



Commonwealth of Massachusetts
DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT

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

June 28, 2022

The Honorable Cassandra Gove, Mayor
Office of the Mayor
62 Friend Street, 2nd Floor
Amesbury, MA 01913

RE: East End Smart Growth Zoning [40R] District (EESGOD) – Conditional Letter of Eligibility

Dear Mayor Gove:

I am writing in regard to the City of Amesbury's (City) application to the Department of Housing and Community Development (DHCD) for a preliminary determination of eligibility, pursuant to MGL, Chapter 40R and 760 CMR 59.00, for the proposed amendment to its existing Amesbury Gateway Village 40R Smart Growth Overlay District (AGVSGOD) ordinance in order to establish a second 40R District, the East End Smart Growth Overlay District (EESGOD). I am pleased to inform you that DHCD has determined that, subject to the conditions outlined herein, the proposed amendment to create a general 40R Smart Growth Overlay District (SGOD) ordinance accommodating the existing AGVSGOD and establishing a new EESGOD, satisfies the applicable statutory and regulatory requirements for preliminary eligibility and, if adopted, would be eligible for a corresponding Letter of Conditional Approval.

In the area of the intersection of Macy Street (Route 110) with both Clarks Road and Elm Street, just to the west of the adjacent section of I-95, the proposed EESGOD contains just over thirty-seven (37) acres in total of which approximately twelve (12) acres would be considered Developable Land for the purposes of the applicable minimum densities that must be allowed as of right pursuant to the statute and regulations. Based on this net acreage of Developable Land and the as-of-right densities associated with the respective sub-districts proposed, the District would allow an estimated 233 Future Zoned Units of which an estimated minimum of 172 would conditionally qualify as Incentive Units. This net Incentive Unit estimate accounts for the corresponding Existing Zoned Units which may include any units for which a Comprehensive Permit was issued prior to the submission of the application for this preliminary determination of eligibility.

In addition to the standard conditions subsequently listed further below, eligibility for the associated 40R payments will be subject to particular District-specific conditions outlined immediately below.

- 1) The Department receives satisfactory documentation that the amount of acreage in the proposed District identified as Future Open Space complies with the limitations contained in the corresponding definition under 760 CMR 59.02 or, if this cannot be demonstrated as proposed, satisfactory documentation that such acreage is reduced or the District is otherwise modified such that the amount of Future Open Space, if any, that would otherwise qualify as Developable Land does not exceed ten percent (10%) of the proposed District's gross Developable Land.

- 2) The Department receives satisfactory documentation that Pedestrian Access exists connecting Parcel 80-17 (109 Macy Street) to the existing pedestrian/sidewalk network that runs along the eastern side of Clarks Road and provides sufficient preliminary Pedestrian Access to the balance of the District. While an additional Pedestrian Access improvement creating a more direct connection between Parcel 80-17 and Parcel 80-02 is encouraged, particularly if either of these parcels are eventually redeveloped, the Department acknowledges that such improvement involves a state highway and therefore requires the approval of MassDOT.
- 3) Absent documentation, satisfactory to the Department, demonstrating that the necessary water, wastewater, and other infrastructure upgrades have been completed, eligibility for any Zoning Incentive Payment will be subject to eligibility for a corresponding number of Bonus Units, except to the extent the Department determines, at its discretion, that sufficient surplus funds are available for such payments and the funds will directly support the necessary infrastructure improvements.

Pursuant to 760 CMR 59.05, this Letter of Conditional Eligibility is further subject to the following standard conditions:

1. Unless subsequently otherwise approved in writing by the Department, the City adopts the Smart Growth Zoning, as finalized and agreed upon in writing by DHCD's 40R staff, within three years of the date of this letter. To be eligible for any subsequent conditional approval, the City must submit proof of adoption to DHCD. Proof of adoption requires the submission of the following information:

- a) a copy of the Smart Growth Zoning adopted by the City Council and certified by the City Clerk;
- b) a copy of the amended Zoning Map adopted by the City Council and certified by the City Clerk;
- c) evidence that the City Clerk has submitted a copy of the adopted Smart Growth Zoning to the office of the Attorney General;
- d) if there are any changes to the Smart Growth Zoning, as finalized and agreed upon in writing by DHCD's 40R staff, prior to adoption by the City Council, an annotated version of the subsequently amended Smart Growth Zoning must be submitted that clearly identifies and explains all changes, and eligibility will be further subject to DHCD's determination that such changes are consistent with the MGL Chapter 40R and 760 CMR 59.00; and
- e) a certification by the City Clerk that the Smart Growth Zoning has been published and posted pursuant to applicable law.

2. If there are substantial changes to the enclosed version of the Smart Growth Zoning, DHCD may treat such submission as an amendment to the application and will notify the City of its decision to do so in writing. DHCD must confirm its final approval within 60 days of receipt of such submission provided the amended application satisfies all the approval criteria set forth in 760 CMR 59.04(1).

3. Except to the extent provided expressly herein or otherwise incorporated, there is no local rule, regulation, ordinance, or agreement that would prevent the 233 Future Zoned Units from being developed in the District. Any memorandum of understanding or similar agreement that places or would place restrictions not otherwise contained in the Smart Growth Zoning on the development of a 40R Project or respective

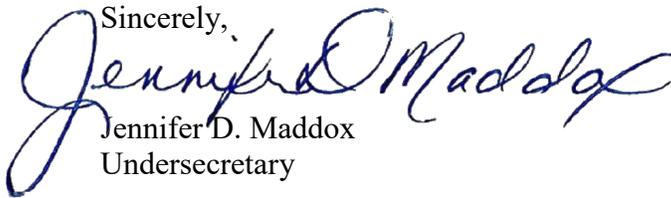
parcel(s) of land, such as limiting the density below that which would otherwise be allowed under the Smart Growth Zoning, shall be subject to review and approval by DHCD for the purposes of Bonus Unit eligibility in conjunction with the Department's review and approval of the corresponding AHR and AFHMP.

4. Prior to their application, any additional Design Standards, local 40R rules, regulations, or application requirements, and any amendments thereto, adopted by the Plan Approval Authority, must be approved by DHCD. The applicable versions of any such rules or regulations must also be filed with the City Clerk.

5. Please be advised that for any 40R Plan Approval application filed after the release of the 2019 Income Limits, in order for any associated units to qualify as Bonus Units, DHCD shall require that the maximum affordable monthly rent (including any applicable utility allowance) not exceed the lower of (1) 30% of 1/12 of 80% of the area median income, or (2) the Section 8 payment standard established by or on behalf of the applicable local housing authority. This condition may be waived by DHCD for a given Project if there is evidence that compliance would Render Development Infeasible.

On behalf of the Department of Housing and Community Development, we appreciate the City of Amesbury's efforts to encourage Smart Growth development and expanded housing opportunities. If you have any questions regarding this Letter of Conditional Eligibility, please contact Bill Reyelt at 617.564.3105 or william.reyelt@mass.gov.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer D. Maddox". The signature is fluid and cursive, with the first letter of each name being significantly larger and more stylized.

Jennifer D. Maddox
Undersecretary

cc: Angela Cleveland, Director of Community and Economic Development
Nipun Jain, Director of Planning