

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF SELECTMEN

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

JACK MORGAN, CHAIR
MARJORIE R. FREIMAN, VICE CHAIR
ELLEN F. GIBBS, SECRETARY
ELIZABETH SULLIVAN WOODS
THOMAS H. ULFELDER

FACSIMILE: (781) 239-1043
TELEPHONE: (781) 431-1019 x2201
WWW.WELLESLEYMA.GOV
BLYTHE C. ROBINSON
EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

SELECTMEN'S MEETING
TENTATIVE AGENDA - REVISED
Wellesley Town Hall – Juliani Room
7:00 P.M. Tuesday, July 31, 2018

1. 7:00 Citizen Speak
2. 7:05 Appointments – Police Officers (2)
3. 7:25 Discuss Annual Employment Contracts
 - Deputy Police Chief
 - Assistant Fire Chief
4. 7:40 Discuss Revised School Building Committee Charge
5. 8:00 Conduct Annual Performance Review – Executive Director
6. 8:20 Execute State Primary Election Warrant
7. 8:25 Open Warrant for October 2nd Special Town Meeting
8. 8:45 Executive Director's Report
 - Approval of Minutes
9. 8:55 New Business and Correspondence

Next Meeting Dates: Tuesday, August 7, 2018 7:00 pm
Tuesday, August 21, 2018 7:00 pm

Board of Selectmen Calendar – FY19

Date	Selectmen Meeting Items	Other Meeting Items
8/7 Tuesday	Possible Meeting Tailby/Railroad report from Working Group	
8/14 Tuesday	No Meeting	
8/21 Tuesday	Meeting Quarterly Traffic Update <ul style="list-style-type: none"> • Denton Road/Washington Street - 15 Minute Parking Signs • Avon Rd No Parking Signs • Walnut @ Damian – Pedestrian Light • GPA - Design Money request Execute Warrant for October STM Discuss Veterans Grave Officer position/funding Review Boston Marathon policy Discuss Capital Planning Process Schaller Street Grant of Utility Easement	
8/28 Tuesday	No Meeting	
9/3 Monday	TOWN HALL CLOSED (LABOR DAY)	
9/4 Tuesday	No Meeting	
9/11 Tuesday	Meeting	
9/17 Monday	Meeting Diversity Program w/WOW? HPP Joint Meeting with Planning Board	
9/24 Monday	Meeting	
10/1 Monday	No Meeting - Wellesley Club	
10/2 Tuesday	STM	
10/3 Wednesday	STM	
10/8 Monday	TOWN HALL CLOSED (COLUMBUS DAY)	
10/9 Tuesday	Meeting	
10/15 Monday	Meeting	
10/22 Monday	Meeting	
10/29 Monday	Meeting	

7/26/2018

Date	Selectmen Meeting Items	Other Meeting Items
11/5 Monday	No Meeting – Wellesley Club	
11/6 Tuesday	Election Day	
11/12 Monday	TOWN HALL CLOSED – Veterans Day	
11/13 Tuesday	Meeting	
11/19 Monday	Meeting	
11/22 Thursday	TOWN HALL CLOSED - Thanksgiving Day	
11/26 Monday	Meeting	
Saturday 12/1	Meeting BOS Operating Budget Meeting	
12/3 Monday	Meeting	
12/10 Monday	Meeting	
12/15	900 Worcester Anticipated Rink Completion	
12/17 Monday	Meeting	
12/24 Monday	No Meeting	
12/25 Tuesday	TOWN HALL CLOSED – Christmas Day	
12/28 Friday	Close ATM Warrant	
12/31 Monday	No Meeting	
1/1 Tuesday	TOWN HALL CLOSED – New Year’s Day	
1/7 Monday	No Meeting – Wellesley Club	
1/8 Tuesday	Meeting	
1/14 Monday	Review ATM Warrant	
1/21 Monday	MLK – Town Hall Closed	
1/22 Tuesday	Execute ATM Warrant	
1/28 Monday		
2/4 Monday		

7/26/2018

<i>Date</i>	<i>Selectmen Meeting Items</i>	<i>Other Meeting Items</i>
<i>2/11 Monday</i>		
<i>2/18 Monday</i>	President's Day – Town Hall Closed	
<i>2/9 Tuesday</i>		
<i>2/25 Monday</i>		
<i>3/4 Monday</i>		
<i>3/11 Monday</i>		
<i>3/18 Monday</i>		
<i>3/25 Monday</i>	Start of ATM	

Notes

Quarterly updates

- *Traffic Committee (Deputy Chief Pilecki)*
- *Facilities Maintenance (Joe McDonough)*
- *Wellesley Club Dates 10/1/18, 11/5/18, 1/7/19, 3/4/19*

JULY 31, 2018 MOTIONS

2. **MOVE** that the Board vote to appoint _____ effective _____, 2018 and _____ effective _____, 2018 to the position of Police Officer with the Town of Wellesley contingent upon the successful completion of the pre-screening process which includes a physical evaluation, psychological evaluation and physical abilities test as well as the successful completion of the police academy and subsequent one-year probationary period.

3. **MOVE** that the Board vote to approve the employment contracts for the Deputy Police Chief and the Assistant Fire Chief for FY19.
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4. **MOVE** to approve the revised charge to the School Building Committee

5. **MOVE** that the Board vote to approve the performance evaluation for the Executive Director, and further to authorize an increase in compensation of _____ for FY19.

5. **MOVE** that the Board execute the warrant for the September 4, 2018 primary election.

6. **MOVE** to call a Special Town Meeting and set the following dates:
- Open the Warrant – July 31, 2018
 - Close the Warrant – Friday, August 3, 2018, 12:00pm
 - Motions due to the Selectmen’s Office – Friday, September 7, 2018, 5:00pm
 - Start of Special Town Meeting – Tuesday, October 2, 2018, 7:00 pm, at the Wellesley Middle School
7. **MOVE** that the Board approve the minutes of the July 10th and July 17th meetings.

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As we have planned, the meeting is being held on Tuesday will begin at 7:00 PM.

1. Citizen Speak

TOWN OF WELLESLEY



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EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

MEMORANDUM

DATE: July 27, 2018
TO: Board of Selectmen
FROM: Blythe C. Robinson, Executive Director
SUBJECT: Weekly Report

Below are various activities of our office and various departments that I would like to bring to your attention.

- The interviews with the six firms who submitted proposals to the Tailby/RR working group are confirmed for July 31st from 9 – 12 and 1 – 4 PM.
- On Tuesday, Jack, Tom, Meghan and I attended a meeting with DHCD staff in Boston to discuss the Wellesley Office Park. We were joined by Jim Roberti, Michael Zehner, Peter Tam and Rob Maulden (John Hancock). Included in your packet are meeting notes that Peter had provided to the group on the project and the specifics of 40R, as well as Meghan's notes on what was learned.
- Brian, KC and I kicked off the work to develop a plan to digitize all of the Town's public records this week with the consultant we have retained. He will be on site over the next two weeks meeting with all of the Town Hall departments to gather data about the records they keep as part of that process.
- The HR Board approved the hiring of the new Project Manager within FMD at their meeting on Thursday. As you know, this position was added to the budget in order to support the two HHU projects. The prospective employee is a registered architect and we believe possesses a background very suitable to our mission. At this point a start date has not been determined. The HR department will now turn its attention to replacement for the Maintenance Manager position.

- I attended a meeting with the HR Board Chair and Director requested by Michael Zehner to discuss the process by which new employees in the 50/60 series group receive pay increases. Catherine Johnson also attended. Planning is frustrated that depending on when someone is hired in a year, they may receive less of a pay increase than others until they catch up with the annual renewal timeframe each July. Further, that they do not believe that HR has approved policy on how this is conducted. There was disagreement between the two sides, and HR did agree to discuss it with Town Counsel. I discussed this with HR after Planning left, and we agree that the HR policies need to be updated. Their hesitation in the past has to do with navigating Town Meeting on the details of the policies, and I share their concern. We discussed the possibility of amending the general bylaws to take the responsibility of approving the details out of Town Meeting for various reasons. This is a topic we should spend more time on before next spring.
- I had a positive meeting regarding plowing of private ways with Mike Pakstis and two of this staff this week. Since we first discussed this last year they had developed a list of streets that they believe should no longer be plowed by the town. We discussed the list as well as a draft policy. I'm going to go out on a tour with them in the next couple of weeks to look more closely at these streets, and from there prepare an overview on the topic for the Board. DPW and I are in agreement that it is too late to take up this topic for the upcoming winter, and if we can spend some time on it over the next 8 months or so we would be in a good position to do so for the following year.
- The MBTA continues to perform work on the rail line to install the "positive train control" technology. A flyer that we received about this is included in your packet.
- We have three candidates scheduled for interviews regarding the Project and Communications Manager next week and have invites out to two others.
- We have set four meeting dates to discuss the capital policy with various department heads and board chairs. We are putting the finishing touches on a PowerPoint on the topic to use as a review tool. For those who can't make the scheduled meetings, we'll set up others to ensure we reach everybody.
- Roadway updates – I learned the following from DPW this week about road work:
 - Cliff Road is going well – anticipate that final paving will happen in mid-August
 - They began work on Washington Street this week in lower falls
 - Route 9 – the State has indicated that they no longer plan to install any type of guardrail or Jersey barrier on the south eastbound side. The westbound side is still unclear, though looking very much like they will do nothing right now. They have determined that the guardrail cannot be installed where needed because of utility conflicts, and we anticipate them to let us know that they'll "look at it in the future". When that would occur given the work to move utilities is completely unknown (and probably unrealistic). The National Grid strike has not helped the completion of gas company work, and they may go ahead with finish paving even if it isn't done. Having said that, as happened last summer, work on other state roads is on hiatus while the Commonwealth Ave Bridge replacement happens over the next two weeks. Final paving of Route 9 may wait until late September/October
 - The Brook/Benvenue project is out to bid

2. Appointments – Police Officers (2)

The Police Department has two vacancies to fill due to a promotions of officers to positions of Lieutenant and School Resource Officer. The final interviews by the department for the open positions is taking place today (Friday). Thus the recommendations for the final candidates were not available when the packet was completed. As soon as we receive them from the Chief they'll be forwarded on to you, and we can provide you with copies at the meeting. The basic motions are scripted below, and the names will be added prior to Tuesday's meeting.

MOVE that the Board vote to appoint _____ effective _____, 2018 and _____ effective _____, 2018 to the position of Police Officer with the Town of Wellesley contingent upon the successful completion of the pre-screening process which includes a physical evaluation, psychological evaluation and physical abilities test as well as the successful completion of the police academy and subsequent one-year probationary period.

3. Discuss Annual Employment Contracts

At the end of 2017 the Board voted to enter into one-year contracts with the Deputy Police Chief and Assistant Fire Chief, both of which expired at the end of FY18. Included in your packet are draft contracts for both positions for FY19. The contracts provide for a 2.25% increase in pay based upon recommendations by the Chiefs of their employee's performance. There are no other substantive changes to the language that was negotiated originally.

MOVE that the Board vote to approve the employment contracts for the Deputy Police Chief and the Assistant Fire Chief for FY19.

EMPLOYMENT AGREEMENT BETWEEN TOWN OF WELLESLEY
AND F. SCOTT WHITTEMORE

This Agreement is entered into this ____ day of July, 2018, by and between the Town of Wellesley, a municipal corporation ("Town"), acting by and through its Board of Selectmen, and F. Scott Whittemore, Deputy Chief of Police, provides as follows:

Section I
Functions and Duties of the Deputy Chief of Police

The Town hereby offers to employ F. Scott Whittemore as Deputy Chief of Police of said Town and the Deputy Chief accepts said offer. The Deputy Chief shall perform the duties specified in the Town By-laws, applicable Special Acts, attached job description labeled "Exhibit A" and such other duties as the Board shall from time to time legally assign to him.

Section II
Hours of Work

The Wellesley Police Department is a twenty-four hour, seven-day-a-week operation, and because of the serious nature and sensitivity of its mission, it is recognized that the duties of the Deputy Chief will require that he schedule himself to work those hours necessary to accomplish the responsibilities of the position and ensure the efficient operation of the department.

It is recognized that the Deputy Chief must devote a great deal of time outside of normal office hours to the business of the Town, and that, as a result, the Deputy Chief may adjust his normal office hours accordingly with permission from the Chief of Police.

Section III
Benefits

The Deputy Chief shall receive all benefits including vacation, sick leave, holiday leave, personal leave, bereavement leave, family medical leave, small necessities leave, and jury duty leave in accordance with the Town's personnel policies and procedures which apply to other non-union employees.

The Deputy Chief of Police shall receive six (6) weeks of vacation per fiscal year. The Deputy Chief may carry-over up to two (2) weeks of vacation from fiscal year to fiscal year, but at no time shall accumulate more than eight (8) weeks total. Any vacation time accrued in excess of the eight (8) weeks shall be forfeited without pay.

The Town shall provide the Deputy Chief health and other insurance policies similar to other non-union Town employees. The Town's contribution towards such insurance policies shall be the same as that made to other non-union Town employees in a similar plan. The Town will provide to the Deputy Chief the same disability and life insurance policies as it does to other non-union Town employees.

Section IV
Compensation

The Town agrees to pay the Deputy Chief for services rendered under this Agreement subject to applicable withholdings and deductions:

FY 19 \$150,819.00 (2.25% increase)

Salary shall be paid in installments at the same time as other employees of the Town are paid. If the Deputy Chief continues in the position after the expiration of this agreement, and there is no successor agreement, he shall continue to receive the latest salary under this section until such time as a new Agreement is reached. This subsection shall survive the termination of this agreement.

Section V
Term

This Agreement shall be effective on July 1, 2018, and shall be in full force and effect until June 30, 2019. Any subsequent agreements shall begin on July 1 of each year and end on June 30 the following year.

Section VI
Indemnification

The Town shall defend, save harmless and indemnify the Deputy Chief against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as Deputy Chief, even if said claim has been made following his termination from employment, provided that the Deputy Chief acted within the scope of his duties. The Town shall not indemnify Deputy Chief for acts of gross negligence, fraud or for anything occurring outside of the scope of his employment. The Town shall pay the amount of any settlement or judgment rendered thereon. The Town may compromise and settle any such claim or suit and will pay the amount of any settlement or judgment rendered thereon without recourse to the Deputy Chief.

The Town shall reimburse the Deputy Chief for any reasonable attorneys' fees and costs incurred by the Deputy Chief in connection with such claims or suits involving the Deputy Chief in his professional capacity. This indemnification shall also apply to the Deputy Chief after he leaves the employment of the Town.

This section shall survive the termination of this Agreement.

Section VII
Notices

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

1. TOWN: Chairman of Board of Selectmen
 525 Washington Street

Wellesley, MA 02482

2. Deputy Chief of Police: F. Scott Whittemore
7 Evergreen Avenue
Wellesley, MA 02482

Alternatively, notices required pursuant to this Agreement may be personally served. Notice shall be deemed as given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section VIII Other Terms and Conditions of Employment

All provisions of law of the Commonwealth of Massachusetts relating to retirement, health insurance and other fringe benefits shall apply to the Deputy Chief as they generally apply to other non-union employees of the Town, in addition to the benefits enumerated herein specifically for the benefit of the Deputy Chief, except as otherwise provided in this Agreement. All other general provisions of the Town's Bylaws or Personnel Rules and Regulations relating to fringe benefits shall also apply to the Deputy Chief as they apply to other non-union employees of the Town, in addition to the benefits enumerated specifically for the benefit of the Deputy Chief, except as otherwise provided in this Agreement. This Agreement shall prevail over any conflicting personnel provisions of the Town Bylaws or Rules and Regulations.

Section IX Discipline and Termination

During the term of this Agreement, the Deputy Chief may be disciplined, or terminated upon proper notice and hearing, for good cause. Good cause for the purposes of this Agreement means any reason advanced by the Town that is not arbitrary, capricious, and/or discriminatory, including but not limited to inefficiency, incompetency, ineffectiveness, insubordination, incapacity, failure to meet the Town's standards and/or expectations, or conduct unbecoming. The principle of progressive discipline is generally applicable, but the Town reserves the right to terminate the Deputy Chief's employment without the imposition of prior discipline if circumstances warrant. Should the Board of Selectmen not reappoint the Deputy Chief he shall be entitled to reinstatement to the rank of Lieutenant in the Wellesley Police Department.

The Town may terminate the contract with the Deputy Chief at any time prior to the expiration of the term of the Agreement and only for good cause. The Town shall institute removal proceedings in the following manner:

1. Termination will be by notice and hearing as follows. At least ten (10) days prior to any hearing the Deputy Chief shall be provided in writing with the charge(s) made against him, and the evidence which supports said charges, in such specificity so that the Deputy Chief may understand and prepare his defense.
2. After ten (10) days following delivery and receipt of the charges and specifications, as described above in subparagraph 1, on a specific date and time and at a place specified in the written notice, the

Board of Selectmen will conduct a hearing, and the Deputy Chief will be given an opportunity to respond to the charges. The hearing will be public or private at the discretion of the Deputy Chief. The subject matter to be presented at the hearing shall be only those charges as were specifically detailed in the written notice to the Deputy Chief in accordance with subparagraph 1 above. During the hearing, the Deputy Chief shall have the right to be represented by a representative of his choosing, to question, confront and cross-examine witnesses, to introduce evidence and to conduct oral arguments. In its decision, the Board of Selectmen shall consider only those facts which were presented at the hearing and shall make its findings of fact based upon a preponderance of the evidence presented. The Deputy Chief shall be provided with a written notice of the findings and decision of the Board of Selectmen and such notice shall include the relevant facts and reasons for their findings.

The Deputy Chief may be disciplined for good cause by the Chief of Police for actions not resulting in termination in accordance to the Town's personnel policies and by-laws.

Should the Deputy Chief resign his position at any time prior to the expiration of the term of this Agreement, he shall notify the Board of Selectmen in writing. If the Deputy Chief is leaving office due to retirement, he shall provide the Town with ninety (90 days), or a lesser amount of time as determined by the Board of Selectmen, to allow the Town to consider the appointment of a replacement.

Section X General Provisions

The text herein shall constitute the entire Agreement between the parties.

This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Deputy Chief.

If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

For the purposes of the federal Fair Labor Standards Act and the Massachusetts Wage and Hour Law, the Deputy Chief is designated as an "exempt employee."

This Agreement may be amended at any time by written amendment executed by both parties.

IN WITNESS WHEREOF, the Town of Wellesley, Massachusetts, has caused this Agreement to be signed and executed in its behalf by its Board of Selectmen and duly attested by its Town Clerk, and the Deputy Chief has signed and executed this Agreement, both in duplicate.

For the Board of Selectmen:

Jack Morgan, Chair

Marjorie R. Freiman, Vice Chair

Ellen F. Gibbs, Secretary

Elizabeth Sullivan Woods

Thomas H. Ulfelder

Date: July ____, 2018

For the Deputy Chief:

F. Scott Whittemore

Date: July ____, 2018

EMPLOYMENT AGREEMENT BETWEEN TOWN OF WELLESLEY
AND
JEFFREY PETERSON

This Agreement is entered into this ____ day of July, 2018, by and between the Town of Wellesley, a municipal corporation (“Town”), acting by and through its Board of Selectmen, and Jeffrey Peterson, (“Assistant Fire Chief”), provides as follows:

Section I
Functions and Duties of the ASSISTANT FIRE CHIEF

The Town hereby offers to employ JEFFREY PETERSON as ASSISTANT FIRE CHIEF of said Town and the ASSISTANT FIRE CHIEF accepts said offer. The ASSISTANT FIRE CHIEF shall perform the duties specified in the Town By-laws, applicable Special Acts, attached job description labeled “Exhibit A” and such other duties as the Board shall from time to time legally assign to him.

Section II
Hours of Work

The Fire Department is a twenty-four hour, seven-day-a-week operation, and because of the serious nature and sensitivity of its mission, it is recognized that the duties of the ASSISTANT FIRE CHIEF will require that he schedule himself to work those hours necessary to accomplish the responsibilities of the position and ensure the efficient operation of the department.

It is recognized that the ASSISTANT FIRE CHIEF must devote a great deal of time outside of normal office hours to the business of the Town, and that, as a result, the ASSISTANT FIRE CHIEF may adjust his or her normal office hours accordingly with permission from his supervisor.

Section III
Benefits

The ASSISTANT FIRE CHIEF shall receive all benefits including vacation, sick leave, holiday leave, personal leave, bereavement leave, family medical leave, small necessities leave, and jury duty leave in accordance with the Town’s personnel policies and procedures which apply to other non-union employees in the 50/60 Series classification plan.

The Town shall provide the ASSISTANT FIRE CHIEF health and other insurance policies similar to other Town employees. The Town’s contribution towards such insurance policies shall be the same as that made to other non-union Town employees in a similar plan.

Section IV
Compensation

The Town agrees to pay the ASSISTANT FIRE CHIEF for services rendered under this Agreement subject to applicable withholdings and deductions:

FY 19: \$129,858.00 (2.25% Increase)

Salary shall be paid in installments at the same time as other employees of the Town are paid. If the ASSISTANT FIRE CHIEF continues in the position after the expiration of this agreement, and there is no successor agreement, he or she shall continue to receive the latest salary under this section until such time as a new Agreement is reached. This subsection shall survive the termination of this agreement.

Section V Term

This Agreement shall be effective on July 1, 2018, and shall be in full force and effect until June 30, 2019. This Agreement shall be for a one (1) year and shall be binding on the parties in its duration.

Section VI Indemnification

The Town shall defend, save harmless and indemnify the ASSISTANT FIRE CHIEF against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as ASSISTANT FIRE CHIEF, even if said claim has been made following his termination from employment, provided that the ASSISTANT FIRE CHIEF acted within the scope of his duties. The Town shall not indemnify ASSISTANT FIRE CHIEF for acts of gross negligence, fraud or other illegal actions or for anything occurring outside of the scope of his employment. The Town shall pay the amount of any settlement or judgment rendered thereon. The Town may compromise and settle any such claim or suit and will pay the amount of any settlement or judgment rendered thereon without recourse to the ASSISTANT FIRE CHIEF.

The Town shall reimburse the ASSISTANT FIRE CHIEF for any reasonable attorneys' fees and costs incurred by the ASSISTANT FIRE CHIEF in connection with such claims or suits involving the ASSISTANT FIRE CHIEF in his professional capacity. This indemnification shall also apply to the ASSISTANT FIRE CHIEF after he leaves the employment of the Town.

This section shall survive the termination of this Agreement.

Section VII Notices

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

1. TOWN: Chairman of Board of Selectmen
525 Washington Street
Wellesley, MA 02482

2. INSERT TITLE: Jeffrey Peterson
19 Fenmore Avenue
Wellesley, MA 02482

Alternatively, notices required pursuant to this Agreement may be personally served. Notice shall be deemed as given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section VIII Other Terms and Conditions of Employment

All provisions of law of the Commonwealth of Massachusetts relating to retirement, health insurance and other fringe benefits shall apply to the ASSISTANT FIRE CHIEF as they generally apply to other employees of the Town, in addition to said benefits enumerated herein specifically for the benefit of the ASSISTANT FIRE CHIEF, except as otherwise provided in this Agreement. All other general provisions of the Town's Bylaws or Personnel Rules and Regulations relating to fringe benefits shall also apply to the ASSISTANT FIRE CHIEF as they apply to other employees of the Town, in addition to the benefits enumerated specifically for the benefit of the ASSISTANT FIRE CHIEF, except as otherwise provided in this Agreement. This Agreement shall prevail over any conflicting personnel provisions of the Town Bylaws or Rules and Regulations.

Section IX Discipline and Termination

During the term of this Agreement, the ASSISTANT FIRE CHIEF may be disciplined for good cause upon proper notice and hearing. Good cause for the purposes of this Agreement means any reason advanced by the Town that is not arbitrary, capricious, and/or discriminatory, including but not limited to inefficiency, incompetency, ineffectiveness, insubordination, incapacity, failure to meet the Town's standards and/or expectations, or conduct unbecoming. The principle of progressive discipline is generally applicable, but the Town reserves the right to terminate the ASSISTANT FIRE CHIEF'S employment without the imposition of prior discipline if circumstances warrant.

The Town may terminate the contract with the ASSISTANT FIRE CHIEF at any time prior to the expiration of the term of the Agreement and only for just cause. The Town shall institute removal proceedings in the following manner:

1. Termination will be by notice and hearing as required by law. At least ten (10) days prior to any hearing the ASSISTANT FIRE CHIEF shall be provided in writing with the charge(s) made against him, and the evidence which supports said charges, in such specificity so that the ASSISTANT FIRE CHIEF may understand and prepare his defense.
2. After ten (10) days following delivery and receipt of the charges and specifications, as described above in subparagraph 1, on a specific date and time and at a place specified in the written notice, the Board of Selectmen will conduct a hearing, and the ASSISTANT FIRE CHIEF will be given an opportunity to respond to the charges. The hearing will be public or private at the discretion of the ASSISTANT FIRE CHIEF. The subject matter to be presented at the hearing shall be only those charges as were specifically detailed in the written notice to the ASSISTANT FIRE CHIEF in accordance with subparagraph 1 above. During the hearing, the ASSISTANT FIRE CHIEF shall have the right to be represented by a representative of his choosing, to question, confront and cross-examine witnesses, to introduce evidence and to conduct oral arguments. In its decision, the Board of Selectmen shall consider only those facts which were presented at the hearing and shall make its findings of fact based upon a preponderance of the evidence presented. The ASSISTANT FIRE CHIEF shall be provided with a written notice of the findings and decision of the Board of Selectmen and such notice shall include the relevant facts and reasons for their findings.

The ASSISTANT FIRE CHIEF may be disciplined for just cause by the FIRE CHIEF for actions not resulting in termination in accordance to the Town's personnel policies and by-laws.

Should the ASSISTANT FIRE CHIEF resign his position at any time prior to the expiration of the term of this Agreement, he shall notify the Board of Selectmen in writing. If the ASSISTANT FIRE CHIEF is leaving office due to retirement, he shall provide the Town with ninety (90 days) notice, or a lesser amount of time as determined by the Board of Selectmen, to allow the Town to consider the appointment of a replacement.

Section X General Provisions

The text herein shall constitute the entire Agreement between the parties.

This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the ASSISTANT FIRE CHIEF.

If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

For the purposes of the federal Fair Labor Standards Act and the Massachusetts Wage and Hour Law, the ASSISTANT FIRE CHIEF is designated as an "exempt employee."

This Agreement may be amended at any time by written amendment executed by both parties.

IN WITNESS WHEREOF, the Town of Wellesley, Massachusetts, has caused this Agreement to be signed and executed in its behalf by its Board of Selectmen and duly attested by its Town Clerk, and the ASSISTANT FIRE CHIEF has signed and executed this Agreement, both in duplicate.

Board of Selectmen:

Assistant Fire Chief:

Jack Morgan, Chairman

Jeffrey Peterson
July ____, 2018

Marjorie R. Freiman, Vice Chair

Ellen F. Gibbs, Secretary

Elizabeth Sullivan Woods

Thomas H. Ulfelder

Town Clerk Attest:

4. **Discuss Revised School Building Committee Charge**

Included in your packet is a revised copy of the charge to the School Building Committee. This was discussed and approved by the School Committee at their meeting on Tuesday night, and needs to be taken up by the Board of Selectmen as well. Marjorie has requested that you review this version closely, and that if you have any questions about this to please contact her or Tom ahead of the meeting.

MOVE to approve the revised charge to the School Building Committee.

Charge to the School Building Committee (Revised)

July ~~14~~²⁴, 2018 (Draft)

Introduction

As described in the School Committee's updated May 8, 2018 [position statement](#) on the Hardy, Hunnewell, and Upham (HHU) Facilities Project, the Committee is committed to addressing the clear needs of the HHU schools. While school committees in Massachusetts have authority and responsibility under the General Laws for establishment and maintenance of school buildings ([M.G.L. c. 71 § 68](#)), the Committee recognizes that the scale of the HHU project requires a broad-based process, involving multiple Town boards as well as interested residents, in order to build consensus around the project. To this end, the School Committee (SC) and the Board of Selectmen (BOS) created the School Building Committee (SBC) in June 2017 and charged it with overseeing the design and building process for both the Hunnewell and Hardy/Upham projects.

On December 13, 2017, the Massachusetts School Building Authority (MSBA) invited the Ernest F. Upham Elementary School into its Core Program. This updated charge to the SBC is intended to address the changes in circumstances driven by this unexpected, but very welcome invitation. While some aspects of the HHU project have changed as a result of the invitation, the underlying intent has not: to move forward to address the needs of the HHU schools by building two new or renovated schools at this time, one at Upham or Hardy in partnership with the MSBA and one at Hunnewell under a separate Town-funded process. The SC and BOS charge the SBC with the execution of these processes.

Purpose

The purpose of the SBC, which will work under the guidance of the SC and BOS, is to conduct the two building processes through their respective phases. The SBC shall be directly responsible for conducting feasibility study work on the projects. Per [Town Bylaw 14.5](#), the Permanent Building Committee shall be directly responsible for conducting design and construction work on the projects, with guidance from the SBC. All of this work will involve a significant commitment from SBC members, spanning multiple years.

Throughout all of its work, the foremost priority for the SBC shall be for facilities that best serve the elementary students of Wellesley by meeting their educational programming needs in the most fiscally responsible manner.

Charge

MSBA Project

With respect to the MSBA project, the SBC shall be responsible for all aspects of the project, as specified in the MSBA [enabling statutes](#) and [regulations](#) and described on the MSBA [website](#). In addition to its responsibilities under the MSBA process, the SBC shall support the SC and BOS in securing an appropriation for the activities under Module 3 – Feasibility Study and Module 4 – Schematic Design at an October 2018 Special Town Meeting.

The preferred solution, whether renovation or new construction on a selected site, will be determined during Module 3 – Feasibility Study and further developed during Module 4 – Schematic Design. A Town Meeting appropriation will be required to proceed to design and construction on the selected solution.

Hunnewell Project

With respect to the Hunnewell project, the SBC shall again be responsible for all aspects of the project, following the typical Town process for construction projects, including feasibility study, design, and construction phases.

For the Hunnewell feasibility study, the SBC has already:

- Outlined the scope of the feasibility study and developed a proposed plan and estimated budget for it.
- Developed a Request for Qualifications (RFQ) for an Owner's Project Manager for the study.
- Developed an RFQ for a designer to conduct the study.
- Gained approval for the proposed scope, estimated budget, and RFQs from the SC and BOS.
- Issued the OPM and Designer RFQs.
- Supported the SC and BOS in successfully securing an appropriation for the study at a June 2018 Special Town Meeting.

The SBC is further charged with completing the feasibility study, including:

- Selecting an OPM and designer and negotiating engagement contracts with each.
- Conducting the study with the support of the OPM and designer.
- Potentially conducting analysis of potential swing space options, independent of the formal feasibility study.
- Producing a final report documenting the results of the study and presenting it to the SC and BOS.

The plan and schedule for the design and construction phases of the Hunnewell project are contingent on the results of the feasibility study. This charge will be updated once the results are known and a path forward is determined by the SC and BOS.

Additional Responsibilities of the SBC, SC, and BOS

Throughout its work, the SBC shall provide periodic written reports to the SC, the BOS, and the community, which shall also be posted on the Town website. The SBC, SC, and BOS shall hold joint meetings ~~not less than~~roughly once per quarter to discuss the projects, exchange perspectives, and discuss proposed solutions or decisions. The SBC shall advise the SC and BOS on possible and/or recommended paths forward. Because the SC and BOS believe that the project will not be successful without consensus among the SBC and both boards, supportive votes shall be required from each of the SBC, SC, and BOS at certain points in each project. For the MSBA project, supportive votes from all three bodies shall be required prior to any submission to the MSBA Board of Directors. For the Hunnewell project, supportive votes from all three bodies shall be required prior to seeking any Town Meeting appropriation for any phase of the project.

Public Engagement

In order to provide a broad base of input and feedback from town residents during its work, the SBC is charged with organizing various advisory groups to represent different constituencies or interests, including but not limited to: environmental concerns (in consultation with the Sustainable Energy Committee), historical concerns (in consultation with the Historical Commission), neighborhood/abutter concerns, and playing fields and other recreation concerns (in consultation with the Playing Fields Task Force and others). The SBC shall design a process by which it will engage with these groups to solicit and respond to their input. For the Hunnewell project, the SBC shall also engage with the Wellesley Free Library Board of Trustees in considering potential impacts to Library property under any proposed solution. In addition to working with these organized interest groups, the SBC is also charged with conducting appropriate public outreach on topics of interest to the community, both to provide information about the status of the projects and to seek public input.

All meetings of the SBC, or any subcommittees of the SBC, shall be held in accordance with the Open Meeting Law ([M.G.L. c. 30A §§ 18-25](#)). The SBC shall, to the best of its ability, ensure that its meetings are recorded by [Wellesley Public Media](#) and broadcast live and/or made available for later viewing by the public.

Membership

Following the requirements of the MSBA for school building committees ([963 CMR 2.10\(3\)](#)), the members of the SBC shall be:

- Two members of the School Committee
- Superintendent of Schools
- Assistant Superintendent for Finance and Operations, MCPPO-certified (non-voting)
- Principals of the Hardy, Hunnewell, and Upham Schools (non-voting)
- Two members of the Board of Selectmen
- Executive Director or designee
- One member of the Permanent Building Committee
- Facilities Management Director or designee
- One member of the Advisory Committee
- Two or more community members with experience in construction, architecture, or engineering
- Two or more community members with experience in Town government

Each of the boards or committees having membership shall select which of their members will serve on the SBC. Having continuity of service on the SBC is a priority; however, given that the expected duration of the SBC will likely cross over members' terms of office on their board or committee, replacement of members over time is expected. All members shall be appointed by vote of the School Committee and Board of Selectmen.

5. Conduct Annual Performance Review – Executive Director

Annually at this time of year, the Town conducts its performance evaluations on all employees in the 50 & 60 series of the compensation plan. As the Board of Selectmen is the supervisor of the Executive Director, this performance evaluation must be conducted in a public meeting and the Executive Director will be present for this. The public evaluation document prepared by the Chairman will be handed out at the meeting. After the outcome of the Wayland case regarding performance evaluations it is the advice of counsel that if the documents are not able to be made publicly available ahead of the meeting, that no one receive them until the meeting. What is included in your packet is the Executive Director's own self-evaluation and goals for FY19.

The Executive Director's base compensation that was set by the Board in FY18 was \$193,800. The Board may provide the Executive Director with a salary increase that they believe is warranted as a result of the performance evaluation. For your information two options as were provided for the Chiefs are listed below.

2.0% =	\$3,876
2.25%	\$4,360

MOVE that the Board vote to approve the performance evaluation for the Executive Director, and further to authorize an increase in compensation of _____ for FY19.



This form should be used for all 50/60 series employees for their annual performance evaluation. Please fully complete the form and answer all questions. Please use additional pages if there is not enough space and attach them to this form. For a 6 month review, please disregard Part II, the goal evaluation section.

Employee to be reviewed _____ Title _____ Department _____

Reviewer _____ Title _____ Department/Board/Commission _____

Reviewer's Primary Phone Number _____ E-mail Address _____

Review Period (Fiscal Year or 6 month review) _____

Evaluation Results

Part I: This portion is used to evaluate the standardized performance dimensions for a 50/60 series employee. **Not all dimensions will apply to all employees.** Please use your best judgment and only use the dimensions that you feel apply to the employee and the position. **You are encouraged to use your own dimensions for #6 through #8.**

	Number of Completed Questions	Score
Job Knowledge / Core Competencies	_____	_____
Administrative Abilities	_____	_____
Communication	_____	_____
Quality of Work	_____	_____
Planning / Initiative	_____	_____
Leadership	_____	_____

Part II: Goal setting is an important part of the performance evaluation process. Please take the time to fully complete each Goal Assessment Form using the S.M.A.R.T system and G.R.O.W method. It is vital to the process that the reviewer and employee set specific follow-up dates and benchmarks to measure each goal. Please retain a copy of the Goal Assessment Form for you to review throughout the year and to use in progress meetings with the employee.

	Number of Completed Questions	Score
Goal Assessment #1	_____	_____
Goal Assessment #2	_____	_____
Goal Assessment #3	_____	_____
TOTAL (add Part I and Part II):	_____	_____

Please divide the **Score** total by the total **Number of Completed Questions:** _____

1.00 – 1.49	1.5 – 2.49	2.50 – 3.00
Unsatisfactory (improvement plan required) – Fails to meet the minimum performance or expectations for the role in general	Successful – Employee is an excellent performer and demonstrates a high standard for the quality of work and leadership	Exemplary – Performance exceeds expectations and is beyond the usual quality of work

Additional Comments

Acknowledgements

I have reviewed the above performance evaluation and discussed it with my manager/supervisor and have received a copy of it. My signature shall not be construed to mean either agreement or disagreement with the evaluation but, rather, acknowledgment that I have seen the evaluation and discussed it with my manager/supervisor. I also understand that I have the right to submit my own statement regarding the results of the evaluation.

Employee Name

Employee Signature

Date

I have completed and discussed this performance evaluation with the employee and provided them with a copy of it.

Reviewer Name

Reviewer Signature

Date

Core Competencies / Job Knowledge

1 = Unsatisfactory

2 = Successful

3 = Exemplary

1. Possesses appropriate expertise to perform the job at a professional level	①	②	③	N/A
2. Participates in professional development programs, continuing education opportunities and expands on his/her knowledge of the position	①	②	③	N/A
3. Remains current and knowledgeable on all new professional/technical skills and training associated with the job	①	②	③	N/A
4. Follows fiscal guidelines, regulations, principles, and standards when committing fiscal or departmental resources	①	②	③	N/A
5. Applies laws, rules and regulations in a way that the public and employees perceive as fair, objective, uniform and reasonable	①	②	③	N/A
6.	①	②	③	N/A
7.	①	②	③	N/A
8.	①	②	③	N/A

Please provide specific examples and additional information for any metric receiving a 3:

Number of Questions Completed: _____

Score: _____

Administrative Abilities

1 = Unsatisfactory	2 = Successful	3 = Exemplary	
1. Manages the department's budget, funds, contracts, compensation changes and purchase orders		① ② ③	N/A
2. Complies with all by-laws, collective bargaining agreements and state and federal employment laws		① ② ③	N/A
3. Effectively manages department's vacation and sick leave		① ② ③	N/A
4. Maintains all records in accordance with state and federal regulations and laws		① ② ③	N/A
5. Provides board members or commissioners agenda items and necessary information in a timely manner		① ② ③	N/A
6.		① ② ③	N/A
7.		① ② ③	N/A
8.		① ② ③	N/A

Please provide specific examples and additional information for any metric receiving a 3:

Number of Questions Completed: _____

Score: _____

Communication

1 = Unsatisfactory

2 = Successful

3 = Exemplary

1. Communicates effectively in all forms and methods	①	②	③	N/A
2. Conveys messages using appropriate method of communication (email, phone, in person)	①	②	③	N/A
3. Keeps all departments informed of major developments and provides the necessary information	①	②	③	N/A
4. Effectively uses email and electronic communications, such as text messages, website postings, shared network folders, MUNIS, etc.	①	②	③	N/A
5. Willingly accepts and gives feedback, opinions, criticism, new ideas and comments	①	②	③	N/A
6.	①	②	③	N/A
7.	①	②	③	N/A
8.	①	②	③	N/A

Please provide specific examples and additional information for any metric receiving a 3:

Number of Questions Completed:

Score:

Quality of Work

1 = Unsatisfactory

2 = Successful

3 = Exemplary

1. Work product, tasks and responsibilities are completed in a timely, efficient manner meeting the expected standards of the position

① ② ③ N/A

2. Functions within the Town in a professional manner and is prepared and punctual for all required meetings

① ② ③ N/A

3. Offers creative solutions, new ideas and explores alternative methods to accomplish department tasks

① ② ③ N/A

4. Provides regular status updates for major projects and initiatives

① ② ③ N/A

5. Employee's overall work product meets the standard for the position

① ② ③ N/A

6.

① ② ③ N/A

7.

① ② ③ N/A

8.

① ② ③ N/A

Please provide specific examples and additional information for any metric receiving a 3:

Number of Questions Completed: _____

Score: _____

Planning / Initiative

1 = Unsatisfactory

2 = Successful

3 = Exemplary

1. Recognizes and participates in Town-wide objectives, projects and goals	①	②	③	N/A
2. Adopts new methods or best practices within the department	①	②	③	N/A
3. Shares responsibility for multi-departmental tasks, responsibilities, projects and goals and participates in strategic plans	①	②	③	N/A
4. Provides employees within his or her department with the necessary tools, resources and professional development to succeed	①	②	③	N/A
5. Has a defined vision for the future of the department, identifies future problems and recommends solutions	①	②	③	N/A
6.	①	②	③	N/A
7.	①	②	③	N/A
8.	①	②	③	N/A

Please provide specific examples and additional information for any metric receiving a 3:

Number of Questions Completed: _____

Score: _____

Leadership

1 = Unsatisfactory

2 = Successful

3 = Exemplary

1. Fosters a work environment that builds trust and mutual respect	①	②	③	N/A
2. Advocates for programs, policies and procedures for the employee's department	①	②	③	N/A
3. Presents a positive image to Town residents, employees, volunteers and visitors	①	②	③	N/A
4. Supports team work and building relationships to achieve goals/projects/objectives that involve multiple departments	①	②	③	N/A
5. Makes decisions in a timely manner that are clear, consistent and transparent	①	②	③	N/A
6.	①	②	③	N/A
7.	①	②	③	N/A
8.	①	②	③	N/A

Please provide specific examples and additional information for any metric receiving a 3:

Number of Questions Completed: _____

Score: _____

Writing SMART Goals

One of the most commonly used and accepted methods of goal setting is the SMART method. The purpose of SMART goal setting is to help employees and supervisors develop goals that are specific, achievable and have a positive outcome. By using the SMART method, your goals will be easier to achieve and give you the ability to demonstrate your success throughout the process.

Sample Goal *By December 1st, I want to get healthier by losing 25 pounds and reducing my cholesterol level to under 190. I will do this by eating vegetables at every meal and spending 2 hours at my health club at least 3 times per week.*

Specific Goals should be simplistically written and clearly define what the employee is going to do. “Specific” is the What, Why and How of the SMART model. Identify a location. Establish a time frame. Identify requirements and constraints. Identify specific reasons or the benefits of accomplishing the goal.

What: “losing 25 pounds and reducing my cholesterol level to under 190”

How: “eating vegetables at every meal and spending 2 hours at my health club”

Why: “I want to get healthier”

Measurable Establish concrete standards, dates and benchmarks for measuring progress toward the attainment of each goal. To determine if your goal is measurable, ask questions such as: How much? How many? How will I know when it is accomplished?

The **Sample Goal** clearly gives specific metrics that will objectively tell if that goal has been met; losing 25 pounds, reduce cholesterol to under 190, visit health club 3 times per week.

Achievable Goals should be achievable by the next performance review. The goals should be able to push the employee enough so they feel challenged, but defined well enough so that the goals can be achieved. The achievement of the goal should utilize their current knowledge, skills and abilities, or make acquiring the necessary knowledge, skills or abilities part of the goal setting process.

Relevant The goal needs to tie into the employee’s key responsibilities and be important to the mission of the department.

The **Sample Goal** uses health as a motivating factor, and would be relevant to any person’s lifestyle. Likewise, the goal should be focused on bettering the employee and the department.

Timely Goals should be linked to a timeframe that creates a practical sense of urgency, or results in tension between the current reality and the vision of the goal. Without such tension, the goal is unlikely to produce a relevant outcome.

The **Sample Goal** gives the specific deadline of December 1st for accomplishing the goal.

John Whitmore, Coaching for Performance: GROWing Human Potential and Purpose—The Principles and Practice of Coaching and Leadership (fourth edition), October 10, 2009.

<http://www.oracle.com/us/media1/goal-setting-fresh-perspective-ee-1679275.pdf>

http://www.hr.virginia.edu/uploads/documents/media/Writing_SMART_Goals.pdf

Goal Assessment Form

Type of goal: Personal Growth/Improvement Job Function/Responsibility Special Project

Goal:

Describe the expected impact on the employee's performance and/or departmental function:

Explain how this goal will be considered achieved:

Expected achievement date:

Steps to achieve goal

List detailed steps, dates and/or benchmarks required to accomplish the stated goal. Use additional pages if needed.

- 1.
- 2.
- 3.
- 4.
- 5.

Progress Update

Set a date to review the progress of the goal

Progress review date:

Progress report:

- No progress** – There has been little to no evidence of progress towards the goal. **Some progress** – The employee is on track to achieve the goal. **Near completion** – The employee is near to completing the goal.

Notes:

PLEASE RETAIN A COPY FOR YOUR FILES AND TO REVIEW WITH THE EMPLOYEE THROUGHOUT THE YEAR

Goal Assessment Form

Type of goal: Personal Growth/Improvement Job Function/Responsibility Special Project

Goal:

Describe the expected impact on the employee's performance and/or departmental function:

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Steps to achieve goal

List detailed steps, dates and/or benchmarks required to accomplish the stated goal. Use additional pages if needed.

- 1.
- 2.
- 3.
- 4.
- 5.

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Notes:

PLEASE RETAIN A COPY FOR YOUR FILES AND TO REVIEW WITH THE EMPLOYEE THROUGHOUT THE YEAR

Goal Evaluation Form

Status: Achieved Partially Achieved Not Achieved

Goal:

Evaluating the success of a goal is more than determining if it has been achieved or not. Evaluate the employee's performance in the steps taken to complete the goal and indicate the impact that accomplishing the goal has had on the department and/or the employee.

1 = Unsatisfactory

2 = Successful

3 = Exemplary

Communication: How effective was the employee's communication skills in achieving the goal?

① ② ③ N/A

Quality of Work: Did the employee meet the expected quality of work?

① ② ③ N/A

Productivity: Did the employee consistently meet the set benchmarks and deadlines?

① ② ③ N/A

Improvement: Did achieving the goal demonstrate a positive outcome for the employee and/or department?

① ② ③ N/A

Adaptability: How successfully did the employee manage changes, setbacks or interruptions in accomplishing the goal?

① ② ③ N/A

Comments:

Number of Questions Completed:

Score:

Goal Evaluation Form

Status: Achieved Partially Achieved Not Achieved

Goal:

Evaluating the success of a goal is more than determining if it has been achieved or not. Evaluate the employee's performance in the steps taken to complete the goal and indicate the impact that accomplishing the goal has had on the department and/or the employee.

1 = Unsatisfactory

2 = Successful

3 = Exemplary

Communication: How effective was the employee's communication skills in achieving the goal?

① ② ③ N/A

Quality of Work: Did the employee meet the expected quality of work?

① ② ③ N/A

Productivity: Did the employee consistently meet the set benchmarks and deadlines?

① ② ③ N/A

Improvement: Did achieving the goal demonstrate a positive outcome for the employee and/or department?

① ② ③ N/A

Adaptability: How successfully did the employee manage changes, setbacks or interruptions in accomplishing the goal?

① ② ③ N/A

Comments:

Number of Questions Completed:

Score:

Goal Evaluation Form

Status: Achieved Partially Achieved Not Achieved

Goal:

Evaluating the success of a goal is more than determining if it has been achieved or not. Evaluate the employee's performance in the steps taken to complete the goal and indicate the impact that accomplishing the goal has had on the department and/or the employee.

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Communication: How effective was the employee's communication skills in achieving the goal?

① ② ③ N/A

Quality of Work: Did the employee meet the expected quality of work?

① ② ③ N/A

Productivity: Did the employee consistently meet the set benchmarks and deadlines?

① ② ③ N/A

Improvement: Did achieving the goal demonstrate a positive outcome for the employee and/or department?

① ② ③ N/A

Adaptability: How successfully did the employee manage changes, setbacks or interruptions in accomplishing the goal?

① ② ③ N/A

Comments:

Number of Questions Completed: _____

Score: _____

6. Execute State Primary Election Warrant

The Massachusetts state primary for the fall election has been scheduled by the Secretary of State for Tuesday, September 4, 2018. Enclosed with your packet is the warrant for this election as prepared by the Town Clerk. The Board needs to execute this warrant so that it can be posted by the Constable.

As an aside, because the election falls on the day after Labor Day, in order to comply with State law that Town Hall must be open the business day prior until 5:00 PM in order for any residents who want to register to vote, Town Hall will be open as required. Specifically, this is August 31st which is also the last day of summer hours. As a result, the offices other than the Town Clerk will close at noon, and her office will stay open until 5:00 PM.

MOVE that the Board execute the warrant for the September 4, 2018 primary election.

**COMMONWEALTH OF MASSACHUSETTS
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH**

WARRANT FOR 2018 STATE PRIMARY

Norfolk County SS.

To Philip Juliani, Constable for the Town of Wellesley

GREETINGS:

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said city or town who are qualified to vote in Primaries to vote at:

- The Voters of Precinct A, in Katherine Lee Bates School at 116 Elmwood Road.
- The Voters of Precinct B, in Isaac Sprague School at 401 School Street.
- The Voters of Precinct C, in Ernest F. Upham School at 35 Wynnewood Road.
- The Voters of Precinct D, in Otho L. Schofield School at 27 Cedar Street.
- The Voters of Precinct E, in Joseph E. Fiske School at 45 Hastings Street.
- The Voters of Precinct F, in Dana Hall School – Shipley Center, 142 Grove Street
- The Voters of Precinct G, in Wellesley Free Library, 530 Washington Street
- The Voters of Precinct H, in Tolles Parsons Center at 500 Washington Street.

on **TUESDAY, THE FOURTH DAY OF SEPTEMBER, 2018**, from 7:00 A.M. to 8:00 P.M. for the following purpose:

To cast their votes in the State Primaries for the candidates of political parties for the following offices:

SENATOR IN CONGRESS.	FOR THIS COMMONWEALTH
GOVERNOR.	FOR THIS COMMONWEALTH
LIEUTENANT GOVERNOR.	FOR THIS COMMONWEALTH
ATTORNEY GENERAL.	FOR THIS COMMONWEALTH
SECRETARY OF STATE.	FOR THIS COMMONWEALTH
TREASURER AND RECEIVER GENERAL.	FOR THIS COMMONWEALTH
AUDITOR.	FOR THIS COMMONWEALTH
REPRESENTATIVE IN CONGRESS.	4 th Congressional District
COUNCILLOR	
Precincts A, C, D, E, H.	3 rd COUNCILLOR DISTRICT
Precincts B, F, G.	2 nd COUNCILLOR DISTRICT
SENATOR IN GENERAL COURT	
Precincts A, C, D, E, H.	1 st MIDDLESEX AND NORFOLK DISTRICT
Precinct B, F, G.	NORFOLK, BRISTOL AND MIDDLESEX DISTRICT
REPRESENTATIVE IN GENERAL COURT.	14 th NORFOLK DISTRICT
COUNTY COMMISSIONERS	NORFOLK COUNTY
DISTRICT ATTORNEY	NORFOLK DISTRICT
CLERK OF COURTS.	NORFOLK COUNTY
REGISTER OF DEEDS.	NORFOLK DISTRICT
COUNTY TREASURER (Norfolk County only) (to fill vacancy).	NORFOLK COUNTY

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this _____ day of _____, 2018.
(month)

Selectmen of Wellesley

County of Norfolk ss:
Commonwealth of Massachusetts, Wellesley:

I have this day caused the within Warrant to be posted in two public places, Wellesley Square and Wellesley Town Hall. In addition it is posted on the Town of Wellesley website at www.wellesleyma.gov.

Philip Juliani, Constable

Date: _____, 2018

Warrant must be posted by **August 28, 2018**, (at least *seven days prior* to the **September 4, 2018** State Primary).

7. Open Warrant for October 2nd Special Town Meeting

Included in your packet is the timeline we have developed outlining the steps necessary to convene a special town meeting on October 2nd. The primary purpose of the meeting is to bring an article to fund the MSBA process feasibility and schematic design the Upham school. The timeline calls for the warrant to open Tuesday night, and close on Friday, August 3rd.

MOVE to call a Special Town Meeting and set the following dates:

- Open the Warrant – July 31, 2018
- Close the Warrant – Friday, August 3, 2018, 12:00pm
- Motions due to the Selectmen’s Office – Friday, September 7, 2018, 5:00pm
- Start of Special Town Meeting – Tuesday, October 2, 2018, 7:00 pm, at the Wellesley Middle School

Special Town Meeting Checklist

Date of Special Town Meeting - 10/02/2018 7:00 PM - Wellesley Middle School

Day of Week	Date	Action
Thursday	07/26/18	Legal Ad submitted to Wellesley Townsman for 08/02/18 printing
Tuesday	07/31/18	Warrant Opened
Wednesday	08/01/18	Notice to be received by all governmental departments of the date the STM Warrant will be closed and all articles to be included in the Warrant to be filed with the Selectmen's Office (TBL 19.52)
Thursday	08/02/18	Notice indicating Special Town Meeting Warrant Closing Date printed in the Townsman (TBL 19.52) include time/place and availability of warrant
Friday	08/03/18	STM Warrant Closed at noon- Articles to be included in the Warrant for the Special Town Meeting to be in the Selectmen's Office (TBL 8.12; 19.52) - Submitted to Town Clerk for signature verification 100 registered voters required
Tuesday	08/21/18	Warrant for STM signed by Board of Selectmen
Wednesday	08/22/18	Transmit Warrant to Town Meeting Members and Advisory Committee (TBL 19.53).
Wednesday	08/22/18	Warrant Signed and Posted by Constable - Phil Juliani 617-799-5482
Wednesday	09/12/18	Advisory Committee Public Hearing
Friday	09/07/18	Copies of each motion to be made under the Articles of the Warrant are due to the Selectmen's Office (TBL 8.13)
Friday	09/07/18	Submit Notice to <i>Townsman</i> for 09/13/18 publication
Thursday	09/13/18	Publish Time/Place of Meeting and availability of warrant on website in <i>Townsman</i> (TBL 8.10)
Friday	09/21/18	Mailing Motions to Town Meeting Members
Tuesday	10/02/18	Special Town Meeting Session 1 - Wellesley Middle School 7:00PM

Town Bylaw References

8.10	<p>8.10 Notice of Town Meeting. Notice of each Town Meeting, whether Annual or Special, shall be given by the Selectmen by publishing a copy of the notice in a newspaper generally circulated in the Town at least seven days before the date on which the Annual Town Meeting, and at least 14 days before the date on which the Special Town Meeting, is to commence. Said notice shall state the time and place of the meeting and that the full text of the warrant shall be published on the Town's website and be available from the Selectmen's office. Additionally, the Selectmen shall post attested copies of the warrant for that Meeting in no less than two conspicuous places in the Town including but not limited to the Town Hall and Wellesley Square and shall make the warrant available on the Town's website. <i>(Amended ATM 2008, Approved by Attorney General 7/8/2008, Effective 10/20/2008)</i></p>
8.11	<p>8.11. Calling Special Meeting. The Selectmen shall call a Special Town Meeting upon request in writing of 200 registered voters. The meeting shall commence not later than 45 days after receipt of such request, in accordance with Chapter 39, Section 10 of the General Laws. The Selectmen may also call a Special Town Meeting on their own initiative.</p>

Special Town Meeting Checklist

8.12	8.12. Warrant Articles. The Selectmen shall insert in the warrant all subjects requested of them in writing by: a. any board, b. any official, c. ten or more registered voters, for an Annual Town Meeting, and d. 100 or more registered voters, for a Special Town Meeting. The Selectmen may also insert subjects on their own initiative, and e. those persons or boards authorized by Chapter 40A, Section 5 of the General Laws to initiate adoption of or changes in Zoning Bylaws.
8.13	8.13. Motions. The Selectmen shall include, in the notice given under Section 8.10. a date by which motions to be offered to the Town Meeting must be submitted to the Selectmen. The Selectmen shall forward copies of motions to the Advisory Committee, Town Counsel, and any other board, officer or official they deem appropriate.
11.13	11.13. Notice of Request for Other Appropriations. For any appropriation other than those involving collective bargaining or covered by Sections 11.11. and 11.12. the requesting board, official or officer shall file written notice thereof, including the amount to be requested and its purpose, with the Advisory Committee and the Board of Selectmen at least 14 days before the session of the Town Meeting at which such appropriation will be acted upon. In the event of emergency requiring immediate consideration, this provision may be waived by the Town Meeting but only upon the advice of the Advisory Committee that it has duly considered the request.
19.51	19.51. Town Meeting. The Selectmen are responsible for calling all Town Meetings and shall take such actions as are required by law or by Article 8 of these bylaws relative to Town Meeting.
19.52	19.52. Closing of Warrant. The Selectmen shall, by notice to each board and by notice in a newspaper generally circulated in the Town, specify the date when the warrant for any Town Meeting shall close.
19.53	19.53. Copies of Warrant. The Selectmen, after drawing a warrant for a Town Meeting, shall transmit as soon as possible a copy of the same to each member of the Advisory Committee and to each Town Meeting Member.
19.54	19.54. Copies of Motions. The Selectmen shall distribute copies of all draft motions received by them to the Moderator, Advisory Committee, Town Counsel, and to any board which in its opinion is likely to have an interest in the motion, so that they may communicate with the author of the motion as far in advance of the meeting as possible. Copies of such drafts shall also be available for public inspection at the Selectmen's office and at the Wellesley Free Library.

8. Executive Director's Report

Included in your packet are the minutes of the July 10th and 17th minutes for the Board's review and approval.

MOVE that the Board approve the minutes of the July 10th and July 17th meetings.

1 **Approved:**

2
3 **Board of Selectmen Meeting: July 10, 2018**

4 **Present: Gibbs, Freiman, Sullivan Woods, Ulfelder, Morgan**

5 **Also Present: Robinson**

6
7 **Warrants approved: 2018-051 \$5,747,578.38**

8 **2018-052 \$2,910,149.47**

9 **2018-053 \$2,219,166.06**

10
11 **Minutes approved:**

12 **June 4, 2018**

13 **June 5, 2018**

14 **June 11, 2018**

15 **June 18, 2018**

16 **June 25, 2018**

17
18 **Meeting Documents:**

19 1. Agenda

20 2. BOS calendar

21 3. Motions

22 4. Executive Director's Weekly Report

23 5. Memo from Meghan Jop pre: 978 Worcester Street Rent Increase

24 6. 2018 Wellesley Housing Authority Utility Allowance Schedule

25 7. Sebastian's Café Common Victualler License Application

26 8. Chief Pilecki FY19 Goals

27 9. Chief Pilecki FY 2018 Self Evaluation

28 10. Chief DeLorie 2018 Memo and Self Evaluation

29 11. Chief DeLorie FY19 Goals

30 12. FY 20 Budget Prep Manual with Capital Improvement Plan

31 13. Sample Point Factor System for Capital Improvement Plan

32 14. Email re: donation from the Wellesley Garden Study Group

33 15. Memo re: Gift from Edge Sports Group to the Recreation Commission

34 16. Draft BOS minutes: 6/4/18

35 17. Draft BOS minutes: 6/5/18

36 18. Draft BOS minutes: 6/11/18

37 19. Draft BOS minutes: 6/18/18

38 20. Draft BOS minutes: 6/25/18

39 21. FY19 Work plan

40 22. FY 18 Town Counsel Expenses

41 23. Correspondence from Town Counsel re: Employee Evaluations

42 24. Correspondence to BOS from Aetna

43 25. Correspondence from Wellesley Historical Society

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45
46 **1. Call to Order and Citizen Speak**

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48 Mr. Morgan, Chairman, called the meeting to order at 7:00pm.

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51 **Citizen Speak:** None.

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2. Meeting Management Style

Mr. Morgan stated he was excited to begin his Chairmanship and will be focusing on more effective time management during the deliberation of agenda items. Open meeting laws require that deliberations take place in an open meeting and he wants the Board to be aware of the amount of time this takes during meetings. He added that he intends to hold meetings approximately three weeks of the month and will work to keep agendas focused. He stated he would prefer that presentations flow with limited or no interruptions and allow for only critical discussions and decisions.

3. Approve Proposed Rents for 978 Worcester Street

Ms. Robinson provided a brief background of the necessity for the Board to review and approve rent increases for the property. The tenants had received notice of the proposed increase. She noted the amenities that are included with the rent. The increase is approximately 7.4% but the rent is less than Waterstone of Wellesley that was recently approved by the Board. She noted the population and type of facility is different than Waterstone as it is not age restricted.

A resident of 978 Worcester Street came before the Board. He stated he understands rent will be increased annually but finds the 7.5% increase too high, higher than his salary increase of approximately 3%.

Mr. Ulfelder stated that seeing data of the cost of the units and the basis behind the determination of the increase would be helpful for the Board in order to consider the increase. Mr. Morgan added that the background the Board received was helpful but felt the Board also should consider the impact of rent on the residents, though he was overall supportive of the increase. The Board discussed the proposed rent increase and asked for background of the expenses for the facility. Ms. Robinson said she would ask for additional background from the developer regarding their expenses so the Board could discuss the proposal at the next meeting.

4. Review and Approve Common Victualler License – Sebastian’s Cafe

Ms. Robinson gave an overview of the application and location within the Harvard Pilgrim site. The application needed to receive final sign off from the Health Department and the Fire Department before the license would be issued but there had been no indications that it would not receive final sign off.

Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to approve a Common Victualler and License to LPM Holding Company d/b/a Sebastian’s Café through December 31, 2018 and to name James Kampper as Manager.

**5. Conduct FY18 Annual Performance Evaluations:
Police Chief Jack Pilecki and Fire Chief Rick DeLorie**

Mr. Morgan discussed how the performance evaluations were conducted and invited Chief Pilecki to join the Board.

Ms. Gibbs, as previous Chair, conducted the evaluation and reviewed a memo she prepared for public comment of Chief Pilecki’s performance review. She noted the overall positive steps the Chief had taken

103 in his leadership role and the smooth transition to his new role as Chief. She added the positive comments
104 the Board had received regarding the Chief and his staff. The Chief's work with community partners was
105 highlighted. She noted his goals from the previous year had been achieved and highlighted some of the
106 accomplishments for him and his staff over the past year. Ms. Gibbs outlined the Chief's goals for the
107 upcoming year. The Board remarked on their individual impressions of the work the Chief and his
108 department had accomplished.

109
110 Chief Pilecki thanked the Board and the Executive Director for their support of him and his Department.
111 He added that his success is reflective of the quality of his staff.

112
113 Chief DeLorie joined the Board. Ms. Gibbs reviewed the memo she prepared for public comment of Chief
114 DeLorie's performance review. She noted his leadership and cooperative team approach were appreciated
115 by the Board. She added that morale at the department is high and works well with union leadership. She
116 added that he had met his goals for the year and highlighted several of his achievements. She outlined some
117 of his goals for the upcoming year. The Board thanked the Chief and remarked on his work and that of his
118 staff.

119
120 Chief DeLorie thanked the Board and recognized his staff for their work. He added his appreciation for the
121 support he received that enabled the department to take part in live fire training.

122
123 Ms. Gibbs reviewed her recommendations for the salary increase for both Chief Pilecki and Chief DeLorie
124 based on their annual performance reviews.

125
126 **Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to approve the**
127 **performance evaluation for the Police Chief as proposed by the Chairman, and further to authorize**
128 **an increase in compensation of \$3,901.50 for FY19.**

129
130 **Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to approve the**
131 **performance evaluation for the Fire Chief as proposed by the Chairman, and further to authorize an**
132 **increase in compensation of \$3,712.50 for FY19.**

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134
135 **6. Discuss FY19 Board & Committee Appointments**

136
137 Mr. Morgan stated that due to his increased responsibilities as Chair of the Board he had resigned from
138 the School Building Committee and proposed Ms. Freiman be appointed to the vacancy. Ms. Gray came
139 before the Board and noted that School Committee would be meeting prior to the next SBC meeting to
140 appoint the new member. She added her thanks to Mr. Morgan for his six years of service to Wellesley
141 Schools and welcomed Ms. Freiman.

142
143 Ms. Sullivan Woods provided a brief update on the Council on Aging appointments. The four members
144 with terms expiring have indicated they would like to be reappointed. The remainder of the Board is
145 supportive of reappointing the members and asked the Selectmen to approve the appointments. Mr. Morgan
146 added there are two additional vacancies on the COA Board that will be appointed in the future.

147
148 **Upon a motion by Ms. Gibbs and seconded by Mr. Morgan, the Board voted (5-0) to appoint Marjorie**
149 **Freiman to the School Building Committee.**

150
151 **Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to reappoint the**
152 **following persons to three year terms on the Council on Aging beginning July 1, 2018:**

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- Diane Campbell
- Thomas Kealy
- Barbara Offenhartz
- Dianne Sullivan

7. Discuss Capital Planning Approach and Feedback from Departments

Ms. Strother, Town Finance Director, joined the Board. Ms. Strother and Ms. Robinson provided background of the long term capital planning approach. Ms. Robinson noted that individual departments have well thought-out capital plans, however financial issues begin to arise when the cost of all of the plans considered as a whole for the Town. The Capital Policy will provide a process and list of criteria to use to determine which projects should be funded and in what order. She noted that many departments provided input into this approach and were had been involved in the process. After the Selectmen have input into this draft, it will be shared with all Boards and Committees. Ms. Strother added that this provides an opportunity for transparency and an expectation to what the schedule for projects will be.

Ms. Freiman appreciated the inclusion of the guidelines within the budget book especially for the first year to avoid revising a policy after its first year. She noted she expected additional comments from Boards and departments.

The Board discussed capital planning, the proposed committee, and the process for the upcoming fiscal year. Mr. Morgan suggested providing a presentation with individual departments rather than circulating the manual to have others gain an understanding of the process. Ms. Strother explained the background of assigning values to the components of the methodology of prioritization of projects. She noted the methodology had not been finalized and input would be needed from other departments. The Board discussed at length the prioritization formula process. Mr. Ulfelder asked that the makeup of the review committee be carefully considered, that we may want to consider providing representation from all boards/departments that have capital projects in a given year.

Mr. Morgan suggested the Board revisit this discussion in the near future and asked that next time input received from other departments be included.

8. Executive Director’s Report

Ms. Robinson reviewed the items for review and approval. Mr. Morgan noted that SPED Stabilization fund would be discussed with members of the School Committee.

Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to accept the following gifts:

- A donation from the Wellesley Garden Study Group of \$875 for the purchase of a teak bench and bronze plaque to be installed at Centennial Park, and
- A donation from Edge Sports Group of \$1,000 for the summertime concert series.

Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to approve payments from the SPED Stabilization Fund to New England Medical Billing dated June 20, 2018 totaling \$4,852.42.

Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to approve the minutes of the June 4, 5, 11, 18 and 25th, 2018 meetings.

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9. New Business and Correspondence

Mr. Ulfelder asked for the Board to be updated on the Library Materials Handler project. Ms. Robinson stated that FMD was helping to negotiate the contract with the architect but would provide an additional update soon.

The meeting was adjourned at 9:17pm

1 **Approved:**

2

3 **Board of Selectmen Meeting: July 17, 2018**

4 **Present: Freiman, Sullivan Woods, Ulfelder, Morgan**

5 **Also Present: Robinson, Jop**

6

7 **Warrants approved: 2019-001 \$897,439.14**

8

9 **Minutes approved:**

10

11 **Meeting Documents:**

12

1. Agenda

13

2. BOS calendar

14

3. Motions

15

4. Executive Director's Weekly Report

16

5. Petition for grant of location from Eversource

17

6. Draft letter to MassHousing re: 136-140 Worcester Street Site Eligibility

18

7. Letter from MassHousing and application for Proposed 40B at 136-140 Worcester Street

19

8. White's Bakery Common Victualler License application

20

9. Memo re: Tailby & Railroad lot working group recommendation

21

10. Tailby & Railroad lot working group spreadsheet

22

11. Letter from Michael Carr re: Wellesley Place rents

23

12. Gifts to the Council on Aging

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13. July Jubilation Poster

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14. Letter from DPW

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15. Commendation from Chief Pilecki

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1. Call to Order and Citizen Speak

Mr. Morgan, Chairman, called the meeting to order at 7:00pm

Ms. Sullivan Woods provided reminder for the July Jubilation held by the downtown merchants; the event begins at 9:30am on Saturday July 21st. She encouraged the public to enjoy the experience and noted there will be free parking.

Mr. Morgan stated the Schaller Street Grant of Utility Easement would not be reviewed as the Town of Natick needed to vote first and had not done so.

Citizen Speak:

Ms. Lanza on behalf of the Library Trustees came before the Board. She said that the Trustees had their annual retreat and are working to improve communication with their partners including the Board of Selectmen. The Trustees had been disappointed that FMD cannot install the automated handler and the Library is in the process of selecting a vendor. The architect will take over and manage the RFP process. She noted the Fells Library branch location will be closed for the summer to be redesigned as an early learning library opening in the fall. The Trustees intend to move forward with the renovation of the main library and will rework their marketing and communication plan and look forward to working with the Selectmen's Office when the marketing and communication position is filled.

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2. Executive Director’s Report

Ms. Robinson reviewed the gift for the Council on Aging for the Board’s acceptance. She noted the MLP is working with the Town IT department to expand beyond the pilot process for providing internet service to commercial customers. Electronic permitting has continued to progress and will begin with the Building department but the team is also working on some smaller simple permits including yard sales. She noted the parking at Town Hall is becoming tight with the construction work at but overall is working well.

Upon a motion by Ms. Sullivan Woods and seconded by Ms. Freiman, the Board voted (4-0) to accept a donation of \$840 for the June senior lunch program with Express Gourmet.

3. Discuss Response to MassHousing – 40B Application for 136-140 Worcester Street

Ms. Jop reviewed the background of the application and the notice received from MassHousing allowing the Town to comment on the initial proposal for the 40B project at 136-140 Worcester Street. She reviewed the parcel location and the overall structure being proposed. The Town has raised concerns regarding the density of the site and the relationship to traffic, as well as parking and storm water impacts given its location to wetlands. She noted additional concerns regarding the lack of open space and amenities to the site including no sidewalks and no access to public transportation. The Town had asked for an extension to respond to the application and must respond by July 31st.

Ms. Jop noted the developer has a history of violations with the Town including on this site. The Town has imposed over \$4,200 in fines to the developer. She added that the size and type of the structure and the execution of the construction concerns should be noted to MassHousing. She added that there are additional problems including the lack of parking for construction vehicles.

Ms. Sullivan Woods noted her impressions from on the site walk and expressed concerns regarding the proposed parking. Ms. Jop stated that the Fire Department has some concerns regarding access given the density of the location. Mr. Ulfelder added that he was pleased with the updates to the letter particularly regarding the numerous violations by the developer. He noted additional sections of the letter where he would prefer the Town use stronger language. The Board reviewed the letter and made additional editorial suggestions.

Ms. Rose Mary Donahue of 9 Maple Road came before the Board. She stated she has lived in Wellesley for over 25 years. She noted that traffic is a challenge in the area and stated there will be no alternative access to and from this site other than Route 9. She added that during the morning commute a backup occurs starting from the lights at Cedar Street and that the lane that would be used by this site to merge onto Route 9 is used by commuters attempting to get through traffic to the Sun Life site. She added that the closest school to the site is the Fiske School which she noted would be challenging to get to especially as there are no pedestrian access points. She believed that traffic is the most difficult issue and would need to be addressed. She mentioned that the impact on green space cannot be understated and there would be removal of many trees which work to filter the particulates in the area. She believed

103 that this area may qualify as a wildlife habitat and consideration should be given in the plans
104 on how that would be addressed. She noted she has concerns over violations by the developer
105 and she had reported the site owner for violations of snow removal and stacking in the past as
106 it abuts wetlands. She asked for assurances going forward there will be no additional
107 violations.

108
109 Mr. Morgan noted that the letter is due to MassHousing before the Board meets again. Ms.
110 Jop would make additional edits to the letter and send an updated draft to the Board which
111 could then be approved by the Chair.

112
113 **Upon a motion by Ms. Sullivan Woods and seconded by Ms. Freiman, the Board voted**
114 **(4-0) to approve the response from MassHousing as proposed regarding the development**
115 **at 136-140 Worcester Street with the understanding there may be additional**
116 **modifications which will be approved by the Chair.**

117
118 **4. Approve Common Victualler License – White’s Bakery**

119
120 Ms. Jop provided a brief review of the licensee and application. This will be the fourth location
121 for White’s Bakery and the space will be located at the former TD Bank North at Playhouse
122 Square. As a change of use a traffic study was required which has been reviewed and signed
123 off by BETA without comment.

124
125 Mr. White of White’s Bakery came before the Board. He stated there will be a café bakery
126 with no more than 12 seats to serve prepared foods. He hopes to have the store open in mid-
127 September.

128
129 Mr. Ulfelder noted parking may be a challenge when the previous Bertucci’s space is filled
130 but was welcoming to the bakery.

131
132 **Upon a motion by Ms. Sullivan Woods and seconded by Ms. Freiman, the Board voted**
133 **(4-0) to approve a Common Victualler License to White’s Bakery through December 31,**
134 **2018 and to name David White as Manager.**

135
136
137 **5. Discuss Working Group Recommendations – Development of the Tailby and**
138 **Railroad Commuter Parking Lots**

139
140 Ms. Jop reviewed the working group’s process as they review the proposals. The group met
141 three times to do this work, discussed the interview process, and discussed whether there might
142 be a recommendation to issue a second RFP. At this point the group is asking the Board to
143 continue with the existing RFP. The State’s 30B procurement laws pertaining to land leases
144 have led Town Counsel to advise that this process is different than other processes the Town
145 has worked on. The response to interviews would be seen as an oral addendum to the proposal
146 and the Town should interview all six respondents to further the evaluation of the proposals.
147 The ranking of the proposals would be based on the review of the RFP response, the interview,
148 and the financial submittal; ranked 1-6. After the interview process questions could be
149 addressed and a decision can be made if there should be a second RFP. She noted that all of
150 the proposals are available online for public review. Ms. Robinson noted that the questions
151 raised from the working group will be helpful in the interview process.

152

153 Mr. Morgan stated that originally the Board had intended to conduct its interviews at the
154 Selectmen's meeting on July 31st but this no longer seemed practical given the working group
155 interviews being scheduled that day. He proposed meeting the following week to discuss the
156 interviews and be ready to deliberate. Ms. Sullivan Woods stated that the working group would
157 appreciate the Board's flexibility of freeing the date. The Board discussed the working group
158 and appreciated their efforts. The Board agreed it made most sense for the working group to
159 conduct the first round of interviews.

160
161 Mr. DeMarco representing the Wellesley Players came before the Board. He requested the
162 Board pay special attention to the Trinity proposal because it includes a space for the arts
163 including the 194-seat Black Box Theatre. He noted that the Wellesley Players have been in
164 Town for over 80 years that the group had been priced out of venues over the past 10 years.
165 He added the various arts groups and formed the Wellesley Arts Alliance which had tried to
166 find solutions to the space problems.

167
168 Ms. Johnson of the Planning Board came before the Board and spoke to the working group
169 process. She noted it would be helpful if Wellesley Media could record the interviews to allow
170 residents to see the interviews. Mr. Morgan was in favor of the idea and suggested the
171 interviews be held in the Great Hall.

172
173 Ms. Drew, the Executive Director of the Wellesley Theater Project, came before the Board.
174 She stated the group is lucky to be part of the community but noted there are not enough
175 performance venues or galleries. She stated that most of their performances are held outside
176 of Wellesley and they believe the Trinity proposal with the theater space would be a great
177 addition to the Town.

178
179 Mr. Morgan thanked the working group for their contributions and mentioned that one of the
180 aspirations of the Unified Plan is to consider more cultural space. He encouraged residents to
181 remain engaged in the Town with regards to culture and the arts and noted that there are open
182 positions on the Cultural Council.

183
184 **6. Approve Proposed Rents for 978 Worcester Street**

185
186 Ms. Jop reviewed the background of the Board's role in approving the rent increases at the
187 property. She noted the differences between this property and the Waterstone property recently
188 approved by the Board. She added that the proposed rents are in line with the state allowances
189 and the units include basic utilities. Mr. Morgan noted that with the allowances for utility
190 increases the rents are the same as Waterstone. The Board discussed the increase and made
191 inquiries regarding the approval process and requirements set by DHCD. The Board expressed
192 concerns for the residents and the impact of the increase but recognized the need for its
193 approval.

194
195 **Upon a motion by Ms. Sullivan Woods and seconded by Ms. Freiman, the Board voted**
196 **(4-0) to approve the proposed unit rental rates for 2018 at Wellesley Place, 978 Worcester**
197 **Street:**

198
199

	<u>2018 Rate</u>
200 Two bedroom units (5)	\$1,780.00
201 One bedroom units (4)	\$1,591.00
202	
203	

204 7. **Approve FMD Administrative Procedures**

205

206 Mr. Ulfelder reviewed the Memorandum of Understanding between the Facilities
207 Management Department and the School Building Committee. He noted the increased role of
208 FMD on Town projects. The memorandum addresses the role of FMD in managing the
209 Hunnewell project and possibly the Hardy and Upham projects. He added that the School
210 Committee will vote to approve the memorandum at its next meeting.

211

212 The Board discussed the memorandum and possible edits. Mr. Morgan stated this document
213 should be viewed as narrow to only the Hunnewell feasibility study and some elements carried
214 forward to the other projects.

215

216 **Upon a motion by Ms. Sullivan Woods and seconded by Ms. Freiman, the Board voted**
217 **(4-0) to approve the memorandum on how the Hunnewell feasibility will be managed by**
218 **FMD and SBC dated June 19, 2018.**

219

220

221 8. **New Business and Correspondence**

222

223 The Board reviewed the meeting calendar.

224

225 The meeting was adjourned at 8:39pm

9. **New Business and Correspondence** - Other Documents: The Board will find documents the staff are not seeking action on, but is for informational purposes only. Please find the following:

- ❖ Memo from Meghan Jop re: Wellesley Office Park
- ❖ DHCD Meeting review overview re: Wellesley Office Park Zoning
- ❖ 40R Guidelines
- ❖ Correspondence from Rose Mary Donahue re: 136-140 Worcester Street
- ❖ Correspondence from Yuncong Zhang, Jianhua Tan re: 136-140 Worcester Street
- ❖ Commendation from Chief Pilecki
- ❖ DPW letter to resident re: trees/shrubbery
- ❖ MBTA Advisory

TOWN OF WELLESLEY



MASSACHUSETTS

BOARD OF SELECTMEN

TOWN HALL • 525 WASHINGTON STREET • WELLESLEY, MA 02482-5992

JACK MORGAN, CHAIR
MARJORIE R. FREIMAN, VICE CHAIR
ELLEN F. GIBBS, SECRETARY
BETH SULLIVAN WOODS
THOMAS H. ULFELDER

FACSIMILE: (781) 239-1043
TELEPHONE: (781) 431-1019 x2201
WWW.WELLESLEYMA.GOV
BLYTHE C. ROBINSON
EXECUTIVE DIRECTOR OF GENERAL GOVERNMENT

DATE: July 26, 2018
TO: Board of Selectmen
FROM: Meghan Jop
SUBJECT: Wellesley Office Park 40R Zoning

John Hancock presented their redevelopment concept to the Selectmen on June 5, 2018, and announced they are seeking to redevelop the 26-acre site and would include a minimum of 300-350 residential housing units. The Town staff has been working with the John Hancock team since that time and on Tuesday, July 24, 2018, a meeting was held in Boston at the Department of Housing and Community Development (DHCD) offices with representatives from John Hancock and the Town to discuss the potential use of the State's 40R Smart Growth Zoning program for the redevelopment of the Wellesley Office Park. Present for the Town representing the Selectmen were Jack Morgan and Thomas Ulfelder. Present for the Planning Board were Catherine Johnson and Jim Roberti. Staff in attendance included Blythe Robinson, Executive Director, Meghan Jop, Assistant Executive Director, and Michael Zehner, Planning Director.

In attendance from John Hancock was Robert Maulden, Managing Director of Real Estate. John Hancock is being represented by Peter Tamm, of Goulston and Storrs. Mr. Tamm represented National Development's Waterstone at Wellesley project, Jordan Warshaw's Belclare project, and is currently also representing Northland Residential's 135 Great Plain Avenue 40B project. Mr. Tamm recommended the Town consider working with the developer to rezone the Site to a 40R Smart Growth Development zone. Attached for the Board's review are documents discussed at the meeting.

The meeting with DHCD was intended to review the 40R project guidelines and seek preliminary verification that the Wellesley Office Park Site was eligible for the program. DHCD was *highly* supportive of the Site and walked the Town and John Hancock through the preliminary filing process and required densities for the program. DHCD staff indicated they would assist the Town and Development team with bringing the project through the program and detailed the various steps. Below is a brief synopsis of the 40R provisions. I have included again, the 40R Guidelines for the Board's review.

40R Smart Growth Program

The Smart Growth Zoning Overlay District Act, Chapter 149 of the Acts of 2004, codified as M.G.L. c. 40R, was originally enacted to encourage communities to create dense residential or mixed-use smart

growth zoning districts, including a high percentage of affordable housing units, to be located near transit stations, in areas of concentrated development such as existing city and town centers, and in other highly suitable locations. The Wellesley Office Park would be looking to use the “areas of concentrated development” provisions of 40R for the Site.

Additional benefits to the Town in enacting Chapter 40R are that it provides financial incentives for communities to establish smart growth zoning overlay districts, as well as bonus payments for units constructed as a result of the greater density afforded in the districts. Should the Town pass a 40R zoning district at the Annual Town Meeting, housing on the Site in the 201-500-unit range would make the Town eligible for a \$300,000 payment following certification from the Attorney General and DHCD of the new zoning. If the Town approves 40R zoning that allows 501+ units, the Town’s eligible payment is increased to \$600,000.

40R requires the Town to approve as-of-right zoning for the district. This allows the developer the ability to proceed through site plan review **only** and prohibits the Town from requiring any special permits or variances. The expedited permitting limits rights of appeal, and allows for expedited permitting to construction. Once the housing component receives a building permit, the Town then becomes eligible for additional Bonus payments of \$3,000 for every residential unit in excess of the housing allowed by the existing (underlying zoning) which is currently Administrative and Professional District. Should the developer construct 350 units, the Town would be eligible for a one-time payment up to \$1,050,000 and for construction of 520 units the Town would be eligible for a one-time payment up to \$1,560,000.

Timing and Next Steps

In order to proceed expeditiously, John Hancock’s team will begin to work with the Town staff (primarily the Planning Director) on revising the State’s 40R model zoning ordinance to meet performance and dimensional standards for the Site that are appropriate to Wellesley. The intent is to have a solid draft completed by mid-October and to have a joint public hearing with the Planning Board on the initial draft. Through the drafting and Town review of the proposed language, DHCD will be assisting the Town to insure compliance with the 40R statute. The zoning language in addition to the DHCD protocols, must also go through the proper MGL c. 40A Zoning Act provisions for adoption and it is anticipated that the Planning Board would hold the Public Zoning Hearing on the finalized zoning language in February in anticipation of Town Meeting. 2019 Annual Town Meeting would have to approve the language with a 2/3 vote.

As a belt and suspender’s approach to the development, as the John Hancock team is working on the proposed 40R language, they will simultaneously be submitting to DHCD for site eligibility under the Local Initiative Program (LIP). The LIP program is a partnership with the Town and allows for expedited review under site eligibility. The LIP program is often referred to as a friendly 40B, as the Town is partnering and signing off that it agrees this project should move forward. Should the zoning fail or be delayed, the developer could proceed under 40B permitting for the initial housing phase of the development.

Wellesley Office Park
Potential Chapter 40R Smart Growth Overlay Zoning District

Key 40R Considerations

1. Eligible Location:

- DHCD to confirm the site is an Eligible Location as a “Highly Suitable Location”
- To be a Highly Suitable Location, it must be an “Area of Concentrated Development”:

Criteria	Achieved	Notes
1 Contains previously developed portions of an existing commercial district that are substantial in the context of the municipality	✓	The 26+/- acre site is located within the Administrative and Professional District and is substantially developed as an office park, consisting of 8 buildings, surface parking and related improvements.
2 Existing or planned public/private sewers or sewage treatment	✓	The buildings on the site are connected to and served by the municipal sewer system.
3 At least 50% of total district land area is either Substantially Developed Land or Underutilized Land	✓	A majority of the 26+/- acre site is developed as buildings, surface parking and related improvements.
4 Primary, current use of the land/buildings is commercial or mixed use	✓	The site currently contains 8 office buildings, parking and related improvements.

2. Zoning must provide for residential use as of right.

3. Housing Density: Minimum of 20 units/acre (multi-family)

- The site is 26+/- acres.
 - a. If 40R overlay district were to encompass entire site, then zoning would need to allow for a minimum of 520 dwelling units.
 - b. Need to strike the right balance: consider phasing, subdistricts, wetlands, etc.
 - c. Comparison of Municipal Incentives Based on Potential Housing Densities:

	350 Units	520 Units
Zoning Incentive Payment	\$350,000	\$600,000
Density Bonus Payment	\$1,050,000	\$1,560,000
Total Payments to Town	\$1,400,000	\$2,160,000

4. Housing Affordability:

- A minimum of 20% of units must be affordable housing units under Chapter 40R.
- The 40R District will require a 25% minimum in order to ensure all units count toward Wellesley’s Subsidized Housing Inventory (SHI).
- As of September 14, 2017, Wellesley’s SHI was 6.3%.

Wellesley Office Park
Potential Chapter 40R Smart Growth Overlay Zoning District

Chapter 40R Process

Goal

<p>1. Preliminary Planning</p> <ul style="list-style-type: none"> ➤ John Hancock and the Town to develop zoning and parameters for the proposed 40R District <ol style="list-style-type: none"> 1. Extent of potential overlay district; housing density; allowed uses; general affordability guidelines; other details. 	<p>Summer/Fall 2018</p>
<p>2. Local Public Hearing</p> <ul style="list-style-type: none"> ➤ The Board of Selectman (potentially jointly with the Planning Board) to hold a public hearing on the proposed 40R District. 	<p>Fall 2018</p>
<p>3. Town to Submit Application for 40R Zoning District to DHCD</p> <ul style="list-style-type: none"> ➤ Complete application with zoning for the proposed 40R District. 	<p>Mid-Fall 2018</p>
<p>4. Preliminary Determination of Eligibility</p> <ul style="list-style-type: none"> ➤ DHCD will determine whether the application satisfies all regulations. ➤ <i>DHCD has 30 days to review the application for completeness. Upon expiration of the 30 day period, DHCD has 60 days to review the application for compliance with regulations and issue a decision.</i> 	<p>Anticipated Late Fall 2018</p>
<p>5. Local Adoption of 40R Zoning District</p> <ul style="list-style-type: none"> ➤ The proposed 40R District is to be included for action on the Wellesley Town Meeting warrant 	<p>Anticipated Spring 2019 Town Meeting</p>
<p>6. Attorney General Approval</p> <ul style="list-style-type: none"> ➤ The Attorney General must approve the 40R District as a change to the Town's zoning bylaws. 	<p>Spring 2019</p>
<p>7. Town Submits Proof of Adoption to DHCD</p> <ul style="list-style-type: none"> ➤ The Town must submit proof that it has adopted its 40R District as approved in the Letter of Eligibility. 	<p>Anticipated Submission Spring 2019</p>
<p>8. Final Approval from DHCD</p> <ul style="list-style-type: none"> ➤ DHCD will issue a Letter of Approval within 30 days. ➤ The Letter of Approval will specify the number of incentive units eligible for smart-growth payments and will detail the total amount of the Zoning Incentive Payment. 	<p>Letter of Approval Anticipated Late Spring 2019</p>
<p>9. Phase I Multi-family Project Approval</p> <ul style="list-style-type: none"> ➤ <i>Upon DHCD approval of the 40R District, proponents may file and seek site plan approval from the Wellesley Zoning Board of Appeals for initial multi-family project component.</i> 	<p>Site Plan Approval Anticipated Summer/Fall 2019</p>

Wellesley Office Park
Potential Chapter 40R Smart Growth Overlay Zoning District

Chapter 40R Application

The application submitted to DHCD for preliminary approval must be in the form required by DHCD and include the following:

1. Eligible Location

- *Provide information that the site is in an Area of Concentrated Development.*

2. Land Area

- *Total land area relative to the Town as a whole.*

3. Developable Land

- *Plans and aerial photographs of the site; details on total developable land area in the site.*

4. Underlying Zoning/ Existing Zoned Units

- *Detail existing zoning for the site and the number of units the site is zoned for.*

5. Smart Growth Zoning/ Future Zoned Units & Incentives

- *Information on the density plans for the new zoning district as well as the language of the new zoning bylaw.*

6. Affordability

- *Identify minimum affordability percentages and mechanisms to ensure that future projects adhere to minimum affordability requirements.*

7. Plan Review

- *Detail plan review process for projects proposed under the new 40R bylaw.*

8. Comprehensive Housing Plan

- *Submit the Town's CHP identifying housing needs and strategy to meet those needs.*

9. Local Public Notice and Hearing

- *Confirmation that the local municipality held a public meeting on the proposed zoning district; public comments.*

10. Infrastructure Impacts and upgrades

- *Information showing that future zoned units for the district will not overburden the transportation, water, sewer, or other infrastructure systems in place on the site or as proposed to be upgraded.*

760 CMR 59.00: Smart Growth Zoning Districts and Starter Home Zoning Districts

Section

59.01:	Purpose, Program Overview
59.02:	Definitions
59.03:	Contents of 40R Zoning Applications to DHCD
59.04:	Approval Requirements
59.05:	Procedure for Approval, Review, Amendment, and Repeal
59.06:	Payments and Re-payments
59.07:	Annual Update; Certification of Compliance; Report to Legislature
59.08:	Waiver

59.01: Purpose, Program Overview

(1) 760 CMR 59.00 establishes rules, standards, and procedures for the Smart Growth Zoning District and Starter Home Zoning District Programs created by M.G.L. c. 40R. DHCD is the regulatory agency for the program and is authorized to issue regulations to explain and to provide specifics of the program and its operation. It is the purpose of M.G.L. c. 40R and 760 CMR 59.00 to encourage Smart Growth and increased housing production in Massachusetts.

(2) 760 CMR 59.00, as further explained by guidance issued by DHCD, describes the process by which Municipalities may propose, for review and approval by DHCD, new 40R Zoning provisions that allow the As-of-right development of high-density housing, Starter Homes and Mixed-use Development within zoning overlay Districts.

59.02: Definitions

40R Zoning. A zoning overlay adopted by a Municipality pursuant to M.G.L. c. 40R that conforms to Smart Growth Zoning or Starter Home Zoning requirements.

40R Zoning Application. An application for a preliminary determination of eligibility of 40R Zoning submitted by a Municipality to DHCD pursuant to 760 CMR 59.03(1).

Accessory Dwelling Unit. A dwelling unit of 600 square feet or less on the same lot as a Starter Home. An Accessory Dwelling Unit shall not qualify as a Future Zoned Unit or an Incentive Unit, but shall qualify as a Bonus Unit

Additional Municipal Standards. A Municipal environmental or health ordinance, bylaw or regulation that exceeds applicable requirements of state law or regulation.

Adjacent Area. An area that (1) is physically contiguous to an Eligible Location qualifying as a Highly Suitable Location under 760 CMR 59.04(1)(a)1. through 3.; (2) extends to a distance no more than ½ mile from an Eligible Location, except that if only a portion of a parcel of land lies within such a distance, the entire parcel may be included in the Adjacent Area; and (3) provides Pedestrian Access to a qualifying Eligible Location. To qualify as an Adjacent Area, the area must be currently served by Infrastructure or planned to be served within five years of the 40R Zoning Application by Planned Infrastructure. With respect to Starter Home Zoning Districts only, the Infrastructure or Planned Infrastructure required in an Adjacent Area need not include public sewer(s) or private wastewater treatment plant(s).

Affordable and Affordability. A housing unit will be considered Affordable if:

- (a) It is subject to an affordable housing restriction as defined in M.G.L. c. 184, § 31, with a term of no less than 30 years which meets the standards set out in 760 CMR 56.02: Use Restriction and guidance issued by DHCD for eligibility for the Subsidized Housing Inventory;
- (b) For a rental unit, the tenant is required to be an individual or household whose annual income is less than or equal to 80% of the Area Median Income and the monthly rent plus a reasonable allowance for applicable utilities is less than or equal to 30 percent of one-twelfth of the Area Median Income; and
- (c) For a homeownership unit, the purchaser is required to be an individual or household whose annual income is less than or equal to 80 percent of the Area Median Income and the maximum sale price at initial sale and resale is less than or equal to the maximum purchase price limit which meets the standards set out in guidance issued by DHCD.

Approved District. A District for which 40R Zoning has been adopted by a Municipality and for which a Letter of Approval has been issued by DHCD, in accordance with M.G.L. c. 40R and 760 CMR 59.00, subject to any Letter of Noncompliance or Certificate of Revocation in effect pursuant to 760 CMR 59.07(3).

Area of Concentrated Development.

(a) An area:

(1) That includes a city or town center; contiguous, previously developed portions of an existing commercial district that are substantial in the context of the Municipality^[UMI]; or a rural village district; the boundaries of which are clearly identified and submitted on a corresponding map;

(2) That, except in the case of an existing rural village district as set forth in 760 CMR 59.02: Area of Concentrated Development (b), is currently served or scheduled to be served (as shown by sufficient documentation) within five years

of the 40R Zoning Application by public sewer(s) and/or private sewage treatment plant(s) (applicable to Smart Growth Zoning Districts only);

(3) Of which at least 50 percent of the total land area is either Substantially Developed^[JM2] Land or Underutilized Land; and

(4) Of which the primary current use (or, in the case of Underutilized Land, the primary current zoning) of land and/or buildings is commercial (including retail, office, or industrial businesses) or mixed-use. Land designated as a commercial center under M.G.L. c. 40, § 60 qualifies as an Area of Concentrated Development^[JM3].

(b) Notwithstanding anything to the contrary in this definition, in areas that are not sewered or scheduled to be sewered, an existing rural village district will still qualify as an Area of Concentrated Development if:

1. it includes the Municipality's principal road intersection or other civic center point of the Municipality approved by DHCD and is characterized by the most Substantially Developed portions of the surrounding village area plus any land that would otherwise qualify as Substantially Developed Land or Underutilized Land within up to ½ mile distance of such principal road intersection or other approved civic center point;
2. it contains two or more of a town hall, post office, public library, public school, or public safety facility, or it contains an existing village retail district; and
3. at least 50 percent of the total land area within the existing rural village district is either Substantially Developed Land or Underutilized Land. *See* 760 CMR 59.04(1)(a)2.

Area Median Income. The area-wide median income as determined by HUD, adjusted for household size and using HUD's rules for attribution of income to assets.

As-of-right. Housing development allowed under the Underlying Zoning or 40R Zoning without recourse to a special permit, variance, zoning amendment, discretionary waiver, or other form of zoning relief. Units that require Plan Review shall be considered As-of-right, subject to review and approval by DHCD of any Municipal 40R regulations, guidelines, forms of application materials, or other requirements applicable to review of Projects by the Plan Approval Authority under 760 CMR 59.00.

Authorization of Payment. A written authorization by DHCD that a Municipality is entitled to a Bonus Payment, according to the procedure set forth in 760 CMR 59.06(2).

Bonus Payment. A one-time payment made to a Municipality for each Bonus Unit within an Approved District for which a building permit has been issued, including either a Density Bonus Payment or Production Bonus Payment. *See* 760 CMR 59.06(2).

Bonus Unit. A housing unit developed as part of a Project within a District, either through new construction, the substantial rehabilitation of an existing residential building, or the conversion to residential use of an existing building, in excess of the number of Existing Zoned Units for the same parcel. Units proposed or developed under a comprehensive permit pursuant to M.G.L. c. 40B for which the project eligibility letter was issued to the developer prior to the Municipality's 40R Zoning Application to DHCD shall not qualify as Bonus Units if the development that is the subject of the comprehensive permit comprises all or substantially all of the Developable Land within the proposed 40R District. Otherwise, units developed within a District under a Comprehensive Permit issued pursuant to M.G.L. c. 40B after the submission of a 40R Zoning Application, in excess of the number of Existing Zoned Units for the same parcel, shall qualify as Bonus Units.

Capital Funds. Monies required by law to be used for capital expenditures including, without limitation, for acquisition, rehabilitation and construction of real and personal property, including items such as environmental remediation, park improvements, drainage and irrigation projects, and deferred maintenance projects. A determination of what constitutes capital expenditures is subject to any regulations and guidance issued by DOR. DHCD may issue additional guidance to assist Municipalities, but in the event of any conflict between DHCD's guidance and DOR's regulations or guidance, DOR's regulations or guidance, as applicable, will govern.

Certificate of Compliance. A certificate issued by DHCD to a Municipality upon DHCD's review and approval of an annual update submitted in accordance with 760 CMR 59.07(1). *See* 760 CMR 59.07(2).

Certificate of Revocation. A certificate issued by DHCD to a Municipality if, after an adjudicatory hearing, DHCD determines that the Municipality is in substantial non-compliance with M.G.L. c. 40R and 760 CMR 59.07(2). *See* 760 CMR 59.07(3).

Cluster Development. Development in which the buildings and associated roadways or parking are clustered together into one or more groups separated from adjacent property and/or other groups within the development by intervening Dedicated Open Space usable for passive or active recreational activities.

Cluster Zoning. Zoning in which (a) development density is determined for an entire specified area, rather than on a per-lot basis and (b) dimensional requirements such as lot area, frontage, setbacks of structures from lot lines and/or other structures and minimum lot area per dwelling unit are reduced for individual lots to allow concentration of construction on part of the land through Cluster Development, and which requires permanent conservation of Dedicated Open Space usable for passive or active recreational activities, including without limitation, Future Open Space, as provided in DHCD guidance.

Comprehensive Housing Plan. A document, prepared by a Municipality for review by DHCD, providing an assessment of the housing needs within the Municipality, and describing specific strategies, including but not limited to those contained in the 40R Zoning, to address these needs and ensure that the applicable approval standards of 760 CMR 59.04(1)(g), (i), (j) and (k) are satisfied. The Comprehensive Housing Plan shall identify the numbers of Existing Zoned Units, estimated Future Zoned Units, and estimated Incentive Units within the proposed District. A Comprehensive Housing Plan may be a community development plan, master plan, area specific plan, or equivalent Municipally prepared document that is supplemented as necessary to satisfy these requirements, as well as the requirements of 760 CMR 59.03(1)(h)1. regarding the proposed 40R Zoning.

Dedicated Open Space. Land dedicated in perpetuity to protect one or more of the following: land for existing and future well fields, aquifers, and recharge areas; watershed land; agricultural land; grasslands; fields; forest land; fresh and salt water marshes and other wetlands; ocean, river, stream, lake and pond frontage; beaches, dunes, and other coastal lands; lands to protect scenic vistas; land for wildlife or nature preserves; land for active or passive recreational use; parklands, plazas, playgrounds, and reservations; and cemeteries. Dedicated Open Space may be in public, private, or non-profit ownership. Any land subject to protection under Article 97 of the Massachusetts Constitution shall be deemed Dedicated Open Space for the purposes of 760 CMR 59.00. In any case where such Dedicated Open Space is not conveyed to the Municipality, a restriction enforceable by the Municipality shall be recorded providing that such land be preserved as Dedicated Open Space pursuant to a conservation restriction as defined in M.G.L. c. 184, § 31.

Density Bonus Payment. A one-time payment made to a Municipality for each Bonus Unit within a Smart Growth Zoning District for which a building permit has been issued. *See* 760 CMR 59.06(2).

DEP. The Massachusetts Department of Environmental Protection.

Design Standards. Provisions of, or regulations adopted pursuant to, 40R Zoning, which are made applicable to Projects within the District that are subject to Plan Review by the Plan Approval Authority. *See* 760 CMR 59.04(1)(f).

Developable Land. All land within a District that can be feasibly developed into residential or Mixed-use Development Projects. Developable Land shall not include:

- (a) Substantially Developed Land;
- (b) Dedicated Open Space;
- (c) Future Open Space;

(d) The rights-of-way of existing public streets, ways, and transit lines and, in a Starter Home Zoning District, new public and private roadways that would be necessary to meet minimum applicable requirements under Municipal law including the proposed 40R Zoning and, to the extent applicable within the proposed District, Municipal subdivision control requirements;

(e) Land currently in use for governmental functions (except to the extent that such land qualifies as Underutilized Land); or

(f) Areas exceeding ½ acre of contiguous land that are:

1. protected wetland resources (including buffer zones) under federal or state laws plus any additional areas that are protected wetlands resources (including buffer zones) under applicable Additional Municipal Standards, if any, but not federal or state laws;

2. rare species habitat designated under federal or state law, unless granted an exception consistent with requirements established by the Massachusetts Executive Office of Energy and Environmental Affairs and the Department of Fish and Game that all or part of such areas can accommodate development consistent with the proposed 40R Zoning;

3. characterized by steep slopes with an average gradient of at least 15 percent; or

4. subject to any other Municipal ordinance, by-law, or regulation that would prevent the development of residential or Mixed-use Development Projects at the As-of-right residential densities set forth in the 40R Zoning.

(g) Areas of state-owned land that contain Prime Farmland Soils.

Developer Certificate of Feasibility. Certification by a developer with Site Control, or by an architect, engineer or other professional with appropriate expertise certifying on behalf of such developer, that (a) any Additional Municipal Standards applicable to development under the Starter Home Zoning do not Render Development Infeasible and/or (b) any Design Standards do not Unreasonably Impair development within the District.

DHCD. The Massachusetts Department of Housing and Community Development.

District. An overlay district within a Municipality that is subject to 40R Zoning. A District may be superimposed over one or more zoning districts (as defined by the Underlying Zoning) in an Eligible Location. Within a District, the 40R Zoning shall allow residential Projects As-of-right, and it may also permit Mixed-use Development Projects As-of-right. Within the boundaries of a District, a developer may elect either to develop a Project in accordance with the requirements of

the 40R Zoning, or to undertake development in accordance with requirements of the Underlying Zoning.

DOR. The Massachusetts Department of Revenue.

Eligible Location. An area within a Highly Suitable Location that qualifies under the criteria set forth in 760 CMR 59.04(1)(a). If a portion of a parcel of land falls within an Eligible Location, then all of such parcel, to the extent of its legal boundaries, may also be deemed an Eligible Location in the discretion of DHCD.

Existing Underutilized Facilities. Facilities within or serving a District that have substantial potential for redevelopment in accordance with Smart Growth principles, including:

(a) Existing buildings, structures and Infrastructure that: (1) would provide greater potential use than the existing use if rehabilitated or repurposed as or in support of a residential or mixed-use development in a 40R Zoning District; or (2) have become of diminished use and/or benefit to the community; or (3) relative to other development opportunities in the Municipality, offer substantially greater opportunities for rehabilitation and/or repurposing for or in support of residential use; or

(b) Previously developed, non-agricultural land substantially characterized by existing impervious or disturbed surfaces such as parking lots, sand and gravel operations, and/or the foundations or remains of structures that have deteriorated or been demolished.

Existing Zoned Units. For a given parcel or area of Developable Land within a District, the maximum number of housing units that could feasibly be developed As-of-right under the Underlying Zoning through new development, the substantial rehabilitation of existing residential buildings, or the conversion to residential use of existing buildings. Units that are proposed or developable within the geographic area of a District under a comprehensive permit pursuant to M.G.L. c. 40B for which the project eligibility letter was issued to the developer prior to the Municipality's 40R Zoning Application shall be included as Existing Zoned Units if (a) the comprehensive permit is issued prior to the date of the Municipality's 40R Zoning Application, or (b) the subject land makes up all or substantially all of the Developable Land within the proposed 40R District. For purposes of determining the Zoning Incentive Payment and the Bonus Payment, (1) absent any application of the 40R Zoning to Substantially Developed areas, the Existing Zoned Units within any District or Project site shall be determined upon the basis of the allowable As-of-right residential density per acre shown on the plan submitted under 760 CMR 59.03(1)(c), multiplied by the acreage of Developable Land area, and (2) Existing Zoned Units shall include any existing occupied housing units within a District regardless of whether they could be developed As-of-right under currently applicable Underlying Zoning (for example, lawfully nonconforming existing occupied housing units).

Future Open Space. Areas within a District which a Municipality may designate or require to be designated to be set aside in the future as Dedicated Open Space through the use of a conservation restriction as defined in M.G.L. c. 184, § 31 or other qualifying means. Such

Future Open Space may be subject to requirements under the 40R Zoning for Projects to set aside a fixed percentage of the site area as Dedicated Open Space, and, for Districts other than Starter Home Zoning Districts eligible pursuant to 760 CMR 59.04(1)(a)3., allowing such Projects to deduct the Dedicated Open Space when calculating housing densities. Notwithstanding the foregoing, the total Future Open Space may not exceed 10 percent of what would otherwise be the Developable Land area if the Developable Land would be less than 50 acres; it may not exceed 20 percent of what would otherwise be the Developable Land area if the Developable Land area would be 50 acres or more; and it shall be consistent with the current Municipal Dedicated Open Space plan.

Future Zoned Units. For a given parcel or area of Developable Land within a District, the maximum number of housing units that could be developed As-of-right under the 40R Zoning through new development, the substantial rehabilitation of existing residential buildings, or the conversion to residential use of existing buildings, except that an Accessory Dwelling Unit shall not qualify as a Future Zoned Unit.

Highly Suitable Location. A location that, as determined by DHCD based on satisfactory documentation provided by the Municipality, is consistent with the statutory goals for Smart Growth, including the production of Starter Homes, set forth in M.G.L. c. 40R, § 1 and 760 CMR 59.00.

(a) To qualify as a Highly Suitable Location, an area must, at a minimum, be one of the following:

1. within a Substantial Transit Access Area;

2. within an Area of Concentrated Development;

3. for Starter Homes, an area zoned for residential use that is not otherwise eligible to be a Highly Suitable Location, only if all or a portion of the Starter Home Zoning District has Pedestrian Access within a distance of no more than $\frac{3}{4}$ mile to a Pedestrian Destination and the Starter Home Zoning incorporates Cluster Zoning so as to permit Cluster Development, and requires all development under the Starter Home Zoning to utilize Low Impact Development Techniques and to include features that encourage walking within Starter Home Projects; or

4. a location, not otherwise eligible to be a Highly Suitable Location, where residential or Mixed-use Development would nonetheless promote Smart Growth, as demonstrated by the Municipality through documentation satisfactory to DHCD, demonstrating the degree to which:

a. the location is near a rapid transit or commuter rail station or bus or ferry station terminal, though not within a Substantial Transit Access Area;

- b. the location has Pedestrian Access within a distance of $\frac{3}{4}$ mile to a Pedestrian Destination;
- c. proposed zoning in the location and existing zoning near the location will encourage compact, land-use-efficient design, and Mixed-use Development;
- d. infill and redevelopment of previously-developed areas with Infrastructure are likely to occur that will help to preserve open space, farmland, natural beauty, and critical environmental areas elsewhere in the Municipality; and
- e. prior identification as an appropriate locus for higher-density housing or higher-density Mixed-use Development in an adopted regional or state plan.

(b) Factors DHCD may consider in determining whether a location that does not qualify under 760 CMR 59.04(1)(a) as being either within a Substantial Transit Access Area or an Area of Concentrated Development is nonetheless a Highly Suitable Location for a District include, without limitation, the extent to which the area is characterized by:

1. Infrastructure, including access to public facilities for storm water and wastewater transport, treatment and disposal and public water supply;
2. Multi-modal Access;
3. Existing Underutilized Facilities; or
4. a location within or immediately adjacent to a Priority Development Area.

(c) An area will not qualify as a Highly Suitable Location if more than 50% of the proposed District contains Prime Farmland Soils on state-owned land. If more than 50% of a proposed District has Prime Farmland Soils that are not state-owned, DHCD may take into account the availability of other potential Highly Suitable Locations in the Municipality, and may request additional information from the Municipality, to determine whether the proposed District qualifies as a Highly Suitable Location.

(d) DHCD may from time to time issue guidance as to other factors that are relevant to the determination of whether a location is Highly Suitable.

Historic District. A district in a Municipality characterized by the historic and or architectural significance of buildings, structures, and sites, and in which exterior changes to and the construction of buildings and structures are subject to regulations adopted by the Municipality pursuant to M.G.L. c. 40C or other state law. Within any such Historic District, the provisions and requirements of the Municipal Historic District regulations may apply to existing and proposed buildings. A District may include all or part of one or more existing Historic Districts,

and it may be coterminous or non-coterminous with the Historic District. A Municipality may establish or enlarge an Historic District within an Approved District, but whether such Historic District renders the District non-compliant with the provisions of M.G.L. c. 40R and 760 CMR 59.00 shall be subject to DHCD review in accordance with 760 CMR 59.05(5). DHCD's review of such a new or enlarged Historic District shall be limited to compliance with M.G.L. c. 40R and 760 CMR 59.00. *See also 760 CMR 59.02: Substantially Developed Land.*

Housing Production Plan. An affordable housing plan adopted by a Municipality and approved by DHCD in accordance with 760 CMR 56.03(4).

Housing Production Summary. A detailed summary, consistent with guidance and/or templates issued by DHCD regarding format and content, of the Municipality's: (1) affordable housing production history; (2) housing needs and housing demand assessment; (3) analysis of development constraints and capacity; (4) current housing goals and strategy for achieving those goals; and (5) proposed locations for affordable housing production.

HUD. The United States Department of Housing and Urban Development.

Incentive Units. For a given parcel or area of Developable Land within a District, the number of Future Zoned Units, less the number of Existing Zoned Units for the same parcel or area of land, except that an Accessory Dwelling Unit shall not qualify as an Incentive Unit.

Income-Restricted and Income-Restriction. A housing unit will be considered Income-Restricted if:

- (a) It is subject to an affordable housing restriction as defined in M.G.L. c. 184, § 31, with a term of no less than 30 years, and which meets the standards set out in 56.02: Use Restriction and guidance issued by DHCD;
- (b) For a rental unit, the tenant is required to be an individual or household whose annual income is less than or equal to 100% of the Area Median Income and the monthly rent plus a reasonable allowance for applicable utilities is less than or equal to 30 percent of one-twelfth of the Area Median Income; and
- (c) For a homeownership unit, the purchaser is required to be an individual or family whose annual income is less than or equal to 100 percent of the Area Median Income and the maximum sale price at initial sale or resale is equal to or less than the maximum purchase price limit which meets the standards set out in guidance issued by DHCD.

Infrastructure. The basic facilities, services, and installations needed for the functioning of the area of the Municipality within which the District is to be located, including: Pedestrian Access and vehicular access; public and private facilities for storm water and wastewater transport, treatment and disposal; and water and power supply lines. For purposes of a Starter Home Zoning District only, Infrastructure shall not be required to include public sewer and/or public water supply.

Letter of Approval. A letter issued by DHCD to a Municipality upon the adoption of its 40R Zoning for a District, confirming final approval of an entire District under M.G.L. c. 40R and 760 CMR 59.00. *See* 760 CMR 59.05(4).

Letter of Conditional Approval. A letter issued by DHCD to a Municipality upon the adoption of its 40R Zoning for a District, that approves the District designation but withholds authorization of all or part of the Zoning Incentive Payment in accordance with 760 CMR 59.05(4)(d) because the Municipality has not met all of the criteria for payment of the Zoning Incentive Payment for the entire District under 760 CMR 59.04(1), including, for example, Infrastructure or Planned Infrastructure requirements under 760 CMR 59.03(1)(j) and 59.04(1)(k) and all requirements to be considered an Eligible Location pursuant to 760 CMR 59.04(1)(a). The identified conditions may pertain to all or part of the District. *See* 760 CMR 59.05(4)(d).

Letter of Conditional Eligibility. A letter issued by DHCD to a Municipality, finding that a proposed District would meet the approval requirements set forth in 760 CMR 59.04(1) if certain identified conditions were satisfied, including, for example, Infrastructure or Planned Infrastructure requirements under 760 CMR 59.03(1)(j) and 59.04(1)(k) or a provision in Starter Home Zoning specifying that Additional Municipal Standards shall not apply under the Starter Home Zoning District. *See* 760 CMR 59.05(2).

Letter of Denial. A letter issued by DHCD to a Municipality, finding that a proposed District would not meet the approval requirements set forth in 760 CMR 59.04(1), and informing the Municipality of the deficiencies in its 40R Zoning Application. *See* 760 CMR 59.05(2).

Letter of Eligibility. A letter issued by DHCD to a Municipality, finding that a proposed District would meet the approval requirements set forth in 760 CMR 59.04(1). *See* 760 CMR 59.05(2).

Letter of Noncompliance. A letter from DHCD finding that a Municipality has failed to demonstrate compliance with M.G.L. c. 40R and 760 CMR 59.00. *See* 760 CMR 59.07(3).

Low Impact Development Techniques. Development techniques suitable to a particular site that protect the natural features of the site, including, without limitation, (a) natural resource oriented site design, (b) appropriately scaled and decentralized stormwater management techniques that limit the rate of off-site storm water runoff (both peak and non-peak flows) to levels substantially similar to natural hydrology (or, in the case of a redevelopment site, that reduce such flows from pre-existing conditions), through means including, bioretention/rain gardens, infiltration/permeable pavements, stormwater planters, vegetated swales, vegetated buffers, cisterns, rain barrels, and green roofs; and (c) appropriately scaled roads.

MassGIS. The Massachusetts Office of Geographic Information.

Mixed-use Development. A Project containing: (a) for Smart Growth Zoning Districts, a mix of Multi-family Residential, two- and three-family residential, or single-family residential uses, together with commercial, institutional, industrial, or other non-residential uses; or (b) for Starter

Home Zoning Districts, a mix of any Starter Home units with commercial, institutional, industrial, or other non-residential uses; in which the applicable residential densities set forth in 760 CMR 59.04(1)(d)3. and 760 CMR 59.04(1)(d)4., respectively, apply proportionally to the residential portion of the Mixed-use Development Project in accordance with 760 CMR 59.04(1)(d)1.

Multi-family Residential Use. Apartment or condominium units in individual buildings each of which contains or will contain more than three such units, provided that the 40R Zoning may treat attached dwelling units on separate lots as single-family residential use. *See* 760 CMR 59.04(1)(d).

Multi-modal Access. Access by two or more alternative modes of transport, of which one means of access is non-motorized. Such modes may include:

- (a) direct Pedestrian Access over a distance of no more than ½ mile to public transit serving a Pedestrian Destination with a minimum of hourly frequency during peak periods; or
- (b) use of a sidewalk, shared-use path, marked bicycle lane or cycle track providing, or connecting to, safe, practical and continuous non-motorized access to a Pedestrian Destination.

Municipality. Any Massachusetts city or town, including without limitation the City of Boston.

Pedestrian Access. Safe, practical and continuous access for walking by means of a sidewalk, path, or a roadway with a design speed of 20 miles per hour or less.

Pedestrian Destination. A location that pedestrians frequently use, such as an elementary or high school; a college or university; a hospital; a Municipal office building, public library, post office, public safety facility, or other civic facility; a general or neighborhood commercial or business area with substantial employment, retail or entertainment activity; an active recreational facility open to the public; public transit or a bus stop along a route serving an Eligible Location or Adjacent Area at a minimum of hourly frequency during peak periods.

Plan Approval Authority or Approving Authority. A unit of Municipal government designated by the Municipality to review projects and issue approvals under M.G.L. c. 40R, § 11. *See* 760 CMR 59.04(1)(f).

Plan Review. The standards and procedures by which a proposed Project within a District is made subject to review by the Plan Approval Authority under the provisions of the 40R Zoning, in accordance with M.G.L. c. 40R, § 11 and 760 CMR 59.00. *See* 760 CMR 59.04(1)(f).

Planned Infrastructure. Infrastructure for which certification by a Municipal engineer or public works, board of health or conservation commission official or other person with similar expertise pursuant to 760 CMR 59.03(1)(j) has been submitted to establish the timing for completion of

the improvements (to be within five years of the 40R Zoning Application date, or other reasonable time period approved by DHCD), the identity of the entities responsible for completing the improvements, and that the District will not be overburdened by the build-out of the Future Zoned Units within the District as the Infrastructure exists or may be practicably upgraded.

Prime Farmland Soils. Land with soils identified in data released by MassGIS that has been in active agricultural use within the past five (5) years that have not been granted an exception consistent with requirements established by the Executive Office of Environmental Affairs and the Department of Agricultural Resources.

Priority Development Area. A location that is all or part of an area designated as a “priority development area” or equivalent in the most current regional plan(s) adopted by the district or planning commission or regional planning and economic development commission established pursuant to M.G.L. c. 40B, § 4 or § 12, for the district or region in which the Municipality is located.

Production Bonus Payment. A one-time payment to a Municipality for each Bonus Unit within a Starter Home Zoning District for which a building permit has been issued.

Project. A residential development or Mixed-use Development undertaken within a District pursuant to the approval of a Plan Approval Authority in accordance with the requirements of the 40R Zoning. Within the boundaries of a District a developer may elect either to develop a Project in accordance with the requirements of the 40R Zoning, or to undertake development in accordance with the requirements of the Underlying Zoning.

Render Development Infeasible. To prevent or make physically or economically impracticable the development of residential or Mixed-use Development Projects at the As-of-right residential density set forth in the Starter Home Zoning.

Site Control. Fee ownership of, a long-term leasehold interest in, or a right to develop one or more sites that, in the aggregate, comprise at least 50% of the Developable Land Area of a proposed Starter Home Zoning District. Site Control shall be demonstrated, as to each such site, by means of one or more of the following: a recorded deed; a lease with a term of at least 30 years, as to which a notice of lease has been recorded; or an executed, legally enforceable purchase agreement or option to purchase.

Smart Growth. A principle of land development that furthers, on balance, the following goals set forth in M.G.L. c. 40R, § 1 and 760 CMR 59:00:

- (a) Increasing the availability of Affordable housing by creating a range of housing opportunities in neighborhoods;
- (b) Emphasizing mixing land uses;

- (c) Taking advantage of compact design;
- (d) Fostering distinctive and attractive communities;
- (e) Preserving open space, farmland, natural beauty and critical environmental areas;
- (f) Strengthening existing communities;
- (g) Providing a variety of transportation choices;
- (h) Making development decisions predictable, fair and cost effective; and
- (i) Encouraging community and stakeholder collaboration in development decisions.

Smart Growth Zoning. The Municipal zoning overlay requirements adopted or changed by amendment by the Municipality pursuant to M.G.L. c. 40R, in accordance with the procedures for zoning adoption and amendment set forth in M.G.L. c. 40A for communities other than the City of Boston, or by other applicable law in the case of the City of Boston, and approved by DHCD which provide for the development of Smart Growth Projects pursuant to M.G.L. c. 40R and 760 CMR 59.00 and in accordance with DHCD guidance.

Smart Growth Zoning District. A District adopted by a Municipality pursuant to its Smart Growth Zoning, that is superimposed over 1 or more zoning districts in an Eligible Location.

Start of Construction. With respect to an Approved District, the commencement of construction activity, such as the pouring of foundations or footings, utility relocation, or the remediation of hazardous materials within an Approved District on a Project or on a Planned Infrastructure upgrade identified in the Municipality's 40R Zoning Application, provided that such construction is continued through to completion of a Project, in accordance with 760 CMR 59.07(1)(f).

Starter Home. A single-family home not exceeding 1,850 square feet in heated living area, not including any associated Accessory Dwelling.

Starter Home Zoning. The Municipal zoning overlay requirements adopted or changed by amendment by the Municipality pursuant to M.G.L. c. 40R, in accordance with the procedures for zoning adoption and amendment set forth in M.G.L. c. 40A for communities other than the City of Boston, or by other applicable law in the case of the City of Boston, and approved by DHCD, which provide for the development of Starter Homes pursuant to M.G.L. c. 40R and 760 CMR 59.00 and in accordance with DHCD guidance.

Starter Home Zoning District. A District consisting of not less than 3 contiguous acres of Developable Land area, adopted by a Municipality pursuant to its Starter Home Zoning, that is superimposed over 1 or more zoning districts in an Eligible Location.

Substantial Transit Access Area. A location that comprises:

- (a) In the case of a Smart Growth Zoning District, part or all of the land located within ½ mile distance of any rapid transit or commuter rail station, bus or ferry terminal (measured from the entry point(s) to the passenger platforms); and
- (b) In the case of a Starter Home Zoning District, part or all of the land located within a 1 mile distance of any rapid transit or commuter rail station, bus or ferry terminal (measured from the entry point(s) to the passenger platforms).

Substantially Developed Land. Land within a District that is currently used for commercial, industrial, institutional, or governmental use, or for residential use consistent with or exceeding the densities allowable under the Underlying Zoning, and which does not qualify as Underutilized Land. Any land located within a Historic District shall be presumed to be Substantially Developed, unless the Municipality can show that all or a portion of such land qualifies as Developable Land.

Underlying Zoning. The Municipal zoning requirements adopted pursuant to M.G.L. c. 40A (or, in the case of the City of Boston, other applicable law) that are otherwise applicable to the geographic area where a District is located or proposed. The Underlying Zoning shall include all zoning and existing overlays applicable to such geographic area and shall not be limited to the base zoning layer. Solely for the purposes of calculating existing residential densities under 760 CMR 59.03(1), the Underlying Zoning shall be deemed to be the zoning which was in effect one year prior to the date upon which the 40R Zoning Application was submitted to DHCD.

Underutilized Land. Developable Land within a District that would otherwise qualify as Substantially Developed Land, consistent with guidance issued by DHCD, but which:

- (a) is characterized by improvements that have a marginal or significantly declining use, as measured by such factors as vacancy rates, extent of operation, current and projected employment levels, market demand for the current uses or the uses to which the existing improvements could readily be converted, low value of improvements in relation to land value, and low floor area ratio in relation to the floor area ratio that would be permitted under the applicable Underlying Zoning;
- (b) as demonstrated by existing or anticipated market conditions, may have reasonable potential to be developed, recycled, or converted into residential or Mixed-use Development consistent with Smart Growth; and
- (c) for a Starter Home Zoning District, solely for purposes of determining whether the District consists of not less than 3 contiguous acres of Developable Land area, DHCD may also include in the calculation of Underutilized Land certain additional land that would otherwise qualify as Substantially Developed Land, where DHCD determines that there is reasonable potential for such land to be more intensively developed in accordance with Starter Home Zoning.

Unreasonably Impair. To add unreasonable costs or unreasonably diminish the economic feasibility of proposed Projects in a District by means of a provision of 40R Zoning or a Design Standard.

Zoning Incentive Payment. A one-time payment to a Municipality that is made after DHCD issuance of a Letter of Approval or Letter of Conditional Approval authorizing such payment. See 760 CMR 59.06(1).

59.03: Contents of 40R Zoning Applications to DHCD

(1) Application for Preliminary Determination of Eligibility for 40R Zoning. The chief executive of a Municipality or duly authorized designee desiring to adopt 40R Zoning for a proposed District shall submit to DHCD the following application materials, and such other materials as may be required by guidance or forms issued by DHCD, for its preliminary determination of eligibility under 760 CMR 59.05(2):

- (a) An application in the form prescribed by DHCD.
- (b) A copy of the proposed 40R Zoning, 40R Zoning map and Design Standards (if not contained in the 40R Zoning) for the District.
- (c) One or more plans or maps that collectively are sufficient to show:
 - 1. The location of the proposed District and any sub-Districts, and the relevant features (e.g., associated Area of Concentrated Development) to enable DHCD to determine whether it qualifies as a Highly Suitable Location;
 - 2. The areas within the proposed District that qualify as Developable Land including Underutilized Land (if any), and areas excluded from Developable Land pursuant to 760 CMR 59.02: Developable Land, with the total acreage of each area;
 - 3. On a parcel-by-parcel basis, as applicable, the existing residential units and existing as of right residential densities within the proposed District;
 - 4. Proposed as-of-right densities in any sub-District as well as documentation of any concurrently proposed 40R developments; and
 - 5. If development of the proposed District will require the creation of new roadways, a concept plan showing how residential density would be achieved with the inclusion of roadways meeting applicable Municipal standards.
- (d) A 40R density data spreadsheet on a form provided by DHCD.
- (e) Any Municipal and developer certifications required pursuant to 760 CMR 59.03(1)(j) and 760 CMR 59.03(1)(k), as applicable.

- (f) For a proposed Starter Home Zoning District, a statement whether any Additional Municipal Standards will apply to development under the Starter Home Zoning.
- (g) A copy, including both text and map(s), of the Underlying Zoning for the District.
- (h) A demonstration of the Municipality's housing history and strategy by means of:
 1. A Comprehensive Housing Plan adopted by the Municipality within the past 5 years (or a longer period if the Municipality submitted updates to such Comprehensive Housing Plan in accordance with DHCD guidance); a Housing Production Plan previously adopted by the Municipality and still in effect; or a Housing Production Summary; and
 2. For Smart Growth Zoning Districts only, a description of other residential development opportunities for infill housing and the residential re-use of existing buildings and underutilized buildings; and
 3. An assessment of Municipal housing needs for households in protected classes identified in state and federal law, addressing how housing choice for such households will be served. The Municipality shall submit a statement that it will comply with the requirements for affirmative fair housing marketing of any Affordable or Income-Restricted units, as applicable, pursuant to 760 CMR 59.04(1)(j).

(i) Documentation that the Municipality has complied with the public notice and hearing requirements of 760 CMR 59.05(1). A Municipality may submit with its application any letters of support issued by the planning board, board of health, conservation commission, or other interested parties.

(j) Sufficient information, certified by a Municipal engineer, or public works, board of health or conservation commission official or other person with similar expertise, to demonstrate that the impacts of the build-out of the Future Zoned Units within the District are consistent with Smart Growth and will not overburden Infrastructure (which for the purposes of 760 CMR 59.03(1)(j) shall also include improvements to public Dedicated Open Space and public recreational facilities) as it exists or may be practicably upgraded to provide adequate accommodation of the demands of the District's existing and future residents and uses. Such material shall describe any such Planned Infrastructure upgrades, including the timing for completion of the improvements (to be within five years of the 40R Zoning Application date, or other reasonable time period approved by DHCD, taking into consideration the anticipated build-out schedule or timeline) and the identity of the entities responsible for completing the improvements.

If, at the time of the 40R Zoning Application, the Municipality does not have information to demonstrate that the impacts of the build-out of the Future Zoned Units within the District will not overburden Infrastructure as described in 760 CMR

59.03(1)(j), it may request a Letter of Conditional Approval, subject to its subsequent compliance with 760 CMR 59.03(1)(j) as provided in 760 CMR 59.05(4).

(k) For Starter Home Zoning Districts only:

1. copies of any Additional Municipal Standards that will apply to development under the Starter Home Zoning, together with one of the following:

a. A Developer Certificate of Feasibility with respect to Additional Municipal Standards; or

b. Documentation demonstrating that such Additional Municipal Standards do not Render Development Infeasible, certified by a Municipal official, civil engineer or other individual with appropriate expertise to evaluate and opine as to the feasibility of such development; or

c. Documentation substantiating the circumstances the Municipality asserts warrant the imposition of Additional Municipal Standards on development under the Starter Home Zoning in the proposed District, which shall be certified by a Municipal engineer or by a public works, board of health or conservation commission official with relevant expertise, unless otherwise substantiated in accordance with guidance issued by DHCD.

2. If required pursuant to 760 CMR 59.03(2)(a)vi., a Developer Certificate of Feasibility with respect to Design Standards.

(l) Additional materials, including narrative and exhibits as required, upon the form of application or in the format determined by DHCD, demonstrating that the proposed District satisfies the approval requirements of 760 CMR 59.04(1).

(m) If applicable, the Municipality's request for an area waiver under 760 CMR 59.04(2) or (with respect to Smart Growth Districts only) density reduction under 760 CMR 59.04(3).

(2) Application for Expedited Review for Certain Starter Home Zoning Districts

(a) Eligibility. To qualify for the expedited eligibility determination process, a proposed Starter Home Zoning District must meet the following requirements:

1. The Starter Home Zoning must conform substantially to the DHCD Starter Home Zoning template and be submitted with the 40R Application with all changes from the template indicated.

2. The Starter Home Zoning District shall allow for no more than thirty (30) Starter Homes in the District.

3. The Starter Home Zoning District shall require that each Starter Home in the District contain at least three (3) bedrooms.
4. The Starter Home Zoning District shall utilize Low Impact Development Techniques best practices for development. DHCD may issue guidance from time to time identifying the standards that will apply.
5. The Starter Home Zoning District shall utilize best practices for roadway and subdivision design. DHCD may issue guidance from time to time identifying the standards that will apply.
- 6i. Unless the 40R Application is accompanied by Developer Certificate of Feasibility:
 - a. Design Standards shall address no more than the size and location of garages/carports, decks or other non-living area structures associated with a Starter Home or Accessory Dwelling Unit, as applicable, and the basic roof style; and
 - b. No Additional Municipal Standards shall apply to development under the Starter Home Zoning.

(b) Procedure for Review. Within 15 days of DHCD's receipt of a Municipality's 40R Application under 760 CMR 59.03(2), DHCD will notify the Municipality in writing or by electronic communication if any required element of its 40R Application is missing or incomplete. Such notification shall constitute a denial of the 40R Application unless the missing or incomplete elements are addressed within 30 days after the notification, or other reasonable time period established at DHCD's discretion. DHCD will issue a preliminary determination of eligibility pursuant to 760 CMR 59.05(2) on the later to occur of (1) 60 days from the date on which DHCD received a Municipality's 40R Application, or (2) 45 days from DHCD's receipt of the last missing or incomplete element of the application.

(3) Review of Existing District. A Municipality may apply to DHCD for approval of an existing zoning district adopted pursuant to M.G.L. c.40A prior to its application as a District under M.G.L. c. 40R and 760 CMR 59.00. The application shall be the same as for a newly proposed District, and the existing zoning district must meet the approval requirements set forth in 760 CMR 59.04(1). Following DHCD's issuance of a Letter of Eligibility or Letter of Conditional Eligibility under 760 CMR 59.05(2), and a Municipality's satisfaction of all conditions in such a Letter of Conditional Eligibility pursuant to 760 CMR 59.05(4), the Municipality will become entitled to Bonus Payments under 760 CMR 59.06(2), but it will not be eligible for a Zoning Incentive Payment under 760 CMR 59.06(1).

(4) Coordinated Review Procedures. DHCD may cooperate with other agencies in developing procedures by which the review of an application for a proposed District under M.G.L. c. 40R and 760 CMR 59.00 may be coordinated with the review of a proposed commercial center under M.G.L. c. 40, § 60, and/or the review of a proposed development district under M.G.L. c. 40Q.

59.04: Approval Requirements

To issue a Letter of Eligibility under 760 CMR 59.05(2), or a Letter of Approval under 760 CMR 59.05(4), DHCD must find that a proposed District satisfies each of the relevant requirements set forth in 760 CMR 59.04(1), and that no uncured Letter of Noncompliance has been issued to the Municipality under 760 CMR 59.07(3). Any area waiver request by a Municipality under 760 CMR 59.04(2) or any density reduction request under 760 CMR 59.04(3) must have been previously approved by DHCD under the procedure set forth in 760 CMR 59.05(6), no more than three years prior to the date of the 40R Zoning Application. DHCD may approve, disapprove, or approve with conditions, a request for the determination of eligibility for a District.

(1) Requirements. The Municipality shall establish, by narrative and exhibits, that a proposed District satisfies each of the following requirements.

(a) Eligible Location. The proposed District shall be located in an Eligible Location. DHCD shall find that a proposed District is located in an Eligible Location if it is in a Highly Suitable Location by virtue of meeting one or more of the following criteria:

1. Substantial Transit Access Area.

- a. The District comprises part or all of a Substantial Transit Access Area, plus any qualifying Adjacent Area, if applicable; and
- b. For Smart Growth Zoning Districts only, Pedestrian Access to transit within a distance of ½ mile must be existing Infrastructure or Planned Infrastructure. The District may also include additional contiguous areas with comparable Pedestrian Access located within ¾ of a mile distance of any rapid transit or commuter rail station, bus or ferry terminal (measured from the entry point(s) to the passenger platforms) that would not otherwise constitute a qualifying Adjacent Area; and
- c. For Starter Home Zoning Districts only, the District may also include additional contiguous areas located within 1½ mile distance of any rapid transit or commuter rail station, bus or ferry terminal (measured from the entry point(s) to the passenger platforms).

2. Area of Concentrated Development.

- a. The District comprises part or all of the land located within an Area of Concentrated Development, plus any qualifying Adjacent Area, if applicable.

b. A District itself does not need to meet all of the criteria for an Area of Concentrated Development as long as it is located within an Area of Concentrated Development and meets the applicable criteria set forth in 760 CMR 59.02: Area of Concentrated Development.

c. A Municipality may have multiple qualifying Areas of Concentrated Development.

3. Starter Home Additional Criteria. For Starter Homes only, the District meets the criteria for a Highly Suitable Location under 760 CMR 59.02: Highly Suitable Location (a)3.

4. Other Highly Suitable Location. The proposed District otherwise qualifies as a Highly Suitable Location where development would promote Smart Growth pursuant to 760 CMR 59.02: Highly Suitable Location (a)4.

(b) Land Area of District. The total land area (excluding open water bodies) of the proposed District does not exceed 15 percent of the total land area in the Municipality, unless DHCD has previously approved an area waiver under 760 CMR 59.05(6).

(c) Land Area of All Districts. The aggregate total land area (excluding open water bodies) of all approved or proposed Districts in the Municipality does not exceed 25 percent of the total land area in the Municipality.

(d) Density.

1. 40R Zoning may allow Mixed-use Developments As-of-right in part or all of the District (excluding all sub-Districts in which the only permitted use is commercial) provided that at least 51% of the gross floor area of any such Mixed-use Development must be devoted to residential use. The minimum number of residential units that must be provided in a Mixed-use Development is determined by multiplying the minimum number of housing units that would have been required if the Mixed-use Development were an entirely residential Project as set forth in 760 CMR 59.04(1)(d)3. or 760 CMR 59.04(1)(d)4., as applicable, by the higher of the minimum percentage of residential use required under 760 CMR 59.04(1)(d)1. or the minimum percentage of residential use required by the 40R Zoning, rounded up to the next highest integer.

The 40R Zoning shall specify the minimum percentage of each Mixed-use Development that shall be devoted to residential use, which shall be no less than 51%. Zoning Incentive Payments for Mixed-use Developments shall be based on the applicable minimum residential density using the formula in 760 CMR 59.04(1)(d)1. Municipalities may mandate a certain percentage of commercial use in 40R Zoning as long as Mixed-use Developments meet the applicable minimum

residential densities set forth in 760 CMR 59.04(1)(d)3. and 760 CMR 50.04(1)(d)4. as affected by the requirements set forth in 760 CMR 59.04(1)(d)1.

Example. A Mixed-use Development in a Smart Growth Zoning District is located on 2 acres of Developable Land (87,120 square feet) on which at least 40 Multi-family Residential units would be permitted if it were an entirely residential Project. The applicable Smart Growth Zoning requires a minimum residential density of 51% for Mixed-use Developments in the District.

Calculating the minimum number of residential units. If the Mixed-use Development were entirely residential, the minimum allowable density for the Project would provide for at least 40 Multi-family Residential units (2 acres x 20 Multi-family Residential units). The applicable minimum residential density in this Mixed-use Development is 51%. A minimum of 21 residential units must be provided (40 residential units x 51% = 20.4, rounded up to the next highest integer).

2. 40R Zoning may apply the residential densities set forth in 760 CMR 50.04(1)(d)3. or 760 CMR 59.04(1)(d)4., as applicable, to some or all of the Substantially Developed Land within a proposed District. The allowable residential densities in such Substantially Developed sub-district shall be no less than those in the Underlying Zoning, and the 40R Zoning shall differ from the dimensional and other applicable standards of the Underlying Zoning as necessary to permit As-of-right within such Substantially Developed sub-district the construction of infill housing on existing lots, and of additional housing units in existing residential buildings or additions thereto or replacements thereof. The 40R Zoning may impose reasonable lot area, frontage, setback and other dimensional requirements within such Substantially Developed sub-districts, consistent with neighborhood building and use patterns. If a Project within a Substantially Developed sub-district contains units in excess of the number of Existing Zoned Units for the site, those units shall qualify as Bonus Units for the purposes of the Bonus Payments, and the Project shall be subject to all applicable Affordability, Income-Restricted and other standards of the 40R Zoning.

3. For Smart Growth Zoning Districts only:

a. A Smart Growth Zoning District shall provide for any one or more of the following minimum allowable As-of-right density requirements, as applicable, unless DHCD has previously approved a density reduction under 760 CMR 59.04(3):

(i) allowing a density of at least eight units per acre for Developable Land zoned for single-family residential use;

(ii) allowing a density of at least 12 units per acre for Developable Land zoned for two- and/or three-family residential use; or

(iii) allowing a density of at least 20 units per acre for Developable Land zoned for Multi-family Residential Use.

b. A Smart Growth Zoning District may contain two or more sub-districts, zoned separately for single-family, two- and/or three-family, and/or Multi-family Residential Uses, or with varying allowable densities for the same residential use, as long as each sub-district individually meets the applicable minimum allowable density requirement set forth in 760 CMR 59.04(1)(d)3.a.(i) through (iii).

4. For Starter Home Zoning Districts only:

a. A Starter Home Zoning District shall provide for a minimum allowable As-of-right density of no less than 4 units per acre of Developable Land.

b. A Starter Home Zoning District shall provide for the utilization of either Cluster Development or Low Impact Development Techniques, except that in an area zoned for residential use that is not otherwise eligible to be a Highly Suitable Location, the District must comply with the requirements of 760 CMR 59.02: Highly Suitable Location (a)3.

c. A Starter Home Zoning shall provide that at least 50 percent of the Starter Homes to be developed in a proposed Starter Home Zoning District, excluding Accessory Dwelling Units, must contain 3 or more bedrooms. These 3 or more-bedroom units shall be equitably integrated and dispersed among the Starter Homes throughout the Starter Home Zoning District and within each Project including by unit type and construction phase.

(e) Affordable and Income-Restricted Units.

1. In a Smart Growth Zoning District, the Smart Growth Zoning shall provide that not less than 20 percent of all units constructed within Projects of more than 12 units shall be Affordable. In addition, the Smart Growth Zoning shall contain mechanisms to ensure that the total number of Affordable units constructed in the District equals not less than 20 percent of the total number of all units constructed within Projects in the District and that Affordable units are equitably integrated and dispersed throughout the District and Project (including by unit type and construction phase). The Smart Growth Zoning shall contain provisions to ensure that Projects are not segmented to evade the size threshold for Affordability, and that there shall be effective monitoring and enforcement of the Affordable housing restriction during the term of Affordability. The Smart Growth Zoning

shall provide that the affordable housing restriction on an Affordable unit shall ensure that it is occupied by an eligible household paying an Affordable rent or Affordable purchase price during the term of the restriction. The Smart Growth Zoning shall provide that Affordability shall be assured for a period of no less than 30 years through the use of an affordable housing restriction as defined in M.G.L. c. 184, § 31. The Smart Growth Zoning shall contain provisions specifying the method by which such Affordable rents or Affordable purchase prices shall be computed. The Smart Growth Zoning may specify decreased maximum income limits of eligible households (below 80 percent of the area-wide median income as determined by HUD). Units in a project located within the geographic boundaries of the Smart Growth District which receives a project eligibility letter under M.G.L. c. 40B after the date upon which the Municipality submitted a 40R Zoning Application to DHCD, shall be counted toward the 20% overall Affordability requirement in the second sentence of 760 CMR 59.04(1)(e)1. unless such units are required to be treated as Existing Zoned Units under 760 CMR 59.02: Existing Zoned Units.

2. In a Starter Home Zoning District, the Starter Home Zoning shall provide that not less than 20 percent of all units constructed within any Project shall be Income-Restricted units and that all Income-Restricted units are equitably integrated and dispersed throughout the District and Project (including by unit type and construction phase). In addition, the Starter Home Zoning shall contain provisions to ensure that there shall be effective monitoring and enforcement of the Income-Restricted requirements during the required term. The Starter Home Zoning shall provide that the affordable housing restriction on an Income-restricted unit shall ensure that it is occupied by an eligible household paying an Income-restricted rent or Income-restricted purchase price during the term of the restriction. The Starter Home Zoning shall provide that Income-Restricted requirements shall be assured for a period of no less than 30 years through the use of an affordable housing restriction as defined in M.G.L. c. 184, § 31. The Starter Home Zoning shall contain provisions specifying the method by which such restricted rents or purchase prices shall be computed. The Starter Home Zoning may specify decreased maximum income limits of eligible households (below 100 percent of the Area Median Income).

3. If the Municipality is proposing income, rent, or sale price requirements for Affordable or Income-Restricted units requiring rents, purchase prices, or income limits lower than the applicable requirements of 760 CMR 59.04(1)(e), or conversely, significantly limiting opportunities for Affordable Housing, the Municipality shall be required to prove to DHCD in its 40R Zoning Application that its use of such mechanisms will not unduly restrict opportunities for development within the proposed District under the applicable 40R Zoning by impairing the economic feasibility of proposed Projects in the District, or, as applicable, unreasonably excluding publicly-subsidized or similar types of affordable housing development.

(f) Plan Review. Plan Review is the procedure by which a proposed Project within a District is made subject to review by the Plan Approval Authority under the provisions of the 40R Zoning, in accordance M.G.L. c. 40R, § 11 and 760 CMR 59.00.

1. If the 40R Zoning provides for Plan Review of Projects within the District, it shall specify:

- a. the composition of the Plan Approval Authority;
- b. the categories of Projects that will be subject to Plan Review;
- c. the procedures for such review, including the contents of an application for approval of a Project;
- d. the criteria upon which the Plan Approval Authority may disapprove a proposed Project, or condition its approval;
- e. the criteria upon which the Plan Approval Authority may grant waivers from dimensional and other restrictions (other than Affordability or Income-Restriction); and
- f. any Design Standards to which a Project will be subject including, if applicable, Design Standards pursuant to 760 CMR 59.03(2). If the Design Standards are not contained within the 40R Zoning, such Design Standards must be submitted to and approved by DHCD prior to their adoption by the Plan Approval Authority.

2. The Plan Review provisions of the 40R Zoning and any separate Design Standards must be clearly written, fairly and consistently applied, and allow for flexibility and creativity, consistent with the goals of M.G.L. c. 40R, 760 CMR 59.01, 59.02 and 59.04(1)(f). The Plan Review provisions of the 40R Zoning and any separate Design Standards may only provide for denial of a proposed Project on the grounds that:

- a. the Project does not meet the conditions and requirements set forth in the 40R Zoning;
- b. the applicant failed to submit information and fees required by the 40R Zoning and necessary for an adequate and timely review of the design of the Project or potential Project impacts; or
- c. it is not possible to adequately mitigate significant adverse Project impacts on nearby properties by means of suitable conditions.

3. Provided such standards are otherwise consistent with M.G.L. c. 40R and 760 CMR 59.00, a Municipality may adopt Design Standards to ensure that the physical character of Projects within the District:

a. will be complementary to nearby buildings and structures;

b. will be consistent with the Comprehensive Housing Plan, current Housing Production Plan, or Housing Production Summary, as applicable; and

c. will provide for higher-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the Municipality or in the region of the Municipality. Design Standards may address the scale, proportions, and exterior appearance of buildings; the placement, alignment, width, and grade of streets and sidewalks; the type and location of Infrastructure; the location of building and garage entrances; off-street parking; the protection of significant natural site features; the location and design of on-site Dedicated Open Spaces, landscaping, and exterior signs; and buffering in relation to adjacent properties, to achieve the goals of 760 CMR 59.04(1)(f)3.

4. The Municipality must demonstrate to the satisfaction of DHCD that its Design Standards will not Unreasonably Impair the development of Projects in the District. Design Standards must clearly distinguish standard requirements from recommendations or guiding principles. Design Standards requirements must be articulated objectively so that compliance can be reasonably interpreted and measured. Design Standards that fail to define standard requirements that are reasonably clear, objective and measurable will be deemed to Unreasonably Impair the development of a Project in the District. DHCD may disapprove or conditionally approve a District on account of Design Standards for which the requisite demonstration has not been made.

5. For purposes of the Plan Review of a Mixed-use Development Project, provisions of the 40R Zoning and the Design Standards must ensure that the non-residential elements of any Mixed-use Development Project are planned and designed in an integral manner to complement the residential uses, and help foster vibrant, workable, livable, and attractive neighborhoods consistent with the Smart Growth goals set forth in M.G.L. c. 40R and 760 CMR 59.00.

6. The 40R Zoning may allow the Plan Approval Authority, through the Plan Review process, to waive specific dimensional and other standards (other than Affordability or Income-Restriction requirements) otherwise applicable to a Project, if it finds that such waiver will allow the Project to achieve the density,

Affordability, Income-Restriction, mix of uses, or physical character allowable under the 40R Zoning, and that it is consistent with the Design Standards.

(g) Diverse Populations. Subject to 760 CMR 59.04(1)(i), the 40R Zoning for the proposed District shall require the development of housing which is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly.

(h) No Moratorium. Projects within the proposed District shall not be subject to limitation of the issuance of building permits for residential uses or a Municipal moratorium on the issuance of such permits. The 40R Zoning may permit the Plan Review approvals of proposed Projects to be phased for the purpose of coordinating development with the construction of Planned Infrastructure upgrades that are identified in the 40R Zoning Application or that are required to mitigate any extraordinary adverse Project impacts on neighboring properties. For Projects that are approved and developed in phases, unless otherwise approved by DHCD the proportion of Affordable or Income-Restricted units, as applicable, shall be at least 20 percent of all units constructed in each phase.

(i) Occupancy restrictions.

1. Any proposed 40R Zoning shall not impose restrictions on age or any other forms of occupancy restrictions upon the District as a whole unless otherwise required or permitted in 760 CMR 59.04(1)(i)2. or 3., as applicable.

2. For Smart Growth Zoning only:

i. A proposed Smart Growth Zoning shall impose occupancy restrictions upon Affordable units to ensure occupancy by an eligible individual or household pursuant to 760 CMR 59.04(1)(e)1.

ii. A proposed Smart Growth Zoning may allow the development of specific Projects within a Smart Growth Zoning District that may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws. In an age-restricted Project within a Smart Growth Zoning District, not less than 25 percent of the housing units shall be Affordable units and the Smart Growth Zoning shall conform to the requirements of 760 CMR 59.04(1)(e) in all other respects.

3. For Starter Home Zoning Only:

- i. A proposed Starter Home Zoning shall impose occupancy restriction upon Income-Restricted units to ensure occupancy by an eligible individual or household pursuant to 760 CMR 59.04(1)(e)2.
- ii. No restrictions on age shall be imposed in any Project developed under Starter Home Zoning.

(j) Fair Housing. Projects within the proposed District shall comply with federal, state, and Municipal fair housing laws. *See* 760 CMR 59.07(2)(e). Affordable and Income-Restricted units within Projects shall be subject to an affirmative fair housing marketing plan and affordable housing restrictions that are approved by DHCD, in accordance with DHCD guidance.

(k) Infrastructure. The impacts of Future Zoned Units within the District shall not overburden Infrastructure (which for the purposes of 760 CMR 59.04(1)(k) shall also include improvements to public Dedicated Open Space and public recreational facilities) as it exists or may be practicably upgraded. *See* 760 CMR 59.03(1)(j).

(l) 40R Zoning to be All-inclusive. The development of a Project within a District shall be governed solely by the 40R Zoning, without any reference to the standards or procedures of the Underlying Zoning that would otherwise be applicable to developments within the same geographic area as the District. Without limitation, the 40R Zoning shall set out the dimensional, use, parking, and other standards applicable to Projects within the District (including, as applicable, within any Substantially Developed sub-district, in compliance with 760 CMR 59.04(1)(d)), including but not limited to height limits, setbacks, lot areas, lot dimensions, unit to lot ratios, floor area ratios, lot coverage ratios, open space ratios, parking ratios, parking locations, and roadway design standards. Such provisions may differ from the dimensional and other standards contained in the Underlying Zoning in order to allow the densities, Affordability, Income-Restriction, mix of uses, and physical character of Projects which are permitted As-of-right under the 40R Zoning. The 40R Zoning may allow the Plan Approval Authority, through the Plan Review process, to waive specific dimensional and other standards (other than Affordability and Income-Restriction requirements) otherwise applicable to a Project.

(m) No Disqualifying Factors. A proposed District that DHCD has determined to be disqualified as a Highly Suitable Location based on the factors set forth in 760 CMR 59.02: Highly Suitable Location (b) through (d) shall not qualify as an Eligible Location.

(2) Area Waiver. Any Municipality may request that the total land area of a proposed District (calculated as the sum of the Developable Land Area, the Substantially Developed Land Area, and other land excluded pursuant to 760 CMR 59.02: Developable Land) be allowed to exceed 15 percent of the total land area in the Municipality. The burden shall be on the Municipality to reliably demonstrate to DHCD, by narrative and exhibits, that such an increased size is consistent with the documentation submitted under 760 CMR 59.03(1)(h), that it will help to meet the

anticipated regional demand for housing, and that it will be consistent with the Smart Growth goals set forth in M.G.L. c. 40R and 760 CMR 59.00.

(3) Density Reduction. Any Municipality with a population of fewer than 10,000 persons, as determined by the most recent federal decennial census, may request that DHCD reduce the minimum allowable density standards required by 760 CMR 59.04(1)(d) for a Smart Growth Zoning District, provided that its 40R Zoning Application complies with 760 CMR 59.05(6). The burden shall be on the Municipality to demonstrate to DHCD, by narrative and exhibits, that compliance with the minimum density criteria would constitute a hardship because development at the required minimum density would either:

- (a) Be highly inconsistent with the existing physical environment of the community; or
- (b) Create significant risks for water pollution due to poor soils, shallow aquifers or other factors specific to the existing physical environment, or create other significant health and safety risks specific to the existing physical environment where such risks cannot reasonably be ameliorated by appropriate septic system design; or
- (c) Be unable feasibly to be served by a piped water supply system.

In its 40R Zoning Application, the Municipality must also demonstrate that the District as developed at the proposed reduced density will be consistent with the Smart Growth goals set forth in M.G.L. c. 40R and 760 CMR 59.00. Approval of a density reduction will not be withdrawn by DHCD solely because, in a future census, the population of the Municipality exceeds 10,000.

59.05: Procedure for Approval, Review, Amendment, and Repeal

(1) Preliminary Municipal Review Procedure. The chief executive of the Municipality or duly authorized designee shall hold a preliminary public hearing on whether the provisions of the proposed 40R Zoning should be adopted by the Municipality. Notice shall be given in accordance with M.G.L. c. 40A, § 11 and by posting on the Municipality's website, if any, on the date of the first newspaper publication through the date of the hearing. Following the hearing, comments shall be considered by the Municipality in preparation of the proposed 40R Zoning Application.

(2) Preliminary Determination of Eligibility by DHCD. Upon receipt of a 40R Zoning Application by a Municipality, DHCD will make a preliminary determination, before the Municipality votes on its proposed 40R Zoning, whether the application satisfies the approval requirements set forth in 760 CMR 59.04(1). DHCD's review will be an informal, non-adjudicatory procedure.

- (a) DHCD will accept 40R Zoning Applications on the last day of each month. Upon its receipt of a 40R Application, DHCD will conduct a completeness review, except that

DHCD will notify a Municipality in writing or by electronic communication within 30 days after receipt if any required element of its application is missing or incomplete. Such notification shall constitute a denial of the application unless the missing or incomplete elements are addressed within 30 days after the notification or other reasonable time period established at DHCD's discretion. Applications shall be deemed complete if such written notice is not given within the 30-day completeness review time period. The 30-day period may be extended only with the written consent of the Municipality.

(b) Upon expiration of the completeness review period, DHCD will conduct a review as to whether the 40R Zoning Application satisfies the approval requirements set forth in 760 CMR 59.04(1). DHCD will issue its decision upon an application within 60 days of the start of this review period. The 60-day period may be extended only with the written consent of the Municipality. If DHCD does not act upon a complete and approvable application within the 60-day period, subject to any extension, the application shall be deemed approved.

(c) DHCD will communicate its determination on a 40R Zoning Application to the Municipality by issuing one of the following:

1. a Letter of Eligibility, approving the application without conditions;
2. a Letter of Conditional Eligibility, approving the application with conditions that must be satisfied prior to final approval under 760 CMR 59.05(4) and, as applicable, subject to a Letter of Conditional Approval; or
3. a Letter of Denial.

(d) A Letter of Conditional Eligibility may, among other matters, require modification to the proposed 40R Zoning; require modification of the calculation of Incentive Units; require the reclassification of Developable Land; or condition the issuance of the Letter of Approval upon submission of sufficient documentation that:

1. the development of a proposed 40R Zoning District is feasible;
2. such proposed District otherwise satisfies the threshold approval criteria set forth in 760 CMR 59.04(1);
3. the impacts of Future Zoned Units within the District will not overburden Infrastructure (which for the purposes of 760 CMR 59.05(2)(d) shall also include improvements to public Dedicated Open Space and public recreational facilities) as it exists or may be practicably upgraded to provide adequate accommodation of the demands of the District's existing and future residents and uses. *See* 760 CMR 59.03(1)(j); or
4. the Municipality takes the actions contemplated under 760 CMR 59.05(2)(e).

(e) Additional Municipal Standards Applicable to Development under Starter Home Zoning. If DHCD determines that the Municipality has not shown that Additional Municipal Standards applicable in a Starter Home District do not Render Development Infeasible, DHCD will not issue an unconditional Letter of Eligibility. Any Letter of Conditional Eligibility pursuant to 760 CMR 59.05(2)(d) will, in addition to any conditions under 760 CMR 59.05(2)(d)1. through 3., condition the issuance of a Letter of Approval on either:

1. modification of the Additional Municipal Standards, through the Starter Home Zoning or otherwise, so that no Additional Municipal Standards will apply to development under the Starter Home Zoning, or
2. demonstration that the Additional Municipal Standards applicable in a Starter Home District do not Render Development Infeasible. DHCD will also inform the Municipality that it may seek DEP determination that the Municipality has demonstrated the existence of specific local conditions that warrant imposition of such Additional Municipal Standards to development under the Starter Home Zoning.

(f) DEP Review of Additional Municipal Standards Applicable to Development under Starter Home Zoning.

1. Upon receipt of a Letter of Conditional Eligibility pursuant to 760 CMR 59.05(2)(e), a Municipality may request a review and determination by DEP regarding whether the Municipality has demonstrated a reasonable, objective basis, based on the documentation of specific local conditions, for imposition of Additional Municipal Standards to development under the Starter Home Zoning.
2. Promptly following receipt of such request, DHCD will forward to DEP a copy of the Municipality's 40R Zoning Application for a Starter Home Zoning District, including any supporting materials pertaining to Additional Municipal Standards.
3. DEP's review will be an informal, non-adjudicatory procedure. DEP may elect, in its discretion, to request that DHCD request additional information from the Municipality, which the Municipality shall submit to DHCD within 30 days thereafter for forwarding to DEP for its review and determination. DEP will provide its determination concurrently to both DHCD and the Municipality.
4. If DEP determines that the Municipality has not demonstrated that local conditions warrant imposition of Additional Municipal Standards to development under the Starter Home Zoning, the requirements of the initial Letter of Conditional Eligibility remain in effect unchanged.

5. If DEP determines that the Municipality has demonstrated that local conditions warrant imposition of Additional Municipal Standards to development under the Starter Home Zoning, DHCD will issue a revised preliminary determination of eligibility in accordance with 760 CMR 59.05(2)(c) within 30 days, which may include as an alternative condition that the Municipality submit any additional information needed to demonstrate compliance with statutory requirements as set out in DHCD guidance.

(g) In the event of issuance of a Letter of Denial, a Municipality may re-apply for approval after addressing any deficiencies in a prior application, provided that such reapplication shall be treated as a new application under 760 CMR 59.03.

(h) In the event of a constructive approval of a 40R Zoning Application due to DHCD's failure to act within the specified time period, the Municipality may request in writing the issuance of a Letter of Eligibility within 60 days of the date of constructive approval, and DHCD will issue such Letter within 21 days of its receipt of the request. The Municipality must thereafter comply with the requirements of 760 CMR 59.05(3) and (4).

(3) Municipal Adoption of 40R Zoning. Following receipt of DHCD's preliminary determination of eligibility, the Municipality must formally adopt its 40R Zoning pursuant to M.G.L. c. 40A, § 5 prior to final 40R Zoning approval by DHCD. If the Municipality is proceeding based on receipt of a Conditional Letter of Eligibility, it shall make any changes to its 40R Zoning and other elements of the 40R Zoning Application that have been required by DHCD prior to formally adopting the 40R Zoning pursuant to M.G.L. c. 40A, § 5. The Municipal vote to adopt the 40R Zoning must occur within three years of the date of the Letter of Eligibility or Letter of Conditional Eligibility, as applicable.

(4) Final 40R Zoning Approval by DHCD.

(a) Submission by Municipality. Upon adoption of the 40R Zoning, the Municipality shall submit to DHCD proof of such adoption. If DHCD had required any amendment to the 40R Zoning or any element of the 40R Zoning Application, or any other related matter, in a Letter of Conditional Eligibility, the Municipality's submission shall confirm and demonstrate that all such amendments have been made and incorporated. If any element of the application subject to a condition in the Letter of Conditional Eligibility, including the requirements of 760 CMR 59.03(1)(j), has not been amended as required by that letter, the Municipality shall identify those elements remaining unaddressed and may request a Letter of Conditional Approval from DHCD.

(b) DHCD Review. DHCD will accept submissions on the last day of each month. DHCD's review of the submission will be an informal, non-adjudicatory procedure. DHCD will confirm its final approval by issuance of a Letter of Approval, or will issue a Letter of Conditional Approval or Letter of Denial within 30 days of receipt of the

submission. The 30-day period may be extended only with the written consent of the Municipality.

(c) Letter of Approval. If the submission satisfies all of the approval criteria set forth in 760 CMR 59.04(1), as well as all conditions in a Letter of Conditional Eligibility, DHCD will issue a Letter of Approval which will specify, among other matters, the number of Incentive Units and the amount of the Zoning Incentive Payment that shall be made to the Municipality.

(d) Letter of Conditional Approval. If a Letter of Conditional Approval is issued, it will specify all conditions necessary to ensure consistency with M.G.L. c. 40R and 760 CMR 59.00 which must be met and demonstrated to DHCD before the Municipality is eligible to receive a Letter of Approval. A Letter of Conditional Approval may provide that, with respect to an identified geographic area within the District, DHCD has determined that a Municipality has met all conditions necessary to ensure minimum compliance with M.G.L. c. 40R and 760 CMR 59.00, and therefore may be entitled to receive a partial Zoning Incentive Payment based on the number of Incentive Units within the identified geographic area that can be developed prior to satisfaction of any outstanding conditions and, if so, the amount of such partial Zoning Incentive Payment. Upon satisfaction of any outstanding conditions specified in the Letter of Conditional Approval pertaining to Infrastructure, Smart Growth or other matters necessary to ensure consistency with M.G.L. c. 40R and 760 CMR 59.00, a Municipality shall submit to DHCD proof of such satisfaction for review pursuant to 760 CMR 59.05(4)(a). The Letter of Conditional Approval will specify the amount of Zoning Incentive Payment that is conditioned upon satisfaction of outstanding conditions.

(e) Changes to 40R Zoning. The Municipality shall identify in its submission under 760 CMR 59.05(4) all differences between the proposed 40R Zoning that had been submitted to DHCD for review as part of DHCD's preliminary determination of eligibility under 760 CMR 59.05(2), and the 40R Zoning as adopted by the Municipality (*see* 760 CMR 59.05(3)), as well as any other changes to the original application. If there has been any change to the 40R Zoning or any other element of the original 40R Zoning Application, other than changes that DHCD had required in a Letter of Conditional Eligibility, then DHCD may treat the submission as an amendment to the application, and it will notify the Municipality of its decision to do so in writing. In such event DHCD will conduct its review under 760 CMR 59.05(4) within 60 days of receipt of the submission. The 60-day period may be extended only with the written consent of the Municipality.

(f) Constructive Approval. In the event of a constructive approval of a final submission due to DHCD's failure to act within the specified time period, the Municipality may request in writing the issuance of a Letter of Approval within 60 days of the date of constructive approval, and DHCD will issue such Letter within 21 days of its receipt of the request.

(5) Amendments and Repeals With Respect to an Approved District. Any proposed amendment or repeal of the 40R Zoning, any Design Standards, or the boundary of the District or any sub-districts; or any amendment or adoption of the Plan Approval Authority's administrative rules, if adopted after issuance of a Letter of Approval, shall not take effect under M.G.L. c. 40R and 760 CMR 59.00 without written approval by DHCD in accordance with 760 CMR 59.05(5). In addition, any proposed adoption or enlargement of an Historic District within the boundary of the District, if adopted after issuance of a Letter of Approval, shall be subject to DHCD review to determine whether the adoption or enlargement of the Historic District would cause the Approved District to fail to comply with the approval criteria set forth in 760 CMR 59.04. Each request for an amendment, enlargement, repeal or adoption must be submitted to DHCD on the last day of a month, upon the form of application or in the format determined by DHCD. DHCD's review will be an informal, non-adjudicatory procedure, to be conducted in accordance with 760 CMR 59.05(2). DHCD will, as applicable, issue an amended Letter of Eligibility for a proposed amendment only if, and to the extent that, DHCD finds in its discretion that the Approved District as amended will remain in compliance with the approval criteria set forth in 760 CMR 59.04(1). An amendment to the 40R Zoning, any Design Standards, or the boundary of the District or any sub-districts, or any amendment or adoption of the Plan Approval Authority's administrative rules that would have the effect of decreasing the number of Incentive Units within an Approved District shall not take effect under M.G.L. c. 40R and 760 CMR 59.00 until DHCD has issued written confirmation that all repayment of monies required under 760 CMR 59.06(3) has occurred. DHCD may, in its discretion, determine that it is appropriate to issue a Letter of Conditional Eligibility based on the changes to the Approved District as amended. If DHCD determines that the adoption or enlargement of the Historic District would cause the Approved District to fail to comply with the approval criteria set forth in 760 CMR 59.04, DHCD may, in its discretion, determine that it is appropriate to issue a Letter of Noncompliance or Certificate of Revocation in accordance with 760 CMR 59.07(3).

(a) Treatment of Proposed Amendment. Except as otherwise provided in 760 CMR 59.05(5)(b) through (d), a proposed amendment shall be treated as a new 40R Zoning Application pursuant to 760 CMR 59.03, 59.04, and 59.05(1) through (4). The amendment will not take effect under M.G.L. c. 40R and 760 CMR 59.00 until (a) DHCD has issued an amended Letter of Approval or Letter of Conditional Approval and (b) if DHCD issues a Letter of Conditional Approval, DHCD confirms that all conditions have been satisfied. A proposed amendment shall include an evaluation of its effect upon the Municipality's Comprehensive Housing Plan.

(b) Non-substantial Modifications. DHCD may, upon written request of the Municipality, review and approve within 30 days after the date of receipt of such request a non-substantial modification to the 40R Zoning, Design Standards, Municipal Historic District regulations, or a District or sub-district boundary. The Municipality shall, in its request, certify to DHCD that the proposed modification will not have the effect of increasing or decreasing the area of an Approved District or the number of Incentive Units or Bonus Units, adopting or enlarging an Historic District or substantially modifying the requirements applicable in an Historic District within the 40R District, reducing consistency with the Comprehensive Housing Plan, or Unreasonably Impairing

the development of Projects within the Approved District. Failure of DHCD to issue a decision on a request for approval of a non-substantial modification within such 30-day period shall be deemed a denial. By mutual agreement, the 30-day time period may be extended.

(c) Boundary Change Amendments. A Municipality may at any time propose an amendment that solely would change the boundary of an Approved District and decrease its area, pursuant to the following review procedure. The Municipality shall provide 60 days prior written notice to DHCD that such boundary change amendment has been proposed for action by the Municipal legislative body, together with a calculation of the decrease in the number of Incentive Units within the District, an evaluation of the effect upon the Municipality's Comprehensive Housing Plan, and certification by the Municipality that there will be no other modification to the 40R Zoning or the Design Standards. The Municipality shall provide subsequent written notice to DHCD if it adopts such boundary change amendment. The amendment will not take effect under M.G.L. c. 40R and 760 CMR 59.00 until DHCD has issued an amended Letter of Conditional Approval, conditioned upon its confirmation that all repayment of monies required under 760 CMR 59.06(3)(a) has occurred.

(d) Repeals. A Municipality may at any time repeal the 40R Zoning for an Approved District, pursuant to the following review procedure. The Municipality shall provide 60 days prior written notice to DHCD that such repeal has been proposed for action by the Municipal legislative body under applicable law, and it shall provide subsequent written notice to DHCD if such Municipal repeal action is taken. Such prior written notice shall include a recalculation of the number of Incentive Units still developable within the District if the 40R Zoning is repealed. This recalculation shall count as Incentive Units all Bonus Units already constructed or approved within the District, and all Bonus Units for which applications have been submitted to the Plan Approval Authority prior to the date upon which the request for repeal is submitted to DHCD. The repeal shall not take effect under M.G.L. c. 40R and 760 CMR 59.00 until DHCD has issued an amended Letter of Conditional Approval, conditioned upon its confirmation that all repayment of monies required under 760 CMR 59.06(3)(b) has occurred.

(6) Area Waiver and Density Reduction Requests. For a Smart Growth Zoning District, a Municipality may request that DHCD approve an area waiver under 760 CMR 59.04(2) or a density reduction under 760 CMR 59.04(3), according to the following procedure. The Municipality shall submit such request in writing to DHCD with its 40R Zoning Application, along with such supporting material as DHCD may require. DHCD's review of the request will be an informal, non-adjudicatory procedure. If DHCD has not approved a request in writing within 30 days of its receipt, such request shall be deemed denied.

59.06: Payments and Repayments

Each Municipality with an Approved District shall be entitled to payments as described below.

(1) Zoning Incentive Payments. Upon the issuance by DHCD to the Municipality of a Letter of Approval or a Letter of Conditional Approval, as applicable, the Municipality may present that Letter to DHCD at any subsequent time, requesting payment of the amount of Zoning Incentive Payment or partial Zoning Incentive Payment set forth in the Letter of Approval or Letter of Conditional Approval. A Letter of Approval will entitle a Municipality to receive a total Zoning Incentive Payment for a District in accordance with the following schedule, less any previous Zoning Incentive Payments received for the District. A Letter of Conditional Approval will state the partial Zoning Incentive Payment to which the Municipality is entitled based on the number of Incentive Units in the area of the District for which the Municipality has met all conditions necessary to ensure consistency with M.G.L. c. 40R and 760 CMR 59.00, in accordance with the following schedule:

<u>Incentive Units</u>	<u>Payment</u>
Up to 20	\$10,000
21 to 100	\$75,000
101 to 200	\$200,000
201 to 500	\$350,000
501 or more	\$600,000

Letters of Approval shall remain valid indefinitely for purposes of Municipal collection of the Zoning Incentive Payment, subject only to a repeal pursuant to 760 CMR 59.05(5)(d), or payment suspension or revocation pursuant to 760 CMR 59.06 or 59.07.

DHCD may in its discretion, for purposes of calculating the Zoning Incentive Payment in the Letter of Approval, treat two or more simultaneously Approved Districts within proximity of each other as a single District, or treat a newly Approved District as an amendment to a nearby existing Approved District.

(2) Bonus Payments. Upon issuance of a building permit for a Bonus Unit within an Approved District, the Municipality may apply to DHCD for authorization of payment of a one-time Bonus Payment of \$3,000 for each Bonus Unit on a Bonus Payment application form designated by DHCD. Unless DHCD approves an alternative method of documenting Bonus Units in an Approved District, the Municipality shall submit in its application for payment:

- (a) A certified copy of the building permit(s) for the Project;
- (b) A site plan that indicates building(s) location (and, if available, address(es)) within the District;
- (c) A certified copy, by the building official, of the Smart Growth or Starter Home residential density plan required pursuant to 760 CMR 59.03(1)(c)4.;

760 CMR 59:00: Smart Growth Zoning and Starter Home Zoning Districts

- (d) For a Smart Growth Zoning District that contains sub-districts, a certified copy, by the building official, of the Smart Growth residential density spreadsheet required pursuant to 760 CMR 59.03(1)(d);
- (e) If there are Existing Zoned Units, a calculation of the number of Bonus Units for the Project (*i.e.*, subtracting Existing Zoned Units from the Project's total number of units);
- (f) A copy of the Plan Approval Authority's decision approving the Project, if applicable;
- (g) A copy of a recorded affordable housing restriction meeting the requirements of M.G.L. c. 184, § 31;
- (h) A copy of the approved affirmative fair housing marketing plan applicable to the Bonus Unit(s); and
- (i) A completed original of DHCD's Bonus Payment application form.

DHCD will accept applications on a regular basis in accordance with a schedule to be determined by DHCD. DHCD's review of an application will be an informal, non-adjudicatory procedure. Provided that the Municipality has submitted all of the information required in 760 CMR 59.06(2)(a) through (i), DHCD will confirm its approval of an application for payment within 30 days after receipt by issuing a written authorization of payment to the Municipality.

(3) Suspension of Payments; Repayment of Monies. Payments under 760 CMR 59.06(1) or 59.06(2) shall be suspended or repaid under the following circumstances.

- (a) If DHCD approves, pursuant to 760 CMR 59.05(5), an amendment to an Approved District that decreases the number of Incentive Units, and DHCD determines that the Zoning Incentive Payment that would have been due using the schedule in 760 CMR 59.06(1) based upon the revised aggregate number of Incentive Units within the Approved District, as amended, is less than the amount of all Zoning Incentive Payments previously received with respect to that District, DHCD will issue a Letter of Conditional Approval requiring that the Municipality repay to DHCD the amount of such excess payments pursuant to 760 CMR 59.05(5)(c).
- (b) If a Municipality has submitted to DHCD the proposed repeal of an Approved District pursuant to 760 CMR 59.05(5)(d), the repeal shall not take effect until the Municipality has repaid to DHCD any excess Zoning Incentive Payments received by the Municipality. Using the schedule in 760 CMR 59.06(1) and the number of Incentive Units set forth in DHCD's amended Letter of Approval issued pursuant to 760 CMR 59.05(5)(d), the Municipality will be entitled to retain the portion of the Zoning Incentive Payment that would have been due upon the number of Incentive Units still developable

within the District. The Municipality need not repay any Bonus Payments received with respect to that District.

(c) If DHCD has issued a Letter of Noncompliance to a Municipality pursuant to 760 CMR 59.07(3), no further Zoning Incentive Payment or Bonus Payment will be made to that Municipality until DHCD confirms through issuance of a Certificate of Compliance that the noncompliance has been cured.

(d) If DHCD has issued a revocation of a Municipality's certification pursuant to 760 CMR 59.07(3) for the reason that there has not occurred the Start of Construction of a Project or Planned Infrastructure upgrade within an Approved District within three years of the date upon which the Municipality received the Zoning Incentive Payment, consistent with 760 CMR 59.07(1)(f), the Municipality shall immediately pay to DHCD all Zoning Incentive Payments and Bonus Payments received with respect to that District.

(e) If DHCD approves a new District within a Municipality that has an existing District in which construction has not yet commenced and for which DHCD has not issued a Letter of Noncompliance, DHCD may issue a Letter of Conditional Eligibility and condition the payment of the Zoning Incentive Payment for the new District upon the Municipality's documentation that construction has commenced in either the new District or the existing District.

(4) Use of Zoning Incentive Payments and Bonus Payments.

(a) Zoning Incentive Payments and Bonus Payments may be made from Capital Funds with a requirement that payments be used by Municipalities only for capital expenditures. Municipalities receiving such Capital Funds will agree in contracts with DHCD to comply with funding restrictions and to provide reporting to DHCD as required by DHCD.

(b) No restrictions set forth in 760 CMR 59.06(4)(a) apply to Zoning Incentive Payments or Bonus Payments made to Municipalities by DHCD from sources other than Capital Funds.

59.07: Annual Updates; Certification of Compliance; Report to Legislature

DHCD will be responsible for administration, review, and reporting on the 40R Zoning District Programs as provided in M.G.L. c. 40R and 760 CMR 59.00. To enable DHCD to undertake an annual review and the preparation of a report on the program, and to ensure certification of compliance, DHCD will require each Municipality with an Approved District to provide information in the form of an annual update, as described in 760 CMR 59.07(1).

(1) Annual Update by Municipality. On or before July 31 of each year, each Municipality that either contains a District that had been Approved by the end of the previous fiscal year ending on

June 30, or had filed a 40R Zoning Application for a proposed District within that fiscal year, shall file its annual update with DHCD, in a form to be prescribed by DHCD. Unless otherwise permitted by guidance issued by DHCD, the Municipality shall provide the following information in the annual update:

(a) A list of all Approved Districts and proposed new Districts within the Municipality, with a tabulation for each District of the total land area, the Developable Land area and the Substantially Developed Land area, the number of Incentive Units, and the amount of Developable and Substantially Developed Land zoned at various allowable As-of-right residential densities under the applicable 40R Zoning.

(b) For Projects in each Approved District, the total number of units and the number of Bonus Units:

1. for which building permits had been issued during the previous fiscal year;
2. completed during the previous fiscal year; and
3. completed in total since the District was approved, as documented by issuance of occupancy permits, with a tabulation in each case of the types of such Bonus Units (Affordable, Income-Restricted, market rate, accessible, and bedroom-size). The annual update shall also contain a written narrative describing whether each Approved District is being developed in a manner that reasonably complies with the residential density, Affordability and Income-Restriction standards for such District.

(c) For each Approved District, the amounts of the Zoning Incentive Payment and Bonus Payments received during the prior fiscal year, and for each Approved District or proposed new District, the amounts and anticipated timing of any Zoning Incentive Payment and Bonus Payments anticipated to be received during the current fiscal year.

(d) For each Approved District, the number and category of Projects for which the Plan Review procedure was completed during the previous fiscal year, including:

1. the number of Projects both approved and disapproved; and
2. the total number and types of proposed total units and Bonus Units in each category of Project. For each proposed Project that was disapproved, the annual update shall contain sufficient documentation to demonstrate that the Plan Approval Authority did not unreasonably deny its approval, and that it only denied its approval in a reasonable manner consistent with M.G.L. c. 40R, 760 CMR 59.00, the 40R Zoning and the Comprehensive Housing Plan or current Housing Production Plan, or Housing Production Summary, as applicable. The annual update shall also indicate the number and category of Projects currently

under review and the total number and types of proposed total units and Bonus Units in such Projects.

(e) For the then-current and the subsequent fiscal years, an estimate of:

1. the number and size (both total land area and Developable Land area) of any new Districts anticipated to be submitted to DHCD;
2. the potential number of Incentive Units in each new District; and
3. the anticipated number of Bonus Units for which building permits would be issued within those years.

(f) If no building permit has been issued for the Bonus Units in an Approved District within three years of the date of the Zoning Incentive Payment, or if a building permit was issued within such three-year period, but no certificate of occupancy for such Bonus Unit was issued within two years after issuance of the building permit, then the Municipality must submit satisfactory documentation, in the form of certification by the Plan Approval Authority, Municipal zoning enforcement officer, or public works official, of the Start of Construction within that two-year time period of one or more Projects, or of a Planned Infrastructure upgrade identified in the 40R Zoning Application or a related utility relocation, or it shall be subject to revocation under 760 CMR 59.07(3) and the repayment of monies under 760 CMR 59.06(3)(d).

The three-year time period shall be extended by the time that a Project or Planned Infrastructure upgrade on which construction would otherwise have started within the three-year time period shall be subject to legal or administrative appeal or challenge, or if the proponent is actively pursuing other required permits or there is other good cause for the failure to Start Construction.

(g) At the request of DHCD, the Municipality shall provide for each Approved District the number of children residing in 40R Projects and attending grades K through 12 public schools or charter schools, or receiving Municipal school district financial assistance to attend out-of district schools, and copies of submissions to the Department of Education and DOR pursuant to M.G.L. c. 40S, § 3.

(h) Data regarding income and any protected class status of households occupying Affordable and Income-Restricted units and of households assigned Affordable and Income-Restricted units during the year, provided that the Municipality shall comply with M.G.L. c. 66A with respect to personal data of each household and each household member.

(i) A list and copies of text and maps of any adopted amendments of the 40R Zoning, any Design Standards, or the boundary of any Districts or sub-districts; any amendment to or adoption of the Plan Approval Authority's administrative rules; or any adoption or

enlargement of a Historic District within the boundary of any Districts, which the Municipality has not submitted to DHCD for review pursuant to 760 CMR 59.05(5).

(2) Certification by DHCD. Upon its review of a timely annual update submitted in accordance with 760 CMR 59.07(1), on or before October 1 of each year DHCD will send to each Municipality with an Approved District a Certificate of Compliance, unless it finds that:

(a) A prior Certificate of Compliance had previously been revoked by DHCD, and the cause for such revocation had not been cured;

(b) The Approved District is not being developed or permitted to be developed as a result of subsequent Municipal actions that restrict development in the Approved District, in a manner that would preclude compliance with the requirements set forth in M.G.L. c. 40R and 760 CMR 59.04(1)(d), (e) and (g) for housing density, Affordability, Income-Restriction, and accessibility;

(c) The Plan Approval Authority has unreasonably denied or conditioned Plan Review applications for Projects, in a manner inconsistent with the 40R Zoning, M.G.L. c. 40R, or 760 CMR 59.00;

(d) The Start of Construction has not occurred for any Project or Planned Infrastructure upgrade within an Approved District, consistent with 760 CMR 59.07(1)(f);

(e) The Municipality has been found responsible for a violation of federal, state, or Municipal fair housing laws with respect to a Project within an Approved District, as determined by a state or federal court, HUD, the Massachusetts Commission Against Discrimination, or a Municipal fair housing commission; or

(f) The Municipality has adopted amendments to the 40R Zoning, any Design Standards, or the boundary of any Districts or sub-districts; amended or adopted the Plan Approval Authority's administrative rules; or adopted or enlarged a Historic District within the boundary of any Districts which render(s) an Approved District noncompliant with M.G.L. c. 40R and 760 CMR 59.00.

(3) Letter of Noncompliance; Revocation of Certification. If DHCD is unable to certify compliance, either because it has made any of the findings specified under 760 CMR 59.07(2) or because the Municipality has failed to submit a timely annual update as required under 760 CMR 59.07(1), DHCD will issue a Letter of Noncompliance, stating the grounds for noncompliance, and granting the Municipality 60 days in which to furnish DHCD with satisfactory documentation that the grounds for noncompliance set forth in the letter have been cured or measures to cure have been commenced and that such measures will be prosecuted with diligence to completion within a reasonable period. If DHCD finds within a further 30 days that the documentation provided by the Municipality is satisfactory, DHCD will issue a Certificate of Compliance.

If the Municipality has failed to show within the 60-day period that it has cured or has commenced measures to cure its noncompliance, then DHCD will give notice of an adjudicatory hearing to be conducted subject to M.G.L. c. 30A. If upon the conclusion of the hearing DHCD concludes that the Municipality is in substantial non-compliance with the requirements set forth in 760 CMR 59.07(2), DHCD may revoke a Letter of Approval or Certificate of Compliance by issuing a Certificate of Revocation.

A Certificate of Revocation shall be filed with the town or city clerk of the Municipality. Any issuance of a Letter of Noncompliance or Certificate of Revocation by DHCD will not affect the validity of the 40R Zoning, or the application of such 40R Zoning to any land or Project within the Approved District, but no Zoning Incentive Payment for any Approved District or Bonus Payment for any units shall be made while a Letter of Noncompliance or Certificate of Revocation is in effect.

(4) Annual Reports to Legislature. No later than November 15 of each year, DHCD will submit to the general court and make available to the general public a report on the status of the program through the end of the prior fiscal year. The report shall contain the following information:

(a) A list of each Municipality that contains an Approved District, or that had applied to DHCD for a proposed District during the prior year (and the status of such applications), along with the total number of Approved Districts and currently proposed Districts.

(b) The aggregate size of all Approved and all proposed Districts (including for each category the aggregate total land area, Developable Land area, Substantially Developed Land area, and the total amount of such land zoned at the allowable residential densities set out in 760 CMR 59.04(1)(d)), and the aggregate number of Incentive Units for each category.

(c) The number of Bonus Units:

1. for which building permits had been issued during the previous fiscal year;

2. completed during the previous fiscal year; and

3. completed since the inception of the program, as documented by issuance of occupancy permits, with a tabulation in each case of the types of such Bonus Units (Affordable, Income-Restricted, market rate, accessible, and bedroom-size).

(d) The total amounts of all Zoning Incentive Payments and Bonus Payments made during the prior fiscal year, and the amounts and anticipated timing of any Zoning Incentive Payments and Bonus Payments anticipated to be made during the current fiscal year.

(e) The number of Projects currently being reviewed, indicating the number and type of proposed residential units and Bonus Units, and the number of Projects for which the Plan Review procedure was completed during the previous fiscal year, including:

1. the number of Projects both approved and disapproved; and
2. the number and types of proposed residential units and Bonus Units in each category of Projects.

(f) For the then-current and the subsequent fiscal years, an estimate of:

1. the number and size (both total land area and Developable Land area) of all new Districts anticipated to be submitted to the DHCD;
2. the aggregate potential number of Incentive Units in such new Districts; and
3. the anticipated number of Bonus Units for which building permits would be issued within those time frames.

(g) At the discretion of DHCD, the number of children residing in 40R Projects within Approved Districts and attending grades K-through-12 public schools, charter schools, or receiving Municipal school district financial assistance to attend out-of district schools.

(h) Data regarding income and any protected class status of households occupying Affordable and Income-Restricted units and of households assigned Affordable and Income-Restricted units during the year, provided that DHCD will comply with M.G.L. c. 66A with respect to personal data of each household and each household member.

59.08: Waiver

The Director of DHCD may waive, in writing, any provision of 760 CMR 59.00 not required by statute on findings that such waiver is consistent with the purposes set out in M.G.L. c. 40R and 760 CMR 59.00 and that desirable relief in the public interest will be accomplished through such waiver. A request for waiver shall be in writing to the Director, Department of Housing and Community Development, 100 Cambridge Street, Suite 300, Boston, MA 02114 and shall contain a reliable showing that the waiver meets all the requirements of 760 CMR 59.08.

REGULATORY AUTHORITY 760 CMR 59.00: St. 2004, c. 149; St. 2016, c. 219, §§ 37-54; M.G.L. c. 40R; M.G.L. c. 23B

Rose Mary Donahue
9 Maple Road
Wellesley, MA 02481
(781) 237-6370

Board of Selectmen
Town of Wellesley
525 Washington Street
Wellesley, MA 02482-5992

Dear Friends:

I am writing to express my concerns regarding the proposed residential development at 136-140 Worcester Street. As a 25-year resident of this neighborhood, I am extremely concerned about the density of this project, it's environmental impacts, and the traffic that will come with addition of 64 units of housing. I know these concerns are shared by many of my neighbors.

As you know, the project is located along an extremely busy and congested stretch of Route 9, a divided state highway with a speed limit of 50 mph along the frontage of the proposed project. As one of the few east-west routes to Boston, traffic on Route 9 is very heavy, and frequently impacted by traffic on the Mass Turnpike. The proposed development is a very short distance from the Route 9 and I-95/128 interchange, where 2 large office buildings and an office park are located. The interchange, which is highly channelized to provide access to the nearby office complexes and ramps to I-95, has undergone a total reconfiguration in the last several years. This has been very disruptive to the neighborhood. Although we hope the reconfiguration will make the interchange more safe, it will not reduce the volume of traffic in the area, and the installation of 3 additional traffic signals at the interchange has resulted in additional stoppages and queuing of traffic in the area.

All access and egress to and from the project site will be via Route 9. During the morning commute traffic is generally stopped in the area of the proposed driveways, and when it is moving it is bumper-to-bumper. Even during off-peak times, traffic is frequently heavy and moving at a high rate of speed. This is also an area with a very high volume of lane changes as cars maneuver to access the office complex driveways or the ramps to I-95. Morning traffic in this area is already very challenging. The additional traffic generated by the proposed units

(plans provide for 98 parking spaces) and the lane changes that will result from exiting traffic will create an even more difficult, if not dangerous, situation.

The developer notes the close proximity of the turn-around at the Wellesley-Gateway intersection. I use this turn-around all the time, frequently entering Route 9 eastbound from the ramp at Cedar Street. (The ramp is probably twice the distance from the turn-around as the proposed site driveways.) I frequently find myself waiting on the ramp for a sufficient break in traffic to allow me to safely travel from the right merge lane to the left turn lane at Wellesley-Gateway. Unless there is no traffic, I cannot image vehicles exiting the proposed development making their way across these busy travel lanes to execute a U-turn without disrupting the traffic flow. The distance is just too short.

The residential development, as proposed, will be completely dependent on vehicular access, as there is no sidewalk network on the south side of Route 9. Putting either pedestrians or bicycles on Route 9 in this vicinity would be unsafe, and any access to public transportation will require a car. The distances to Town amenities noted in the application, while short 'as the crow flies,' are not easily walkable from the site. The location of this project will require a car to access local services.

The site is also an important part of the local ecosystem. Construction will result in the removal of dozens of mature trees, if not clear-cutting of the entire site. This will significantly impact drainage in the area, which is already quite wet, and the replacement of green space with so much impervious surface is sure to impact drainage on abutting properties and the nearby conservation land. Light pollution from the site will also likely have negative impacts on the sensitive natural resources that abut the site, and the extensive construction activities required for a project of this size will inevitably disrupt the established habitat on this area.

I also have concerns regarding the density of the project. The massing of the proposed building will overwhelm the existing family neighborhood. At a height of 55 feet, the proposed five-story building will loom over nearby residences, and the current design includes many large windows. The light emanating from the building, along with that required for on-site surface parking, will greatly impact residents, including those to the north of Route 9. A building of this scale and design will forever alter the character of the neighborhood, and not in a beneficial way. Unfortunately, it appears that there was no effort to

design a project that would blend into and enhance the established neighborhood in which it is located.

I strongly support the Towns efforts to increase Wellesley's affordable housing, but this project is just too dense for this location. Furthermore, the project is not designed to integrate the proposed residential community into the existing neighborhood, but rather to isolate it. With two-thirds of proposed affordable apartments configured as one-bedroom units, the development will provide limited opportunities for families in need of affordable housing in our community — something that is sorely needed.

Thank you for the opportunity to comment on the proposal, and for the work you are doing to increase affordable housing options in Wellesley.

Sincerely,


Rose Mary Donahue

Yuncong Zhang, Jianhua Tang
137 Worcester street.
Wellesley, MA 02481
(646)321-7170

Board of Selectmen
Town of Wellesley
525 Washington street
Wellesley, MA 02482-5992

Dear Board of Selectmen,

My name is Yuncong Zhang. I am writing this letter to express our concerns regarding the proposed affordable housing development at 136-140 Worcester st. While we totally understand and support that there should be more affordable housing built in Wellesley, we think this is not an ideal location for such development.

Our biggest concern is the unavoidable negative impact on traffic. There are few factors: 1) This project is right in the middle of where traffic needs to turn west/east on route 9. Imagining all the cars coming out of this site who needs to go route 9 westbound, has to enter eastbound first, merge all the way to the left turn lane within an incredibly short distance, and probably get stuck on waiting for a left turn light. All the traffic that coming from east then needs to go around at cedar street, where traffic situation is already pretty bad, to get back to the site. 2) This is a big intersection in junction of route 95/128. Again during rush hour, the cars going eastbound are lined up until cedar street. Not mentioning the hassle for the neighborhood and public traffic, I can not imaging how the potential residence can easily and safely get in and out of the site. 3) There are 2 big office buildings that right around this traffic intersection. 4) this site is in the middle of Fiske and Schofield schools. It will make school traffic and school buses more challenging to get around. 5) public safety. There are no side walks in front of the site, and no public transportation near by, and no commercials that's within walking distance from the site. It is not safe for the potential residence to do anything outside of the site without a vehicle. In a case of an emergency such as fire and medical, a worsened traffic will only have a negative impact on those who needs to be served quickly.

The traffic is our biggest concern for this project. Please remember that it is not just a problem for the neighborhood. It is going to be a problem for ANYONE who needs to drive through this area on daily basis.

Second thing is environmental concern. Because this is a heavy traffic intersection, it is so nice and necessary to have this green space as a buffer to the car pollution and dust. There are also many creatures who lives in this green space. Personally speaking, every once a while we get water problems in our basement and I know many of our neighborhoods have the same problem. It makes me worried if the trees get removed how is that going to impact the water table in this area.

Having a 64 unit residential complex built in this proposed location means more traffic, more pollution and less green space. These are all negative impacts for our neighborhood.

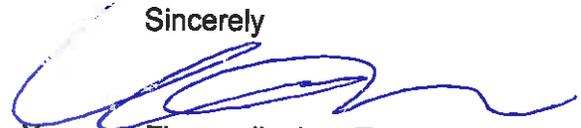
We are also concerned about the building construction itself. At a height of 55 feet, 5 story, it

is going to impacting how much natural light that many surrounding houses are getting. Many houses have little kids play in their yard, like myself have a 2 and 4 year old. We don't know how conformable we are to have a 5 story building right across the street from us, having many units that can look directly into our yard. We also think the design of the building is not blending to the neighborhood at all.

Last thing worries me is the reputation of the builder. We have learned that Mr. Behrend had many previous violations. We feel unsafe to have this developer doing any project near our neighborhood.

Your consideration and time is greatly appreciated.

Sincerely



Yuncong Zhang, Jianhua Tang



TOWN OF WELLESLEY

WELLESLEY, MA 02482
Telephone 781-235-1212

POLICE DEPARTMENT

JACK PILECKI
Chief of Police

TO: OFFICER RONALD POIRIER
DISPATCHER STEVEN GOULD

FROM: CHIEF JACK PILECKI

SUBJECT: LETTER OF COMMENDATION

DATE: JULY 13, 2018

I recently received a very positive letter from a resident of Cornell Rd., Susan Lange, thanking the men and women of the Wellesley Police and Fire departments for their work at her home recently. Susan's husband had taken a fall while at his computer desk. Susan could not pick up her husband safely and was concerned that he may have injured himself in the fall. She called 9-1-1 and reported the fall to Dispatcher Gould. You promptly dispatched the appropriate emergency personnel to her home, while simultaneously checking on her husband's status and reassuring Susan that help was on the way.

Off. Ron Poirier arrived at her home minutes later and according to Susan conducted himself in the "most professional, upbeat, and kind way". Off. R. Poirier, along with Wellesley Fire and Medics personnel assessed her husband, helped him to his feet and subsequently recommended that he be transported to the hospital for further medical treatment.

Susan extended her sincere thanks to all of the first responders and spoke of how much she appreciated the work of every single person who responded to her house. I was particularly proud to read where Susan mentioned that "I have always known by reputation the outstanding service provided to this town by your departments. A few times over the years we have had to call on you ourselves. It is at times like these that we realize all over again what an absolute treasure we have in you". As Chief of the Wellesley Police Department, I could not be more proud of your care and compassion in speaking with Susan and attending to her husband's medical situation. Your work exemplifies the type of work that we strive for on a daily basis and demonstrates our mission to provide much more than just 'traditional' policing to our community.

A copy of this commendation will be maintained in your personnel file.

AUTHORIZED:

Chief Pilecki

JACK PILECKI
CHIEF OF POLICE

Cc: Bulletin Board
Board of Selectmen
Personnel File

Susan Kagan Lange

24 Cornell Road
Wellesley, MA 02482
suze1063@aol.com

July 4, 2018

Chief Jack Pilecki
Chief Richard DeLorie
Wellesley, MA 02482

Dear Chief Pilecki and Chief DeLorie:

I am writing to express our profound gratitude for the extraordinary work the fire, police, and medic personnel did at our house yesterday.

While at his computer, my husband somehow managed to fall – we still cannot figure out how he did it. My husband is a big man, and I knew right away that I would not be able to pick him up safely. And just in case he had broken something in the fall, I did not want to take the chance of lifting him up in a way that would make matters worse.

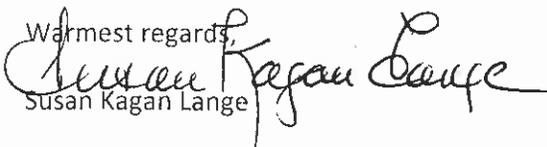
Reluctant to bother you, I decided I nevertheless needed to call 911. Within minutes, your men and women showed up at our house and went to work in the most professional, upbeat, and kind way. They were able to lift my husband up in seconds, and they questioned him completely to find out if he was okay. It turned out that my husband had only a few superficial bruises, but they recommended all the same that he go to the ER out of an abundance of caution. The ambulance was already at our house, and at our request, the medics took my husband over to the BIDMC Needham. I followed soon after.

As it happened, a CT Scan of the head was administered, and the result was normal – no bleeding in the head, no other problems. The hospital staff cleaned out the superficial head wound, closed it with Dermabond adhesive, gave us home instructions, and we were on our way. Everything looks fine today.

We cannot convey in words how much we appreciated the work of every single person who showed up at our house. As a resident of Wellesley for about 42 years and an active member of town government, I have always known by reputation the outstanding service provided to this town by your departments. A few times over the years we have had to call on you ourselves. It is at times like these that we realize all over again what an absolute treasure we have in you.

My husband and I hope you will extend our sincerest thanks to all who helped us yesterday.

Thank you so much.

Warmest regards,

Susan Kagan Lange

TOWN OF WELLESLEY



MASSACHUSETTS

**DEPARTMENT OF PUBLIC WORKS
PARK & HIGHWAY DIVISION**

30 MUNICIPAL WAY • WELLESLEY, MA 02481-4925
WWW.WELLESLEYMA.GOV

MICHAEL T. QUINN
SUPERINTENDENT

TELEPHONE (781) 235-7600, EXT. 3331
FACSIMILE (781) 431-7569
MQUINN@WELLESLEYMA.GOV

July 18, 2018

Ethan T & Gretchen Brown
81 Hampshire Road
Wellesley, Ma. 02481

Dear Property Owner,

It has been brought to our attention, by way of a complaint, that the shrubbery and/or trees growing on your property is obstructing the town right of way. The Town of Wellesley has a bylaw concerning use of public ways that is noted below.

49.2 Use of Public Ways: No person shall throw, place or cause to be placed in any public way or public place in the Town, any tree, bush or other planting, or any obstruction, or any garbage, fuel, building material, paper, cards, handbills, leaves, or rubbish of any kind, nor stones or rocks or other objects to act as curbing, except in such a place and manner as shall be directed by the Selectmen and except as hereinafter provided in section 49.2A.

We understand that you may be unaware of this bylaw and that you did not intend to violate this town regulation. To avoid any further action from the Town, we are requesting that you please arrange to correct this situation by cutting back or removing, the shrubbery behind your property line within the next 30 days. If you would like to meet on site to discuss this situation, please feel free to contact me by phone or e-mail. If the situation is not corrected within the designated time period, it may be forwarded to the enforcing authority and the town may exercise its right to cut back the shrubbery.

If you need help in finding a landscape professional, you may call 508-653-3320 or go on line to www.massarbor.org for assistance. If you choose to remove any trees, we can place you on next spring's tree planting list for a replacement planting. I hope you will be able to address this issue as soon as possible to eliminate this problem. Please feel free to contact me, if you wish additional information regarding this situation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael T. Quinn", with a long horizontal flourish extending to the right.

Michael T. Quinn
Superintendent

Cc: M. Pakstis D. Cohen
B. Robinson J. Pilecki File



MBTA COMMUTER RAIL POSITIVE TRAIN CONTROL PROGRAM UPDATE

Advisory: Overnight Rail Work in Newton and Wellesley Weekend of July 28

MassDOT and the MBTA are undertaking federally mandated Positive Train Control (PTC) infrastructure installation which will increase the safety of commuter rail customers and would like to advise the community of upcoming overnight welding and rail work within the right-of-way along the MBTA Worcester Commuter Rail Line in Newton and Wellesley. Due to the equipment necessary to perform this work, higher noise levels can be expected.

Starting **Saturday July 28 at 5 AM and through to Monday July 30 at 2AM**, the PTC Systems Integrator Ansaldo STS USA, Inc. is scheduled to perform welding activities along the rail.

The work will take place along the Worcester Line in Newton at locations at Walnut Street near Newtonville Station and at Washington Street near West Newton Station. Work in Wellesley will take place at locations along the line behind Colburn Road and at locations behind Crestwood Drive (North of Wellesley Farms).

For further information regarding PTC please visit: mbta.com/ptc.

Thank you in advance for your cooperation. We appreciate your patience as the MBTA takes this important step in making the railways safer for customers with the implementation of the PTC program. Should you have any questions please feel free to contact the PTC program at 617-721-7506 or PTCProgram@mbta.com.