FINAL REPORT AND RECOMMENDATIONS OF THE PLANNING BOARD FOR THE APRIL 2024 TOWN MEETING

Dear Rockport Voters:

This is the Final Report of the Planning Board and its recommendations for amending the Rockport Zoning Bylaw to include an overlay zone that allows for multifamily housing as of right.

Governor Baker and the State Legislature Recognized the need for Multifamily Zoning.

In 2021 Governor Baker signed into law Section 3A of the 2020 Zoning Act. The Act received bipartisan support in the legislature. Section 3A recognized that the Commonwealth had a significant shortage of housing available for the "families in the middle," solidly middle-class families like municipal workers, health care workers, and teachers. Because of a lack of housing inventory in eastern Massachusetts and overly restrictive zoning, these families had effectively been priced out of the housing market. Section 3A was intended to address this significant problem and the problem of major congestion of the roads in the Boston environs. It created new zoning requirements for municipalities that had public transportation hubs, commuter rail, bus stations, or both, within their boundaries. The law requires that towns create zoning that would establish zoning districts of "reasonable size" to allow for the construction "as of right" of multifamily housing--three or more dwelling units in one building or two units in each of two buildings on one parcel. Section 3A also requires that a significant percentage of this new overlay zoning district be within a half mile radius of a commuter rail station in the community to allow occupants to walk to the train stations for their daily commutes.

Where to Locate Multifamily Zoning in the Town

Since the enactment of 3A the Department of Housing and Community Development, now known as the Executive Office of Housing and Livable Communities ("EOHLC"), has promulgated detailed and extensive guidelines that communities must follow in establishing these "Multifamily" zoning districts. There are threw important numbers for the Town in these guidelines. First, the Town must create an overlay zoning district that allows for a minimum of

657 multifamily housing units over a minimum of 32 acres.[1] Second, the density of the multifamily units must be a minimum of 15 units per acre. Third, the deadline for adoption at town meeting and approval by the EOHLC and the Attorney General of the multifamily overlay district is December 31, 2024.

Deciding where to zone for the required multifamily housing was a complex task. The Planning Board, at no cost to the town, was able to obtain the services of Bohler Engineering, a Boston consulting firm, which has helped other commuter-rail municipalities to develop their MBTA Multifamily Housing plans.

After looking at the areas of town that could support multifamily housing, the Board decided that approximately thirty-seven acres, adjacent to the existing Transit Oriented Development Overlay District, was the most suitable location. This new district would be called the MBTA Communities Multifamily Overlay District or the "MCMOD" for short. It covered a small portion of the Residential Zoning District (20 acres overlaying the "R" District) and 16.6 acres overlaying the Semi-Residential District ("SMR").

The Board found several compelling reasons for this MCMOD location. First, 80 percent of the MCMOD would be within the required ½ mile radius of the train station. Second, as stated earlier, the MCMOD would be adjacent to the TOVOD, an approximately 11-acre multifamily district that had been approved at the 2022 town meeting. The TOVOD is a mixed-use, multifamily overlay district, meaning that it allows a mix of commercial and residential uses. The adjacent proposed MCMOD overlay district allows only multifamily housing with no commercial uses. But because of its proximity to the TOVOD, MCMOD residents would be able to walk or bike to the shopping in the TOVOD. Third, in both the R and SMR districts, the existing zoning already allows for the issuance of special permits for the conversion of single-family houses to four-family, multifamily housing if the overall size of the structure is not increased by more than 10 percent. Fourth, the SMR already has some of the most intense uses in town, Sandy Bay Estates and the Rockport Inns and Suites. Fifth, the MCMOD is near Main Street, one of the major roads leading into town, and is adjacent to the town's wastewater systems, and, finally, the MCMOD is not in an historic district (the more historic homes on Main Street are excluded from the MCMOD) and unlike many areas of town, is not flood prone.

[1] The 11.4 acres of the existing TOVOD and its 130 multifamily unit capacity are included in these minimums.

The Planning Board held two information sessions in December 2023 and January 2024 and the legally required public hearing in February 2024. While there were a few generalized concerns that the MCMOD was too concentrated in the area close to the train station, during the hours of public input, no members of the public provided realistic alternative locations for the MCMOD. Moreover, the MCMOD maintains all the underlying zoning standards. Lot setbacks, maximum lot coverages, lot frontages, and building heights remain as they are now in the R and SMR districts. The only change is the MCMOD allows multifamily housing (townhouses are included) as of right with a maximum density of 15 units per acre. With the MCMOD, a typical 10,000 square foot lot could accommodate a four-unit multifamily building without the need for a special permit.

Concerns about wholesale development of multifamily housing are unfounded

What has happened in the past is often the best predictor of what may occur in the future. Since the adoption of the TOVOD in 2022, not one multifamily building has been built in the TOVOD. Since the zoning was changed in 2022 to allow Accessory Dwelling Units ("ADUs") as of right, less than a handful of property owners have sought to build ADUs. Despite this, a few members of the public have expressed concern that if the MCMOD is allowed, unscrupulous developers will rush into town and acquire and demolish existing single-family homes to build multifamily buildings. The Planning Board, which includes two architects and a commercial banker heavily involved with real estate financing, believes this scenario would be uneconomical and is unrealistic.

The Existing TOVOD needs amendment

The Board's focus for the last several months was on the MCMOD. However, the existing TOVOD also required changes. Most were minor alterations and clarifications of existing language. The most meaningful change was to eliminate the special permit requirement for TOVOD multifamily housing. When the TOVOD was drafted the Planning Board did not have the benefit of the EOHLC Guidelines. These guidelines require that all multifamily housing be allowed "as of right." Thus, the special permit requirement has been eliminated.

Failure to adopt Multifamily Zoning could hurt the Town

The Planning Board has worked extraordinarily hard at developing this Multifamily Zoning. If it is not approved at the Spring town meeting, there is no alternative plan to be

switched on for consideration at the Fall town meeting. The Town has until December of 2024 to implement an approved Multifamily Overlay District that complies with the requirements of the EOHLC and the Attorney General. If we do not meet this time limit, Rockport will no longer be eligible for a host of state grant funds that could be used for improvements to the town's infrastructure, at no cost to the Town taxpayers. It may also be sued for noncompliance, as we have already seen with the town of Milton.

Finally, the Planning Board recognizes that more work needs to be done to provide housing in Rockport. For the Fall 2024 Town meeting, the Board will be reviewing the Housing Balance bylaw and the issue of short-term rentals, both on a town-wide basis.

Recommendation

For all the above reasons, the Planning Board recommends to the Rockport voters that they approve the warrant articles to create the MCMOD and amend the TOVOD.

ROCKPORT PLANNING BOARD
March 2024