



Commonwealth of Massachusetts  
DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Janelle Chan, Undersecretary

February 26, 2019

Melissa Murphy-Rodrigues  
Town Manager  
Flynn Building  
278 Old Sudbury Road  
Sudbury, MA 01776

RE: Melone Smart Growth Overlay District – Letter of Conditional Eligibility

Dear Ms. Murphy-Rodrigues:

I am writing regarding the application for a preliminary determination of eligibility pursuant to MGL, Chapter 40R and 760 CMR 59.00 that was submitted by the Town of Sudbury (Town) to the Department of Housing and Community Development (DHCD) for the proposed Melone Smart Growth Overlay District (District). DHCD has completed its review of the application, including the attached Smart Growth Zoning and determined that, subject to the conditions outlined herein, the proposed District satisfies the applicable statutory and regulatory requirements.

The proposed District would allow for up to 101 residential units, all of which may qualify as Incentive and Bonus Units. However, as previously indicated, while the proposed location is referenced as both a Priority Development and Priority Preservation Area in a regional plan and the site involves previously developed land, based on the overall existing characteristics of the location, including existing infrastructure, DHCD's satisfaction with the degree to which the proposed location meets the relevant criterion is contingent upon fulfillment of the conditions specified below. Accordingly, DHCD hereby grants the proposed District conditional eligibility with any corresponding final approval and eligibility for payments under 40R subject to the following:

- Any such payments will not exceed or be inconsistent with the number of permitted units that have qualified as 40R Bonus Units and for which a corresponding Affordable Housing Restriction and Affirmative Fair Housing Marketing and Resident Selection Plan (including satisfactory dispersal of the affordable units) have been approved by DHCD.
- DHCD has reviewed and approved both the final draft and executed versions of an enforceable agreement that ensures the adequate funding and provision of sufficiently frequent, complementary, ADA-accessible shuttle service serving the District, from a dedicated location, with access to and from Sudbury businesses and amenities as well as the West Concord, Concord and Lincoln commuter rail stations. Unless otherwise expressly approved in writing by DHCD:
  - Such agreement and service must remain in effect/operation as long as there are 40R units in the District.

- The agreement shall include a capitalized escrow account, held by either the Town or an acceptable fiduciary, pre-funding the cost of such service based on estimated operating costs of the shuttle for a minimum of 15 years, or a letter of credit securing an equivalent amount and DHCD shall have received satisfactory evidence of the pre-funding of the account or the issuance of the letter of credit, as applicable.
  - At a minimum, such service must be available to all residents, employees and business owners living and/or working in the District and must provide reasonable seating capacity.
  - Such shuttle service shall provide MBTA-approved/licensed, weekday service to all inbound trains departing said stations between 6-9:30 a.m. and all outbound trains arriving at said stations between 4-8 p.m. Hours may be adjusted but not shortened per demand.
  - At no time will the Town be eligible to receive 40R payments, if such shuttle service is not operating in accordance with the above conditions.
- DHCD is satisfied that paved, ADA-accessible, safely-illuminated, practical and continuous pedestrian access, connecting the District to the adjacent Cummings commercial property, is in place, kept clear of snow and ice, and otherwise adequately maintained in accordance with an established plan.
  - DHCD is satisfied that the proposed trail connections to the planned Bruce Freeman Trail are in place and the corresponding section of the Bruce Freeman Trail is complete and provides access to at least one qualifying Pedestrian Destination.
  - For every motor vehicle parking space within the District, at least one secure bicycle parking space will be provided in a conveniently located bicycle storage facility, protected from the elements.

In addition to the required, District-specific conditions above, given the limitations of the proposed Pedestrian Access, DHCD further encourages the Town to work with its development partners to implement any additional effective Transportation Demand Management measures that may be appropriate and viable, such as setting aside one or more motor vehicle parking spaces to provide on-site access to a dedicated, energy-efficient car-sharing system, providing discounted MBTA passes for residents in the District, etc.

If the Smart Growth Zoning, as preliminarily found to be eligible herein, is adopted and approved by the Attorney General, but the conditions outlined above have not yet been met, after submission of satisfactory information from the Town, DHCD can issue a Letter of Conditional Approval pursuant to 760 CMR 59.05(4)(d). With this aforementioned Letter of Conditional Approval, the District will be in full effect with the exception of eligibility for any corresponding projected 40R payments, and the Town can begin to approve individual development projects pursuant to the new Smart Growth Zoning. Subject to 760 CMR 59.06(3)(d), at any subsequent time that the Town fulfills the conditions outlined in this Letter of Conditional Eligibility, the Town may apply for final approval and any corresponding 40R payments for which it is eligible.

Pursuant to 760 CMR 59.05, DHCD issues this Letter of Conditional Eligibility with the following additional, standard conditions:

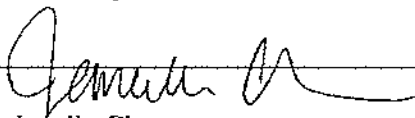
1. Unless subsequently otherwise approved in writing by DHCD, the Town adopts the Smart Growth Zoning as enclosed and herein preliminarily approved as eligible. Adoption of the Smart Growth Zoning must occur within three years of the date of this letter. After adoption of the Smart Growth Zoning, the Town must submit proof of adoption to DHCD in order to receive conditional or final approval, as applicable. As

further outlined on the attached application form for conditional/final approval, proof of adoption requires the submission of the following information:

- a) a copy of the Smart Growth Zoning adopted by Town Meeting and certified by the Town Clerk;
  - b) a copy of the amended Zoning Map adopted by Town Meeting and certified by the Town Clerk;
  - c) a copy of the Attorney General's letter approving the Smart Growth Zoning;
  - d) if there are any changes to the enclosed version of Smart Growth Zoning between this preliminary determination of eligibility and adoption by the Town Meeting, an annotated version of the amendments to the Smart Growth Zoning must be submitted that clearly indicates all changes; and
  - e) a certification by the Town Clerk that the Smart Growth Zoning has been published and posted pursuant to applicable law.
2. If there are substantial changes to the Smart Growth Zoning, DHCD may treat such submission as an amendment to the application and will notify the Town of its decision to do so in writing. DHCD must confirm its conditional or 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. There is no local rule, regulation or ordinance and there is no agreement that would prevent the 101 Future Zoned Units from being developed in the District. There is no agreement that regulates the development of the Future Zoned Units in a manner contrary to 40R, such as limiting development within the District to one type of residential occupancy or another (e.g., homeownership rather than rental).
  4. DHCD must approve any additional Design Standards, rules, regulations, guidelines, application forms and any amendments to such that are adopted by the Plan Approval Authority or otherwise required of applicants as part of the Plan Review process. Such DHCD-approved additional Design Standards, rules, regulations, guidelines and application forms must also be filed with the Town Clerk.

If you have any questions regarding this Letter of Conditional Eligibility, please contact Bill Reyelt at 617.573.1355 or [william.reyelt@mass.gov](mailto:william.reyelt@mass.gov).

Sincerely,



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Janelle Chan  
Undersecretary