plan review authority.** Town of Southborough Planning Board.
- (15) **Sub-district.** An area within the MCMOD that is geographically smaller than the MCMOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.
- (16) **Subsidized Housing Inventory (SHI).** A list of qualified Affordable Housing Units maintained by EOHLC used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.

D. Permitted Uses

- (1) **Permitted Uses are as follows:** The following uses are permitted as of right within the MCMOD.
 - (a) Multi-family housing.
- (2) **Accessory Uses.** The following uses are considered accessory as of right to any of the permitted uses in Section D.1.
 - (a) Parking, including surface parking and parking within a structure such as an above ground or underground parking garage or other building on the same lot as the principal use.
 - (b) Customary home occupation.
- (3) **Prohibited uses.** All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations, are prohibited.

E. Development standards are as follows:

Table of Dimensional Standards. Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable in the MCMOD are as follows:

Standards	Subdistrict A		Subdistrict B	
	<i>Area 6A</i>	<i>Area 6B</i>	<i>Area 7</i>	<i>Area 21</i>
(a) Minimum lot area	25,000		43,560	
(b) Minimum frontage	125		200	
(c) Minimum setbacks				
(i) Front	30		Area 7 75*	Area 21 50*
(ii) Rear	35		50	
(iii) Side	15		50	
(d) Maximum height	2.5 stories or 35 feet		3 stories of 45 feet	
(e) Maximum floor area ratio	0.3		0.6	
(f) Maximum dwelling units per acre	15.0		15.0	

*A 75-foot setback is required for buildings on Route 9.

- (2) **Multi-Building Lots.** In the MCMOD, lots may have more than one principal building. A minimum distance of 10 feet is required between principal buildings.
- (3) **Exceptions.** The limitation on height of buildings shall not apply to chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings, which features are in no way used for living purposes and do not constitute more than 25% of the ground floor area of the building.
- (4) **Exceptions: Renewable Energy Installations.** The Site Plan Review Authority or Special Permit Granting Authority may waive the height and setbacks in § 174-10.3.E Dimensional Standards to accommodate the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.

F. Off-Street Parking

These parking requirements are applicable to development in the MCMOD.

(1) **Number of parking spaces.** The following **maximum** numbers of off-street parking spaces shall be permitted by use, either in surface parking or within garages or other structures:

Use	Maximum Spaces
Multi-family	1.5 per unit

(2) **Number of bicycle parking spaces.** The following **minimum** numbers of covered bicycle storage spaces shall be provided by use:

Use	Minimum Spaces
Multi-family	1 per unit

(3) **Bicycle storage.** For a multi-family development of 15 units or more, covered parking bicycle parking spaces of no less than 25% of the total required spaces shall be integrated into the structure of the building(s).

G. General Development Standards

(1) Development standards are applicable to all multi-family development with more than 10 units within the MCMOD. These standards are components of the Site Plan Review process in § 174-10.3.l. Site Plan Review.

(2) **Site Design.**

- (a) **Connections.** Sidewalks shall provide a direct connection among building entrances, the public sidewalk (if applicable), bicycle storage, and parking.
- (b) **Vehicular access.** Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
- (c) **Screening for Parking.** Surface parking adjacent to a public sidewalk shall be screened by a landscaped buffer of sufficient width to allow the healthy establishment of trees, shrubs, and perennials, but no less than [6 (six)] feet. The buffer may include a fence or wall of no more than three feet in height unless there is a significant grade change between the parking and the sidewalk.
- (d) **Parking Materials.** The parking surface may be concrete, asphalt, decomposed granite, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.
- (e) **Landscape and Plantings.** Plantings shall include species that are native or

adapted to the region. Plants on the Massachusetts Prohibited Plant List, as may be amended, shall be prohibited. The provisions of § 174-13. Landscaping shall be included as a part of the site plan review process.

- (f) **Lighting.** Light levels shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and reducing the amount of skylight. The provisions of § 174-12.1 Outdoor illumination shall be included as a part of the site plan review process.
- (g) **Mechanicals.** Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened if visible from a public right-of-way.
- (h) **Dumpsters.** Dumpsters shall be screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located within the building.
- (i) **Stormwater management.** Strategies that demonstrate compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the Town of Southborough's MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements.

(3) Buildings: General.

- (a) **Position relative to principal street.** The primary building shall have its principal façade and entrance facing the principal street. See also § 174-10.3.G.7. **Buildings: Corner Lots.**
- (b) **Entries.** Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.

(4) Buildings: Multiple buildings on a lot.

- (a) Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.
- (b) A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.
- (c) The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building façade(s) shall be treated with the same care

and attention in terms of entries, fenestration, and materials.

(d) The building(s) adjacent to the public street shall have a pedestrian entry facing the public street.

(5) **Buildings: Shared Outdoor Space.** Multi-family housing and mixed-use development shall have common outdoor space that all residents can access. Such space may be located in any combination of ground floor, courtyard, rooftop, or terrace. All outdoor space shall count towards the project's minimum Open Space requirement.

(6) **Buildings: Corner Lots.** A building on a corner lot shall indicate a primary entrance either along one of the street-facing façades or on the primary corner as an entrance serving both streets.

(a) Such entries shall be connected by a paved surface to the public sidewalk, if applicable.

(b) All façades visible from a public right-of-way shall be treated with similar care and attention in terms of entries, fenestration, and materials.

(c) Fire exits serving more than one story shall not be located on either of the street-facing façades.

(7) **Buildings: Infill Lots.** If the adjacent buildings are set back at a distance that exceeds the minimum front yard requirements, infill buildings shall meet the requirements of § 174-10.3.E. Dimensional Standards. Otherwise, infill buildings may match the setback line of either adjacent building, or an average of the setback of the two buildings to provide consistency along the street.

(8) **Buildings: Principal Façade and Parking.** Parking shall be subordinate in design and location to the principal building façade.

(a) **Surface parking.** Surface parking shall be located to the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way.

(b) **Integrated garages.** The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.

(c) **Parking structures.** Building(s) dedicated to structured parking on the same lot as one or more multi-family buildings or mixed-use development shall be subordinate in design and placement to the multi-family or mixed-use building(s) on the lot.

(9) **Waivers.** Upon the request of the Applicant and subject to compliance with the Compliance Guidelines, the Site Plan Review Authority may waive the requirements of this § 174-10.3.G. General Development Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MCMOD.

H. Affordability Requirements.

(1) Purpose.

- (a) Promote the public health, safety, and welfare by encouraging a diversity of housing opportunities for people of different income levels;
- (b) Provide for a full range of housing choices for households of all incomes, ages, and sizes;
- (c) Increase the production of affordable housing units to meet existing and anticipated housing needs; and
- (d) Work to overcome economic segregation, allowing the Town of Southborough to be a community of opportunity in which low and moderate-income households have the opportunity to advance economically.

(2) Applicability. This requirement is applicable to all residential and mixed-use developments with [ten (10)] or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion (Applicable Projects). No project may be divided or phased to avoid the requirements of this section.

(3) Affordability requirements. Subsidized Housing Inventory. All units affordable to households earning 80% or less of AMI created in the MCMOD under this section must be eligible for listing on EOHLC's Subsidized Housing Inventory.

(4) Provision of Affordable Housing. In Applicable Projects, not fewer than ten percent (10%) of housing units constructed shall be Affordable Housing Units. For the purpose of calculating the number of units of Affordable Housing required within a development project, a fractional unit shall be rounded down to the next whole number. The Affordable Units shall be available to households earning income up to eighty percent (80%) of the AMI.

(5) Alternative Methods.

- (a) As an alternative to the requirements of paragraph (3) of this section, and in certain exceptional circumstances, the Planning Board may, at the formal written request of the developer, consider an alternative method of compliance, as provided for in § 174-13.2.E(5).

(6) Development Standards. Affordable Units shall be:

- (a) Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and/or lots;
- (b) Dispersed throughout the development;
- (c) Located such that the units have equal access to shared amenities, including light

and air, and utilities (including any bicycle storage and/or Electric Vehicle charging stations) within the development;

- (d) Located such that the units have equal avoidance of any potential nuisances as [market-rate units] within the development;
- (e) Distributed proportionately among unit sizes; and
- (f) Distributed proportionately across each phase of a phased development.
- (g) Occupancy permits may be issued for market-rate units prior to the end of construction of the entire development provided that occupancy permits for Affordable Units are issued simultaneously on a pro rata basis.

(5) Administration.

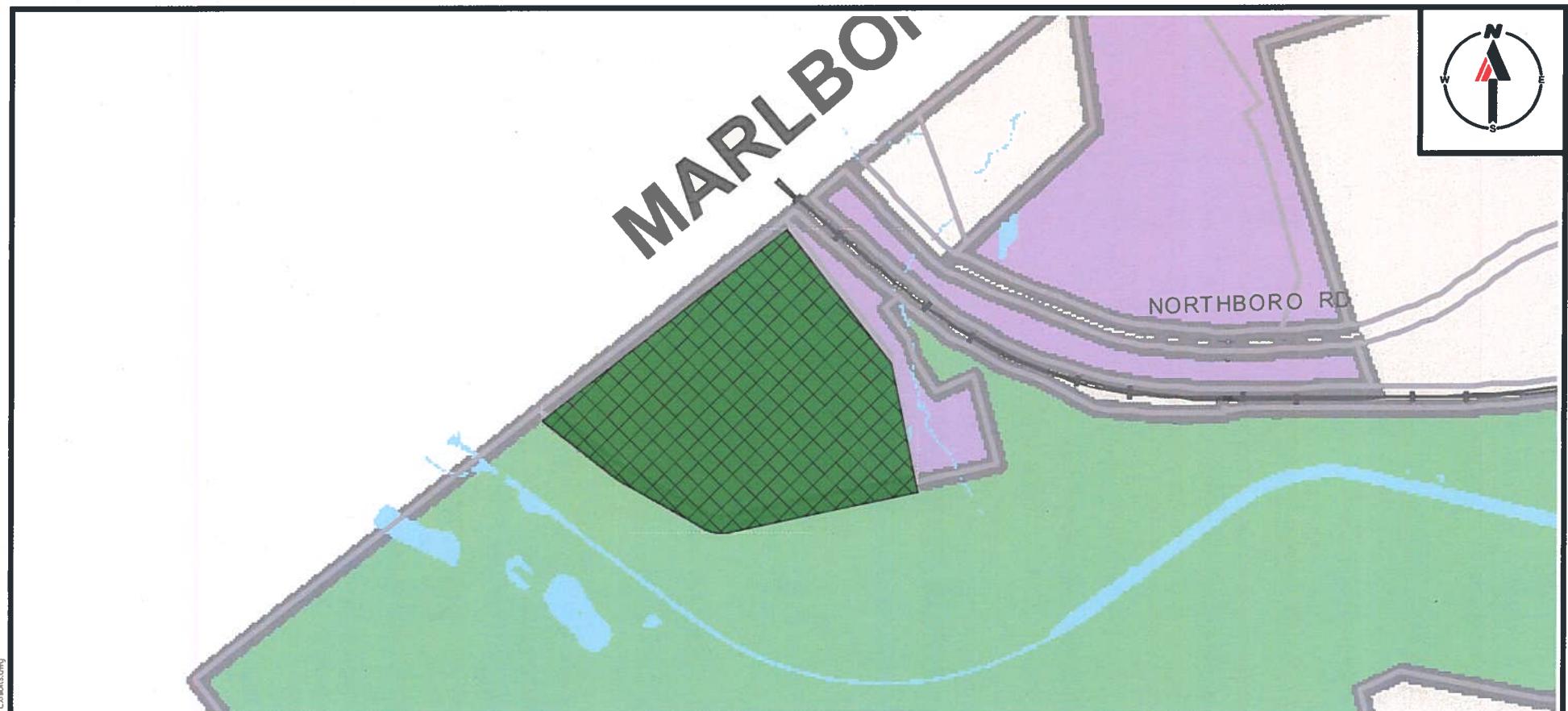
- (a) The Building Commissioner shall be responsible for administering and enforcing the requirements in this section.

I. Site Plan Review

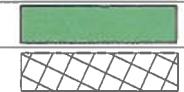
- (1) **Applicability.** The requirements of §174.10 Site Plan Review are applicable to any multi-family development with more than 10 units within the MCMOD, unless modified below. An application for Site Plan Review shall be reviewed by the Permitting Authority for consistency with the purpose and intent of § 174-10.3(D) – through § 174-10.3(H).
- (2) **Site Plan Approval.** Site Plan approval for uses listed in § 174-10.3(D) Permitted Uses shall be granted upon determination by the Site Plan Review Authority that the following conditions have been satisfied. The Site Plan Review Authority may impose reasonable conditions, at the expense of the applicant, to ensure that these conditions have been satisfied.
 - (a) the Applicant has submitted the required fees and information as set forth in the Town of Southborough's requirements for a Building Permit and Site Plan Review; and
 - (b) the project as described in the application meets the development standards set forth in § 174-10.3.G General Development Standards and the requirements of § 174-10.3.D.(1).
- (3) **Project Phasing.** An Applicant may propose, in a Site Plan Review submission, that a project be developed in phases subject to the approval of the Site Plan Review Authority, provided that the submission shows the full buildout of the project and all associated impacts as of the completion of the final phase. However, no project may be phased solely to avoid the provisions of § 174-10.3.H Affordability Requirements.

J. Severability.

If any provision of this § 174-10.3 is found to be invalid by a court of competent jurisdiction, the remainder of § 174-10.3 shall not be affected but shall remain in full force. The invalidity of any provision of this § 174-10.3 shall not affect the validity of the remainder of the Town of Southborough's Zoning.



LEGEND - DISTRICTS



AREA 21 INDUSTRIAL PARK DISTRICT

MBTA COMMUNITIES MULTI-FAMILY OVERLAY DISTRICT (MCMOD)

REFERENCES

BASE MAP:
TOWN OF SOUTHBOROUGH
ZONING MAP
DATED: 04/10/2006

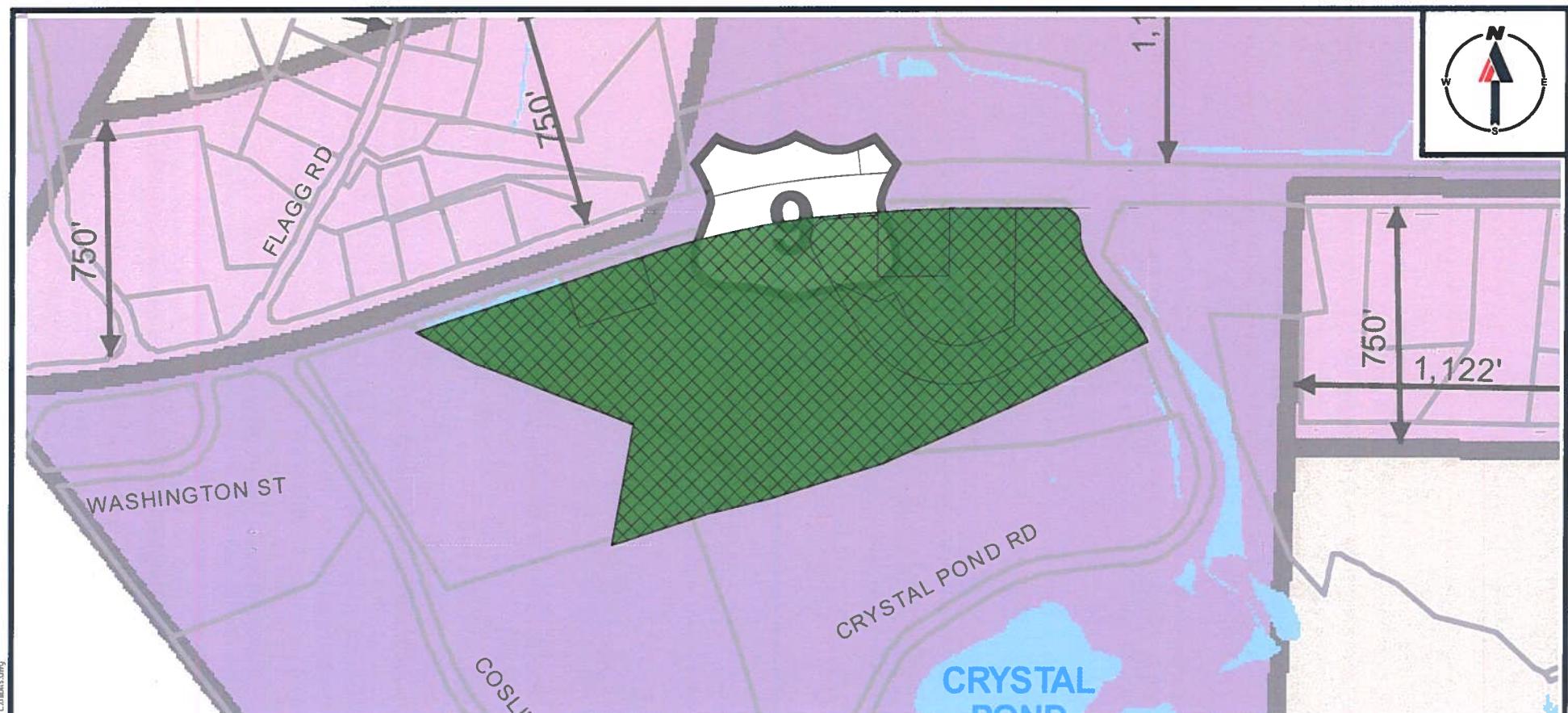
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**MBTA COMMUNITIES
MULTI-FAMILY OVERLAY
AREA 21 EXHIBIT**

SOUTHBOROUGH
MASSACHUSETTS

PREPARED BY

BOHLER //
SCALE: 1"=300' DATE: 01/05/2024



REFERENCES

BASE MAP:
TOWN OF SOUTHBOROUGH
ZONING MAP
DATED: 04/10/2006

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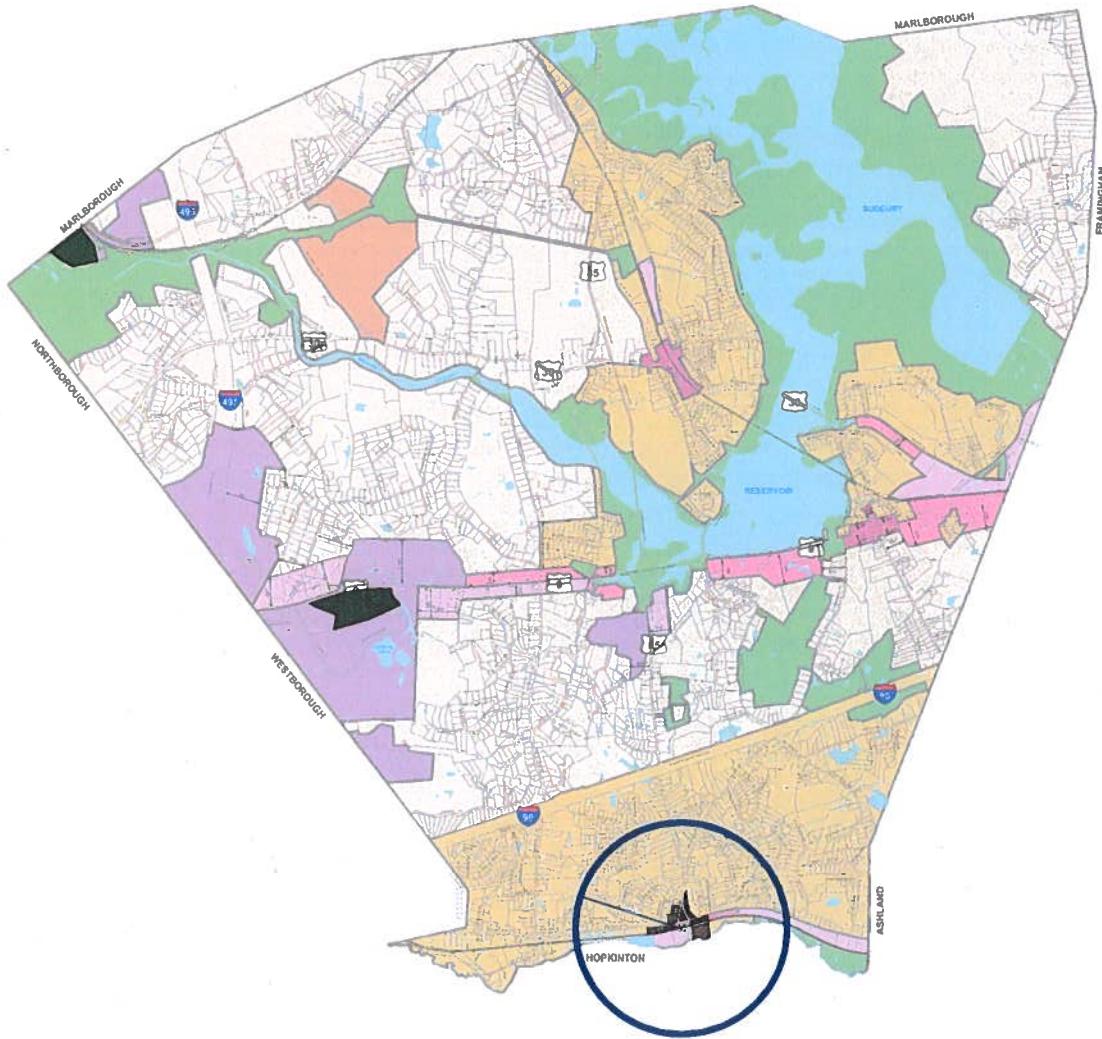
LEGEND - DISTRICTS	
	AREA 7 INDUSTRIAL PARK DISTRICT
	MBTA COMMUNITIES MULTI-FAMILY OVERLAY DISTRICT (MCMOD)

MBTA COMMUNITIES MULTI-FAMILY OVERLAY AREA 7 EXHIBIT

SOUTHBOROUGH
MASSACHUSETTS

PREPARED BY

BOHLER //
SCALE: 1"=300' DATE: 01/05/2024



REFERENCES

BASE MAP:
TOWN OF SOUTHBOROUGH
ZONING MAP
DATED: 04/10/2008

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OVERALL MBTA COMMUNITIES MULTI-FAMILY OVERLAY DISTRICTS EXHIBIT

SOUTHBOROUGH
MASSACHUSETTS

PREPARED BY

BOHLER //

SCALE: 1"=3000' DATE: 01/05/2024

LEGEND - DISTRICTS	
	AREA 6A INDUSTRIAL DISTRICT
	AREA 6B RESIDENCE B DISTRICT
	AREA 6C BUSINESS VILLAGE DISTRICT
	AREA 7/ AREA 21 INDUSTRIAL PARK DISTRICT
	MBTA COMMUNITIES MULTI-FAMILY OVERLAY DISTRICT (MCMOD)
	MBTA COMMUTER RAIL STATION

