



City of Gardner, Massachusetts
Office of the City Council

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CALENDAR FOR THE MEETING  
of  
MONDAY, OCTOBER 17, 2022  
CITY COUNCIL CHAMBER  
7:30 P.M.

**ORDER OF BUSINESS**

- I. CALL TO ORDER
- II. CALL OF THE ROLL OF COUNCILLORS
- III. OPENING PRAYER
- IV. PLEDGE OF ALLEGIANCE
- V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS

Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.

- VI. READING OF MINUTES OF PRIOR MEETING(S)
- VII. PUBLIC HEARINGS
- VIII. COMMUNICATIONS FROM THE MAYOR

**COMMUNICATIONS**

- 10807** – A Measure Declaring Surplus for the Purpose of Disposal of Land and Buildings at 14 Leamy Street. (*Finance Committee*)
- 10808** – A Measure Declaring Surplus for the Purpose of Disposal of Land and Buildings at 177 West Street. (*Finance Committee*)
- 10809** – A Correspondence Regarding Municipal Finances and Free Cash Regulations. (*Finance Committee*)
- 10810** – A Notification from the Mayor Regarding Update on Sales of City Properties. (*Finance Committee*)

## **APPOINTMENTS**

**10805** – A Measure Confirming the Mayor’s Appointments of Election Officers for 2022 – 2023. (*Appointments Committee*)

**10806** – A Measure Confirming the Police Officer Assignments to Polling Locations. (*Appointments Committee*)

**10811** – A Measure Confirming the Mayor’s Appointment of Joshua Cormier, to the position of Director of Purchasing/Civil Enforcement, for term expiring October 11, 2025. (*Appointments Committee*)

**10812** – A Measure Confirming the Mayor’s Appointment of Joshua Cormier, to the position of Tax Title Custodian, for term expiring October 11, 2025. (*Confirmation Not Required*) (*Appointments Committee*)

## **IX. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.**

**10813** – A Measure Relative to the November 8, 2022 State Election. (*Finance Committee*)

**10814** – An Application to Buy & Sell Second Hand Motor Vehicles, Class 2 for Sylvester R. Anghuy, located at 146 Sherman Street. (*Safety Committee*)

## **X. REPORTS OF STANDING COMMITTEES**

## **XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**

**10798** – A Petition Submitted by PrivateOversight, LLC, for an Ordinance to Amend the Code of the City of Gardner, Chapter 675, Entitled “Zoning,” per Zoning Act M.G.L. 40A. (*In the City Council and Referred to Planning Board 9/19/2022; More Time 10/03/2022*)

## **XII. NEW BUSINESS**

## **XIII. CLOSING PRAYER**

## **XIV. ADJOURNMENT**

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Items listed on the Council Calendar are those reasonably anticipated by the Council President to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion n to the extent permitted by law.



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 6, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Declaration of Surplus- 14 Leamy St

Dear Madam President and Councilors,

Over the past two years, the City has undertaken substantial work to revitalize neighborhoods, remove vacant and abandoned buildings, prevent blight, and get problem properties back on the tax rolls.

Earlier this year, utilizing Community Development Block Grant (CDBG) funds, the City was able to demolish the old factory at 14 Leamy Street after it was sighted for a public safety and public health hazard.

I respectfully request that the City Council vote to declare this property surplus, so that the Administration can begin the process of marketing the property for sale.

The amount requested for a minimum value is the price that the property is currently assessed at by the City Assessor.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
2022 OCT -6 AM 10:16  
CITY CLERK'S OFFICE  
GARDNER, MA

**DECLARING SURPLUS FOR PURPOSE OF DISPOSAL  
LAND AND BUILDINGS AT 14 LEAMY STREET**

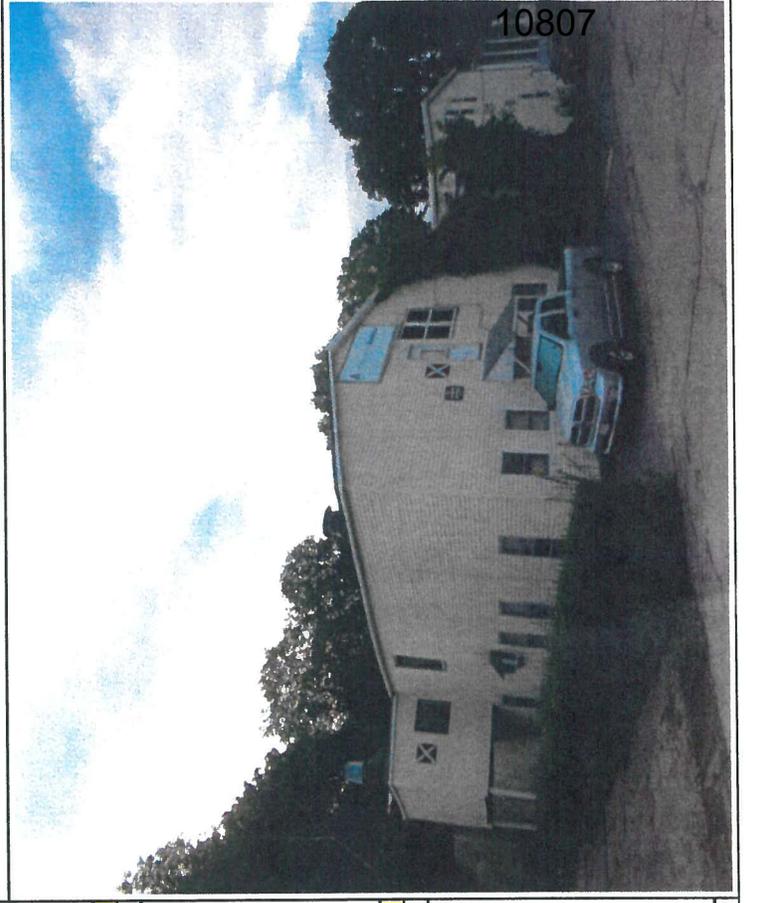
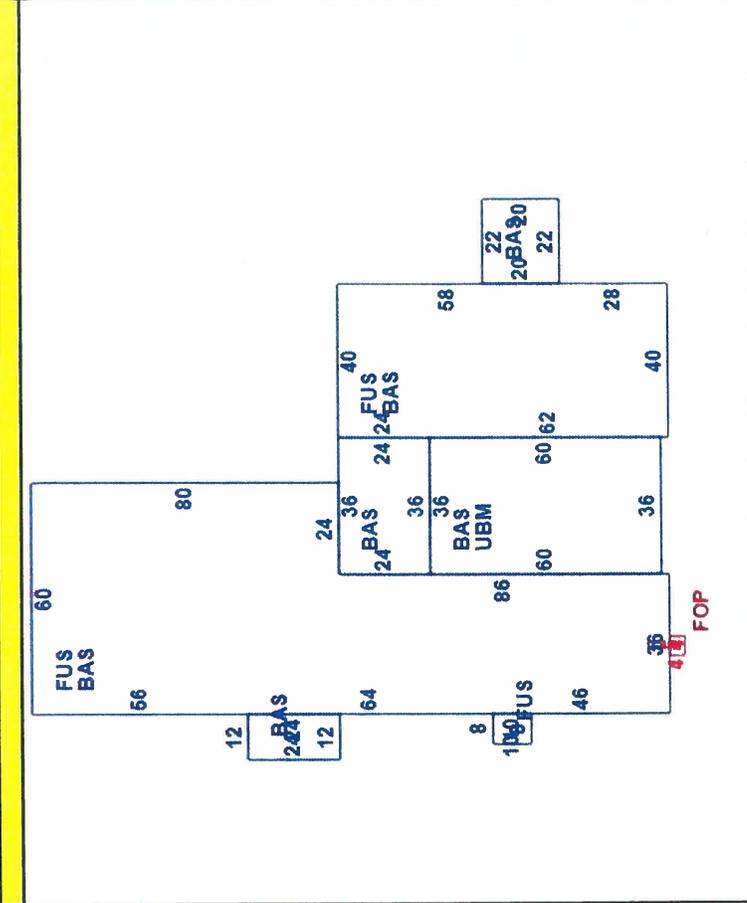
***VOTED:*** To declare surplus for the purpose of disposal, in accordance with prevailing General Laws, all land and buildings at 14 Leamy Street, further identified on the City of Gardner Assessor's Map as M22-00007-00032, to establish as a minimum amount of \$51,000.00 to be paid for any conveyance of said property, and to authorize the Mayor to convey said land, or part thereof, for such amount or a larger amount, and upon such other terms as the Mayor shall consider proper in accordance with this Vote.



| CONSTRUCTION DETAIL |       | Element          | Description | Cd | Element | Cd | Description |
|---------------------|-------|------------------|-------------|----|---------|----|-------------|
| Style:              | 401   | Light Industrial |             |    |         |    |             |
| Model               | 96    | Industrial       |             |    |         |    |             |
| Grade               | 02    | Below Average    |             |    |         |    |             |
| Stories:            | 2     |                  |             |    |         |    |             |
| Occupancy           | 1.00  |                  |             |    |         |    |             |
| Exterior Wall 1     | 25    | Vinyl Siding     |             |    |         |    |             |
| Exterior Wall 2     | 18    | Asphalt          |             |    |         |    |             |
| Roof Structure      | 03    | Gable/Hip        |             |    |         |    |             |
| Roof Cover          | 12    | Rubber           |             |    |         |    |             |
| Interior Wall 1     | 01    | Minim/Masonry    |             |    |         |    |             |
| Interior Wall 2     |       |                  |             |    |         |    |             |
| Interior Floor 1    | 12    | Hardwood         |             |    |         |    |             |
| Interior Floor 2    |       |                  |             |    |         |    |             |
| Heating Fuel        | 02    | Oil              |             |    |         |    |             |
| Heating Type        | 06    | Steam            |             |    |         |    |             |
| AC Type             | 01    | None             |             |    |         |    |             |
| Bldg Use            | 4000  | Factory          |             |    |         |    |             |
| Total Rooms         | 00    |                  |             |    |         |    |             |
| Total Bedrms        | 2     |                  |             |    |         |    |             |
| Total Baths         | 00    |                  |             |    |         |    |             |
| Heat/AC             | 02    | NONE             |             |    |         |    |             |
| Frame Type          | 02    | WOOD FRAME       |             |    |         |    |             |
| Baths/Plumbing      | 02    | AVERAGE          |             |    |         |    |             |
| Ceiling/Wall        | 02    | CEILING ONLY     |             |    |         |    |             |
| Rooms/Prtns         | 02    | AVERAGE          |             |    |         |    |             |
| Wall Height         | 14.00 |                  |             |    |         |    |             |
| % Conn Wall         | 0.00  |                  |             |    |         |    |             |
| 1st Floor Use:      | 4000  |                  |             |    |         |    |             |

| OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B) |                |     |        |            |         |       |    |        |       |           |             |
|--------------------------------------------------------------------|----------------|-----|--------|------------|---------|-------|----|--------|-------|-----------|-------------|
| Code                                                               | Description    | L/B | Units  | Unit Price | Yr Bilt | Cond. | Cd | % Good | Grade | Grade Adj | Appr. Value |
| SPR1                                                               | Sprinklers Wet | B   | 26,504 | 1.75       | 1943    |       |    | 5      |       | 0.00      | 2,300       |
| PAV1                                                               | Paving Aspha   | L   | 8,400  | 1.80       | 1985    |       |    | 50     |       | 0.00      | 7,600       |

| BUILDING SUB-AREA SUMMARY SECTION |                       |             |            |          |           |                |
|-----------------------------------|-----------------------|-------------|------------|----------|-----------|----------------|
| Code                              | Description           | Living Area | Floor Area | Eff Area | Unit Cost | Undeprac Value |
| BAS                               | First Floor           | 15,088      | 15,088     | 15,088   | 34.58     | 521,668        |
| FOP                               | Porch, Open, Finished | 0           | 20         | 5        | 8.64      | 173            |
| FUS                               | Upper Story, Finished | 11,416      | 11,416     | 11,416   | 34.58     | 394,708        |
| UBM                               | Basement, Unfinished  | 0           | 2,160      | 540      | 8.64      | 18,671         |
| Ttl Gross Liv / Lease Area        |                       |             |            |          | 26,504    | 27,049         |
|                                   |                       |             |            |          | 28,684    | 0.00           |
|                                   |                       |             |            |          |           | 935,220        |





City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 6, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Amendment to Declaration of Surplus- 177 West Street

Dear Madam President and Councilors,

On February 22, 2022, the City Council voted to declare the City's property at 177 West Street as surplus for the purpose of disposition for a minimum value of \$43,200.

Since that time, the City has issued a request for proposals ("RFP") for the property – as required by Massachusetts General Law, Chapter 30B – twice on this property; once on March 16, 2022, and again on June 29, 2022.

In both of those instances, no proposals were submitted.

At the advice of the City's Purchasing Department, I respectfully request that the City Council vote to declare the property as surplus for the purpose of disposition for the minimum value of \$20,000, so that the City is able to sell the property and get it back on the tax rolls.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
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CITY OF GARDNER MA

**DECLARING SURPLUS FOR PURPOSE OF DISPOSAL OF  
LAND AND BUILDINGS AT 177 WEST STREET**

***VOTED:*** To declare surplus for the purpose of disposal, in accordance with prevailing General Laws, all land and buildings at 177 West Street, further identified on the City of Gardner Assessor's Map as M27-00023-00023, to establish as a minimum amount of \$20,000 to be paid for any conveyance of said property, and to authorize the Mayor to convey said land, or part thereof, for such amount or a larger amount, and upon such other terms as the mayor shall consider proper in accordance with this Vote.

CITY OF GARDNER  
PURCHASING DEPARTMENT

Room 217 - City Hall  
95 Pleasant Street  
Gardner, MA 01440-2687



Joshua Cormier, Director  
jcormier@gardner-ma.gov  
Telephone (978) 632-0426

October 5, 2022

Mayor Michael Nicholson  
Gardner City Hall  
95 Pleasant Street  
Gardner, MA 01440

Re: Surplus Property Disposition – 177 West Street

Dear Mayor Nicholson,

Following the City Council's vote, and your subsequent approval, declaring the land located at 177 West Street (M27/23/23) surplus for the purpose of disposal, the Purchasing Department completed the required public disposition process as required by MGL Ch. 30B, twice, and received no proposals as a result of the process. This process mandates that we advertise the proper documents for a minimum of thirty days including in the local newspaper for two consecutive weeks a minimum of eight days prior to the due date. The advertisement process also requires us to post in the State's Central Register and COMMBUYS system as well as on the City's website.

We used a Request for Proposal (RFP) process that was first initiated on March 16, 2022, with a proposal deadline of April 15, 2022. After advertising the property for disposition, my office received several phone calls and in-person questions related to this property; and the others proposed for disposition. Along with the questions, we did receive a few comments that the minimum price was too high for the property. After receiving no responses, we issued a second RFP on June 29, 2022, with a proposal deadline of July 29, 2022. This time we received fewer questions and zero proposals again.

At this time, I would recommend that the process not be initiated, again, at the existing minimum disposal price. Given the advertisement costs, as well as the requirement to advertise twice within the thirty days, the cost would be approximately \$350 to initiate a public process that does not address the price issue commonly stated by those showing interest. I would strongly recommend the minimum price be lowered with the goal of receiving a responsible and responsive proposal that benefits the city as a whole prior to issuing another RFP.

If you should have any questions, please, do not hesitate to contact me.

Thank you,

Joshua Cormier  
Director of Purchasing & Civil Enforcement



City of Gardner - *Executive Department*  
 Mayor Michael J. Nicholson

October 6, 2022

Hon. Elizabeth J. Kazinskas, Council President  
 And City Councilors  
 Gardner City Hall, Rm 121  
 95 Pleasant St  
 Gardner, MA 01440

RE: Correspondence regarding Municipal Finances and Free Cash Regulations

Dear Madam President and Councilors,

At the meeting of the City Council on October 3, 2022, during new business, Councilor James Boone stated the following:

“The second thing I wanted to mention, in our Public Safety meeting the Board of Health Director, Lauren Saunders, mentioned she's going to need about \$200,000 to fix the pumps at the landfill and she was hoping to get money from our free cash. But last I heard, we spent almost all of our free cash, so I'm hoping that the Finance Committee can deliberate on this and the Mayor and figure out what needs to be done for the landfill”

And,

“Follow-up: Mr. Mayor, if I'm not mistaken, that Leominster used to keep tons of free cash available and they had all this excess funds and we're down I think last I saw \$60,000.”

And,

“Last follow-up if I may Madam President, Mr. Mayor, so there will be money in case it's needed to spend at the landfill?”

As a reminder to the Council, as I have stated in the past on several occasions, the regulations regarding the use of Free Cash, issued by the Massachusetts Department of Revenue state that free cash **cannot be used** between the period from June 30<sup>th</sup> of any given year until the Division of Local Services Director of Accounts certifies a community's free cash from the previous fiscal year.

Furthermore, free cash is a one-time funding source, not a revolving account, therefore it renews with a different amount every year, as it is solely based on the amounts certified from the previous fiscal year.

As such, statements like, “we spent almost all of our free cash,” are misleading, as free cash is different every year. The Department of Revenue does recommend that municipalities spend their certified free cash amounts down to as close to \$0 annually as they can, as it is a one-time revenue source. However, any remaining balances at the end of the fiscal year do carry over into the next year. Though any carry-over amounts are still restricted to not be used or appropriated until the full aggregate amount is certified by the Commonwealth's Division of Local Services Director of Accounts.

Attached, please find the guidance and regulations issued by the Commonwealth on these matters, previous correspondence I have sent to the City Council regarding this matter, and the City's free cash history from 2015 to present showing 1) how much the City has had certified in free cash each year, 2) how much of that year's free cash was expended, 3) the amount of free cash that was carried over to the next year (listed as “remainder”), and 4) where that free cash amount came from in that year's certification calculation.

Respectfully Submitted,

Michael J. Nicholson  
 Mayor, City of Gardner

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 2022 OCT -6 AM 11:04  
 CITY OF GARDNER OFFICE

# City of Gardner

## Free Cash History

|                                           | 2022 Estimated     | 2021               | 2020               | 2019               | 2018               | 2017               | 2016               | 2015           |
|-------------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|----------------|
| Prior Year Free Cash                      | \$3,611,634        | \$2,301,969        | \$3,098,475        | \$1,482,830        | \$2,274,137        | \$2,436,499        | \$2,129,083        | \$1,568,800    |
| Use (Council Orders)                      | \$3,546,634        | \$2,301,969        | \$3,023,475        | \$1,482,201        | \$2,274,020        | \$2,413,343        | \$2,129,022        | \$1,565,032    |
| <b>Remainder:</b>                         | <b>\$65,000</b>    | <b>\$0</b>         | <b>\$75,000</b>    | <b>\$629</b>       | <b>\$117</b>       | <b>\$23,156</b>    | <b>\$61</b>        | <b>\$3,768</b> |
| Revenue Variance (from Budget)            |                    |                    |                    |                    |                    |                    |                    |                |
| Local Receipts                            | \$946,382          | \$1,103,290        | \$1,417,536        | \$952,253          | \$921,321          | \$1,101,043        | \$705,121          |                |
| Cherry Sheet                              | <b>(\$130,802)</b> | <b>(\$179,689)</b> | \$128,664          | \$135,221          | \$102,205          | \$107,320          | <b>(\$185,325)</b> |                |
| Other                                     | \$75,176           | \$412,023          | \$213,310          | \$100,538          | \$333,898          | \$175,219          | \$417,248          |                |
| <b>Total Revenue Increase /(Decrease)</b> | <b>\$890,757</b>   | <b>\$1,335,624</b> | <b>\$1,759,510</b> | <b>\$1,188,012</b> | <b>\$1,357,424</b> | <b>\$1,383,582</b> | <b>\$937,044</b>   |                |
| Expense Variance (from Budget)            |                    |                    |                    |                    |                    |                    |                    |                |
| General                                   | \$213,459          | \$141,381          | \$160,151          | \$187,001          | \$147,788          | \$138,773          | \$148,915          |                |
| Public Safety                             | \$334,415          | \$163,174          | \$139,700          | \$160,503          | \$145,103          | \$114,089          | \$135,204          |                |
| Education                                 | \$320,938          | \$55               | \$0                | \$341              | \$200,927          | \$270,420          | \$303,394          |                |
| Public Works                              | \$172,161          | \$67,321           | \$106,645          | \$114,986          | \$136,756          | \$73,086           | \$73,463           |                |
| Human Services                            | \$385,772          | \$53,562           | \$58,351           | \$72,070           | \$68,355           | \$10,616           | \$27,289           |                |
| Culture/Recreation                        | \$25,111           | \$40,790           | \$35,978           | \$10,609           | \$57,364           | \$35,893           | \$16,883           |                |
| Other (DEBT, BENEFITS & INSURANCE)        | \$1,473,955        | \$361,171          | \$343,876          | \$133,603          | \$410,452          | \$442,291          | \$524,890          |                |
| <b>Total Expense Increase /(Decrease)</b> | <b>\$2,925,811</b> | <b>\$827,453</b>   | <b>\$844,701</b>   | <b>\$679,113</b>   | <b>\$1,166,745</b> | <b>\$1,085,168</b> | <b>\$1,230,038</b> |                |
| Fund Deficits                             | <b>(\$297,934)</b> | <b>(\$66,108)</b>  | <b>(\$101,827)</b> | <b>(\$104,782)</b> | <b>(\$336,188)</b> | <b>(\$84,692)</b>  | <b>(\$134,547)</b> |                |
| Other Miscellaneous                       | \$93,000           | \$130,000          | \$595,462          | \$279,630          | \$63,000           | \$52,380           | \$92,780           |                |
| Free Cash                                 | \$3,611,634        | \$2,301,969        | \$3,098,475        | \$1,482,830        | \$2,274,137        | \$2,436,499        | \$2,129,083        |                |
| Free Cash Certification                   | \$0                | \$0                | \$0                | (\$0)              | (\$0)              | \$0                | (\$0)              | \$0            |

## FREE CASH February 2016



Free cash is a revenue source that results from the calculation, as of July 1, of a community's remaining, unrestricted funds from its operations of the previous fiscal year based on the balance sheet as of June 30. It typically includes actual receipts in excess of revenue estimates and unspent amounts in departmental budget line items for the year just ending, plus unexpended free cash from the previous year. Free cash is offset by property tax receivables and certain deficits, and as a result, can be a negative number.

Cities and towns generally use free cash to support current-year operations or to provide a revenue source for the ensuing year's budget. However, free cash is not available for use until after the accountant, auditor, or comptroller submits a prior-year balance sheet to the Division of Local Services (DLS) and the Director of Accounts certifies the free cash. The DLS certification protects communities from relying on free cash that might not materialize due to inaccurate local estimates.

The Technical Assistance Bureau (TAB) recommends that communities understand the role free cash plays in sustaining a strong credit rating and encourages them to adopt policies on its use. Under sound financial policies, a community strives to generate free cash in an amount equal to three to five percent of its annual budget. This goal helps deter free cash from being depleted in any particular year, which enables the following year's calculation to begin with a positive balance. To do this, the community would orchestrate conservative revenue projections and departmental appropriations to produce excess income and departmental turn backs.

As a nonrecurring revenue source, free cash should be restricted to paying one-time expenditures, funding capital projects, or replenishing other reserves. When a community incorporates free cash into revenue source projections for next-year operational expenses, it is prudent to place a percentage restriction on the total free cash to be used.

Overall, TAB recommends that communities adopt a free cash policy that avoids supplementing current-year departmental operations. By eliminating the expectation of additional resources later in the fiscal year to backfill budgets, department heads will produce more accurate and realistic annual appropriation requests.

Any free cash use requires an appropriation approved by the city council on the mayor's recommendation or by town council or by town meeting but only after DLS has certified the free cash total. The same rules apply to DLS's certification of retained earnings, which is the enterprise fund equivalent of free cash.



**City of Gardner - Executive Department**  
**Mayor Michael J. Nicholson**

RECEIVED  
 2022 JUN 13 AM 11:17  
 CITY OF GARDNER OFFICE  
 85 STATE ST. GARDNER, MA

July 12, 2022

Hon. Elizabeth J. Kazinskas, Council President  
 And City Councilors  
 Gardner City Hall, Rm 121  
 95 Pleasant St  
 Gardner, MA 01440

RE: FY2021 Free Cash Review

Dear Madam President and Councilors,

As we close out the previous fiscal year, I wanted to provide you with a full list of free cash expenditures that were made in the previous fiscal year.

As you are aware, per the General Laws and the Code of Massachusetts Regulations (CMR), cities and towns are not able to make any free cash expenditures between July 1<sup>st</sup> and when the Massachusetts Department of Revenue (DOR) certifies free cash from the previous fiscal year.

As a reminder, Free Cash is a one-time funding source that is comprised of revenue that came in over budget and expenditures that came in under budget. As such, the money from the attached list came from revenue that came in over budget and expenses that came in under budget in FY2021. We will not know the free cash totals for FY2022 until approximately November of this year.

Any remaining balances are carried over from fiscal year to the next fiscal year, but again this cannot be used until free cash is certified in the fall and just becomes part of that aggregate number. There was approximately \$65,000 carried over from FY21 to FY22. While any left-over balance does carry over from year to year, DOR does issue guidance that the amount should be lowered as close to \$0 every year as a primary funding source for capital projects for municipalities- as again this is legally considered one-time money. This is the same reason the DOR Guidance states that free cash should not be used as budgetary revenue when setting the budget and the tax rate, due to its variable nature with amounts differing from year to year.

Respectfully Submitted,

Michael J. Nicholson  
 Mayor, City of Gardner

# City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor



November 3, 2021

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: FY 2021 Free Cash Memorandum

Dear Madam President and Councilors,

The City received notification from the Department of Revenue on October 18, 2021 that the City's Free Cash and Retained Earnings from FY2021 had been certified. (see attached email).

As you are aware, free cash and retained earnings come from funding left over from the previous fiscal year due to revenues coming in over budget and expenses coming in under budget. The term "free cash" is used for the general fund, and "retained earnings" are used for enterprise funds. The Department of Revenue states that the best practice for municipal budgeting should be planning for Free Cash to be certified at approximately five percent (5%) of the municipality's annual operating budget.

The majority of the City's Free Cash for FY2021 came from salaries that were not fully paid out due to vacancies that occurred or anticipated retirements not yet being taken. Following that reason came expenses from the School Department that either were not paid due to students being remote for the majority of the last school year or were covered by federal grant funding given in response to the COVID-19 Pandemic.

The guidance on the use of Free Cash, issued by the Department of Revenue states:

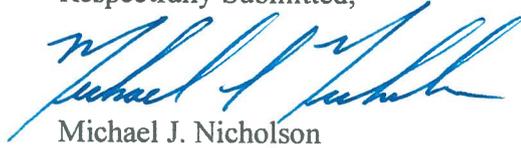
"Cities and towns generally use free cash to support current-year operations or to provide a revenue source for the ensuing year's budget. As a nonrecurring revenue source, free cash should be restricted to paying one-time expenditures, funding capital projects, or replenishing other reserves." (emphasis added)

In accordance with this guidance, it is the administration's plan to submit proposals for this year's free cash appropriations for one-time expenditures due to the fluctuation of the amount of free cash we receive each year. Furthermore, this allows us to make sure we have an adequate reserve should unexpected expenditures arise during the fiscal year that are not budgeted for.

Whereas we seem to continue to have a long list of needs in the city from capital equipment, road repair, maintenance of facilities and equipment, and other items, it is my plan to put forth proposals that are either inline with the City's Administrative Financial Policies that have been

developed by the Administration in conjunction with the City's outside auditing firm or to cover the cost of items that the City has had to put aside due to funding restraints in the past.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Michael J. Nicholson". The signature is stylized and cursive.

Michael J. Nicholson  
Mayor, City of Gardner

**Mayor**

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**From:** dlsgateway@dor.state.ma.us  
**Sent:** Monday, October 18, 2021 10:21 AM  
**To:** Celia Jornet; Jennifer Dymek; rivard-diane@montytech.net; Mayor; John Richard; dlsgateway@dor.state.ma.us  
**Cc:** guzmanda@dor.state.ma.us  
**Subject:** Notification of free cash approval - Gardner  
**Attachments:** FreeCashCertification.PDF

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

**Massachusetts Department of Revenue Division of Local Services**

Geoffrey E. Snyder, Commissioner

Sean R. Cronin, Senior Deputy Commissioner of Local Services

10/18/2021

**NOTIFICATION OF FREE CASH APPROVAL - City of Gardner**

Based upon the un-audited balance sheet submitted, I hereby certify that the amount of available funds or "free cash" as of July 1, 2021 for the City of Gardner is:

|                             |                |
|-----------------------------|----------------|
| General Fund                | \$3,611,634.00 |
| Enterprise Fund SEWER       | \$6,215,788.00 |
| Enterprise Fund WATER       | \$1,513,732.00 |
| Enterprise Fund GOLF COURSE | \$373,749.00   |
| Enterprise Fund LANDFILL    | \$123,858.00   |
| Enterprise Fund SOLID WASTE | \$427,806.00   |

This certification is in accordance with the provisions of G. L. Chapter 59, §23, as amended.

Certification letters will be emailed to the mayor/manager, board of selectmen, prudential committee, finance director and treasurer immediately upon approval, provided an email address is reported in DLS' Local Officials Directory. Please forward to other officials as you deem appropriate.

Sincerely,



Deborah A. Wagner  
 Director of Accounts  
 Massachusetts Department of Revenue

## **CHAPTER 14 – THE CALCULATION OF FREE CASH**

Free cash is the amount of funds in a city, town or special purpose district which is unrestricted and available for appropriation in accordance with G.L. c. 59, § 23, after certification by the Director of Accounts.

At the end of the fiscal year, the Accountant will close the books of the governmental entity and prepare a balance sheet. In the past, some Accountants relied upon the entity's audit firm to perform the closing. In recent years, changes in Government Auditing Standards now prohibit Certified Public Accountants from performing certain functions they once performed for the governmental entity.

Every city, town and special purpose district should submit the balance sheet with supporting documentation to the Bureau of Accounts for determination of "free cash." Every regional school district should do the same for determination of "excess and deficiency."

The Director of Accounts certifies free cash based upon the governmental entity's balance sheet for the fiscal year ended June 30. The balance sheet, consisting of assets, liabilities and fund balances, is prepared by the Accountant with a target submission date of September 15 to allow for possible appropriation of such funds during the fall season. A combined balance sheet with backup documentation is required from each entity. Backup documentation includes:

- Combined Balance Sheet and Combining Balance Sheets for each fund type including individual fund balances;
- Detailed analysis of undesignated fund balance/surplus revenue;
- Completed year end checklist;
- Cash reconciliation form;
- Treasurer's quarterly cash report;
- Schedule of outstanding receivables;
- Statement of indebtedness;
- Snow and Ice annual report;
- Audited financial statements if required by the Director;
- Other information as requested by the Bureau.

Cities, towns and districts that have authorized debt or had a federal or state grant approved may expend for those purposes from available unrestricted funds in anticipation of the borrowing or receipt of grant funds. Any co-called inter-fund or internal borrowing or advances must be repaid during the same fiscal year and be made according to rules, regulations and guidelines promulgated by the Director of Accounts (G.L. c.44, §20A). *Illustrative journal entries regarding inter-fund or internal borrowings are found in Appendix J to this Manual.*

*Uniform Massachusetts Accounting System – July 2013***The Basic Free Cash Calculation**

|        |                                                                                                              |
|--------|--------------------------------------------------------------------------------------------------------------|
| BEGIN  | Undesignated Fund Balance                                                                                    |
| MINUS  | Accounts Receivable                                                                                          |
| PLUS   | Deferred Revenue                                                                                             |
| MINUS  | Debit balances in other funds                                                                                |
| MINUS  | Illegally overspent appropriations (appropriations not allowed by General or Special law(s) to be overspent) |
| MINUS  | Prepaid Items                                                                                                |
| MINUS  | Amounts appropriated from free cash                                                                          |
| PLUS   | 60 day collections from the date of mailing, net of refunds, if property tax bills were issued after May 1   |
| PLUS   | Late Payments                                                                                                |
| EQUALS | Free Cash                                                                                                    |

**Free Cash Calculation in Detail**

**BEGIN – Undesignated Fund Balance:** Undesignated Fund Balance – General Fund (001-3590). This is the amount of available expendable financial resources, neither reserved nor designated. Note: Overlay surplus, Fund Balance Reserved for Overlay Released by the Assessors for Expenditures (001-3220), must be closed out at the end of each fiscal year.

**MINUS – Accounts Receivable:** All receivables, except for property taxes, should be fully deferred. Otherwise, the amount of receivable outstanding in excess of the deferred revenue is deducted from free cash. The reason for this is that in a governmental fund, revenue is considered available only when received.

If the commitment for the succeeding fiscal year is made prior to the end of the fiscal year being examined on the balance sheet, the property tax receivable should be fully reserved. If cash is received for taxes of the subsequent fiscal year, revenue should not be recognized in the current fiscal year.

**PLUS – Deferred Revenue:** Property taxes are deferred until collected. This means that they will not be recognized until the funds are received. However, deferred property taxes are added back into the free cash calculation because the property tax will be eventually accounted for either through payment, abatement, property sale or an “Overlay” deficit raised by taxation in a subsequent fiscal year.

**MINUS – Debit Balances in Other Funds:** If a fund has a deficit fund balance that is the result of anticipated other governmental reimbursements or long term borrowing, the deficit is deducted from free cash because it represents a “loan” from the General Fund

*Uniform Massachusetts Accounting System – July 2013*

to the fund in deficit. However, if the governmental entity borrows funds (BAN, GAN, SAN) by June 30 that equals or exceeds the amount of the deficit, the deficit will not reduce free cash.

MINUS – Illegally overspent appropriations (appropriations not allowed by General or Special law(s) to be overspent): If an entity overspends an appropriation, it should only be:

- a. an account which by law may be overspent (e.g. overlay, snow and ice with certain conditions);
- b. an account which gains the approval of the Director of Accounts to overspend (e.g. final court judgments, emergencies).

Legally overspent accounts can either be funded by appropriation or raised on the following fiscal year's Tax Rate Recap. Illegally overspent accounts such as ordinary operating appropriations, certain capital project expenditures and expenditure driven grants will reduce free cash and must also be raised on the following fiscal year's Tax Rate Recap.

MINUS – Prepaid Items: Free cash is reduced for prepaid items such as vacations and insurance. Prepaying an item means that the entity is using some of its resources today for tomorrow's obligations. If a city or town adopts G.L. c. 44, § 65, vacation advances will not be deducted from free cash.

MINUS – Amounts appropriated from Free Cash: Appropriations from free cash prior to the end of the fiscal year for the following fiscal year should be reserved on the balance sheet. This reservation will reduce the undesignated Fund Balance. Free cash cannot be appropriated until it is certified by the Director of Accounts. In addition, free cash cannot be appropriated to an amount greater than the amount so certified.

PLUS – 60 day Accruals: Only for governmental entities that issued a tax bill after May 1, of the fiscal year, the Bureau allows an increase to fund balance by real and personal property tax collections, net of refunds, received 60 days from the date of mailing.

PLUS – Late Payments: Other reimbursements received through September 30 for expenditures made in the prior fiscal year that resulted in deficit fund balances as of June 30 may be accrued or may be requested of the Director of Accounts that the payment be considered toward the deficit payment.



City of Gardner - *Executive Department*  
Mayor Michael J. Nicholson

2022 OCT 11 PM 2: 26

CITY CLERK'S OFFICE  
GARDNER, MA

October 11, 2022

Hon. Elizabeth J. Kazinskas, Council President  
And City Councilors  
Gardner City Hall, Rm 121  
95 Pleasant St  
Gardner, MA 01440

RE: Update on Sales of City Properties

Dear Madam President and Councilors,

Over the course of the last year, the Administration has made it a point to get properties that the City has either taken due to tax title or owns and has not used and does not need back onto the tax rolls.

Due to the large number of properties that have recently been sold, I wanted to provide the City Council an update regarding these sales, as the City Council approved the disposition of them all.

All of the proceeds from these sales will be accounted for in the free cash allocations certified by the Massachusetts Department of Revenue Director of Accounts in the Division of Local Services in the fiscal year following the sale of that property.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

| PROPERTY ADDRESS                               | MINIMUM BID | DATE ADVERTISED | DATE DUE  | # OF PROPOSALS RECEIVED | SALE AMOUNT | DATE OF DISPOSAL |
|------------------------------------------------|-------------|-----------------|-----------|-------------------------|-------------|------------------|
| <b><u>Properties Advertised - Sold</u></b>     |             |                 |           |                         |             |                  |
| Catherine Street (R27-20-15)                   | \$500.00    | 7/22/2020       | 8/25/2020 | 2                       | \$500.00    | 10/5/2020        |
| 20 Rock Street (M22/1/21)                      | \$49,200    | 3/16/2022       | 4/15/2022 | 1                       | \$49,200    | 6/21/2022        |
| Chelsea Street (M17/15/1)                      | \$43,400    | 6/29/2022       | 7/29/2022 | 4                       | \$81,500    | 9/13/2022        |
| <b><u>Properties Advertised - Not Sold</u></b> |             |                 |           |                         |             |                  |
| 177 West Street (M27/23/23)                    | \$43,200    | 3/16/2022       | 4/15/2022 | 0                       |             |                  |
| Parker Street (M22/4/24)                       | \$1         | 3/16/2022       | 4/15/2022 | 0                       |             |                  |
| 177 West Street                                | \$43,200    | 6/29/2022       | 7/29/2022 | 0                       |             |                  |

# City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor

RECEIVED

2022 OCT -6 PM 1:51

CITY CLERK'S OFFICE  
GARDNER, MA



## COMMONWEALTH OF MASSACHUSETTS

WORCESTER COUNTY

CITY OF GARDNER

I appoint the following as temporary Election Officers and I hereby certify that in my opinion they are persons specially fitted by education, training and experience to perform the duties of said office and that I make the appointments solely in the interest of the City.

Michael J. Nicholson, Mayor

for terms expiring August 31, 2023

Titi Siriphan, City Clerk

|              |                |                          |           |    |       |
|--------------|----------------|--------------------------|-----------|----|-------|
| Alice L.     | Ambrose        | 114 Opal Lane            | Gardner   | MA | 01440 |
| Jane M.      | Bettez         | 24 Yale Street           | Gardner   | MA | 01440 |
| Robert J.    | Bettez         | 24 Yale Street           | Gardner   | MA | 01440 |
| Darlene I.   | Brehio         | 245 Hubbardston Rd       | Templeton | MA | 01468 |
| Ann          | Chandler       | 133 Pleasant St. #2      | Gardner   | MA | 01440 |
| Jeanne       | Cuskey         | 65 Kileys Way            | Gardner   | MA | 01440 |
| Donna L.     | Gardner-Rooney | 147 Opal Lane            | Gardner   | MA | 01440 |
| Cheryl M.    | Girouard       | 23 Oriole Street         | Gardner   | MA | 01440 |
| Dianne A.    | Hunt           | 28 Osgood Street, #1     | Gardner   | MA | 01440 |
| Christine A. | Langley        | 137 Pinewood Drive       | Gardner   | MA | 01440 |
| Rheal J.     | Leblanc        | 228 Lovewell Street      | Gardner   | MA | 01440 |
| Helen M.     | Linstrom       | 61 Lake Street, B-315    | Gardner   | MA | 01440 |
| Juliet E.    | Crowley        | 43 Glazier Street        | Gardner   | MA | 01440 |
| Paul T.      | Crowley        | 43 Glazier Street        | Gardner   | MA | 01440 |
| Arthur       | McDonald       | 119 Greenwood Street, #1 | Gardner   | MA | 01440 |
| Jeanne M.    | Rafferty       | 60 Kendall Pond W        | Gardner   | MA | 01440 |

# City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor



COMMONWEALTH OF MASSACHUSETTS

WORCESTER COUNTY  
GARDNER

CITY OF

I assign all Officers of the Gardner Police Department as election poll detail, and I hereby certify that in my opinion they are persons specially fitted by education, training and experience to perform the duties of said office and that I make the appointments solely in the interest of the City.

I approve a sufficient number of police officers, at the polling location to preserve order and to protect the election officers and supervisors from any interference with their duties and to aid in enforcing the laws relating to elections, as required by Section 72 of MGL Chapter 54 which was changed in section 13 of Chapter 92 of the Acts of 2022. Further, move to designate the Police Chief the authority to assign specific police officers according to scheduling and availability.

Michael J. Nicholson, Mayor

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
Titi Siriphan, City Clerk

RECEIVED

October 11, 2022

2022 OCT 11 PM 2: 23

CITY CLERK'S OFFICE

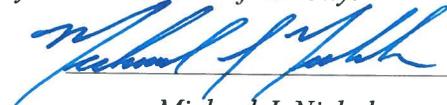
# Commonwealth of Massachusetts

Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Joshua Cormier to the position of Director of Purchasing/ Civil Enforcement, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

Confirmed by City Council \_\_\_\_\_

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: October 11, 2025

Worcester, ss., \_\_\_\_\_

Then personally appeared the above named Joshua Cormier and made oath that he/she would faithfully and impartially perform the duties of the office of Director of Purchasing/Civil Enforcement according to law and the best of his/her abilities.

Before me,  
\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

October 11, 2022

2022 OCT 11 PM 5:29

# Commonwealth of Massachusetts

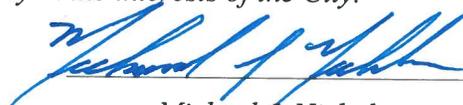
Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Joshua Cormier to the position of Tax Title Custodian, and I certify

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

Confirmed by City Council No Confirmation Necessary

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: October 11, 2025

Worcester, ss., \_\_\_\_\_

Then personally appeared the above named Joshua Cormier and made oath that he/she would faithfully and impartially perform the duties of the office of Tax Title Custodian according to law and the best of his/her abilities.

Before me,  
\_\_\_\_\_  
City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

**Commonwealth of Massachusetts**

**CITY OF GARDNER  
STATE ELECTION ORDER  
NOVEMBER 8, 2022**

*VOTED:* That meetings of the citizens of this City qualified to vote in the State Election shall be held on TUESDAY, the 8<sup>th</sup> DAY OF NOVEMBER 2022, FROM 7:00 A.M. TO 8:00 P.M. for the purpose of casting their votes in the State Election for the candidates of political parties for the following offices and questions:

|                                      |                                |
|--------------------------------------|--------------------------------|
| 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.....      | THIRD DISTRICT                 |
| COUNCILLOR.....                      | SEVENTH DISTRICT               |
| SENATOR IN GENERAL COURT.....        | WORCESTER & MIDDLESEX DISTRICT |
| REPRESENTATIVE IN GENERAL COURT..... | SECOND WORCESTER DISTRICT      |
| DISTRICT ATTORNEY.....               | MIDDLE DISTRICT                |
| SHERIFF.....                         | WORCESTER COUNTY               |

\*\*\*\*\*

**QUESTION 1**

**PROPOSED CONSTITUTIONAL AMENDMENT**

Do you approve of the adoption of an amendment to the constitution summarized below, which was approved by the General Court in joint sessions of the two houses on June 12, 2019 (yeas 147 – nays 48); and again on June 9, 2021 (yeas 159 – nays 41)?

**SUMMARY**

This proposed constitutional amendment would establish an additional 4% state income tax on that portion of annual taxable income in excess of \$1 million. This income level would be adjusted annually, by the same method used for federal income-tax brackets, to reflect increases in the cost of living. Revenues from this tax would be used, subject to appropriation by the state Legislature, for public education, public colleges and universities; and for the repair and maintenance of roads, bridges, and public transportation. The proposed amendment would apply to tax years beginning on or after January 1, 2023.

*A YES VOTE* would amend the state Constitution to impose an additional 4% tax on that portion of incomes over one million dollars to be used, subject to appropriation by the state Legislature, on education and transportation.

*A NO VOTE* would make no change in the state Constitution relative to income tax.

**QUESTION 2****LAW PROPOSED BY INITIATIVE PETITION**

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2022?

**SUMMARY**

This proposed law would direct the Commissioner of the Massachusetts Division of Insurance to approve or disapprove the rates of dental benefit plans and would require that a dental insurance carrier meet an annual aggregate medical loss ratio for its covered dental benefit plans of 83 percent. The medical loss ratio would measure the amount of premium dollars a dental insurance carrier spends on its members' dental expenses and quality improvements, as opposed to administrative expenses. If a carrier's annual aggregate medical loss ratio is less than 83 percent, the carrier would be required to refund the excess premiums to its covered individuals and groups. The proposed law would allow the Commissioner to waive or adjust the refunds only if it is determined that issuing refunds would result in financial impairment for the carrier.

The proposed law would apply to dental benefit plans regardless of whether they are issued directly by a carrier, through the connector, or through an intermediary. The proposed law would not apply to dental benefit plans issued, delivered, or renewed to a self-insured group or where the carrier is acting as a third-party administrator.

The proposed law would require the carriers offering dental benefit plans to submit information about their current and projected medical loss ratio, administrative expenses, and other financial information to the Commissioner. Each carrier would be required to submit an annual comprehensive financial statement to the Division of Insurance, itemized by market group size and line of business. A carrier that also provides administrative services to one or more self-insured groups would also be required to file an appendix to their annual financial statement with information about its self-insured business. The proposed law would impose a late penalty on a carrier that does not file its annual report on or before April 1.

The Division would be required to make the submitted data public, to issue an annual summary to certain legislative committees, and to exchange the data with the Health Policy Commission. The Commissioner would be required to adopt standards requiring the registration of persons or entities not otherwise licensed or registered by the Commissioner and criteria for the standardized reporting and uniform allocation methodologies among carriers.

The proposed law would allow the Commissioner to approve dental benefit policies for the purpose of being offered to individuals or groups. The Commissioner would be required to adopt regulations to determine eligibility criteria.

The proposed law would require carriers to file group product base rates and any changes to group rating factors that are to be effective on January 1 of each year on or before July 1 of the preceding year. The Commissioner would be required to disapprove any proposed changes to base rates that are excessive, inadequate, or unreasonable in relation to the benefits charged. The Commissioner would also be required to disapprove any change to group rating factors that is discriminatory or not actuarially sound.

The proposed law sets forth criteria that, if met, would require the Commissioner to presumptively disapprove a carrier's rate, including if the aggregate medical loss ratio for all dental benefit plans offered by a carrier is less than 83 percent.

The proposed law would establish procedures to be followed if a proposed rate is presumptively disapproved or if the Commissioner disapproves a rate.

The proposed law would require the Division to hold a hearing if a carrier reports a risk-based capital ratio on a combined entity basis that exceeds 700 percent in its annual report.

The proposed law would require the Commissioner to promulgate regulations consistent with its provisions by October 1, 2023. The proposed law would apply to all dental benefit plans issued, made effective, delivered, or renewed on or after January 1, 2024.

**A YES VOTE** would regulate dental insurance rates, including by requiring companies to spend at least 83% of premiums on member dental expenses and quality improvements instead of administrative expenses, and by making other changes to dental insurance regulations.

**A NO VOTE** would make no change in the law relative to the regulations that apply to dental insurance companies.

### QUESTION 3

#### LAW PROPOSED BY INITIATIVE PETITION

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2022?

#### SUMMARY

This proposed law would increase the statewide limits on the combined number of licenses for the sale of alcoholic beverages for off-premises consumption (including licenses for “all alcoholic beverages” and for “wines and malt beverages”) that any one retailer could own or control: from 9 to 12 licenses in 2023; to 15 licenses in 2027; and to 18 licenses in 2031.

Beginning in 2023, the proposed law would set a maximum number of “all alcoholic beverages” licenses that any one retailer could own or control at 7 licenses unless a retailer currently holds more than 7 such licenses.

The proposed law would require retailers to conduct the sale of alcoholic beverages for off-premises consumption through face-to-face transactions and would prohibit automated or self-checkout sales of alcoholic beverages by such retailers.

The proposed law would alter the calculation of the fine that the Alcoholic Beverages Control Commission may accept in lieu of suspending any license issued under the State Liquor Control Act. The proposed law would modify the formula for calculating such fee from being based on the gross profits on the sale of alcoholic beverages to being based on the gross profits on all retail sales.

The proposed law would also add out-of-state motor vehicle licenses to the list of the forms of identification that any holder of a license issued under the State Liquor Control Act, or their agent or employee, may choose to reasonably rely on for proof of a person’s identity and age.

**A YES VOTE** would increase the number of licenses a retailer could have for the sale of alcoholic beverages to be consumed off premises, limit the number of “all-alcoholic beverages” licenses that a retailer could acquire, restrict use of self-checkout, and require retailers to accept customers’ out-of-state identification.

**A NO VOTE** would make no change in the laws governing the retail sale of alcoholic beverages.

### QUESTION 4

#### REFERENDUM ON AN EXISTING LAW

Do you approve of a law summarized below, which was approved by the House of Representatives and the Senate on May 26, 2022?

## SUMMARY

This law allows Massachusetts residents who cannot provide proof of lawful presence in the United States to obtain a standard driver's license or learner's permit if they meet all the other qualifications for a standard license or learner's permit, including a road test and insurance, and provide proof of their identity, date of birth, and residency. The law provides that, when processing an application for such a license or learner's permit or motor vehicle registration, the registrar of motor vehicles may not ask about or create a record of the citizenship or immigration status of the applicant, except as otherwise required by law. This law does not allow people who cannot provide proof of lawful presence in the United States to obtain a REAL ID.

To prove identity and date of birth, the law requires an applicant to present at least two documents, one from each of the following categories: (1) a valid unexpired foreign passport or a valid unexpired Consular Identification document; and (2) a valid unexpired driver's license from any United States state or territory, an original or certified copy of a birth certificate, a valid unexpired foreign national identification card, a valid unexpired foreign driver's license, or a marriage certificate or divorce decree issued by any state or territory of the United States. One of the documents presented by an applicant must include a photograph and one must include a date of birth. Any documents not in English must be accompanied by a certified translation. The registrar may review any documents issued by another country to determine whether they may be used as proof of identity or date of birth.

The law requires that applicants for a driver's license or learner's permit shall attest, under the pains and penalties of perjury, that their license has not been suspended or revoked in any other state, country, or jurisdiction.

The law specifies that information provided by or relating to any applicant or license-holder will not be a public record and shall not be disclosed, except as required by federal law or as authorized by Attorney General regulations, and except for purposes of motor vehicle insurance.

The law directs the registrar of motor vehicles to make regulations regarding the documents required of United States citizens and others who provide proof of lawful presence with their license application.

The law also requires the registrar and the Secretary of the Commonwealth to establish procedures and regulations to ensure that an applicant for a standard driver's license or learner's permit who does not provide proof of lawful presence will not be automatically registered to vote.

The law takes effect on July 1, 2023.

**A YES VOTE** would keep in place the law, which would allow Massachusetts residents who cannot provide proof of lawful presence in the United States to obtain a driver's license or permit if they meet the other requirements for doing so.

**A NO VOTE** would repeal this law.

It is further ordered that the following polling places are designated by the City Council:

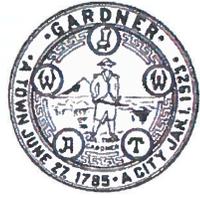
WARD 1, PRECINCT A – Elk's Home, 31 Park Street  
 WARD 1, PRECINCT B – Elk's Home, 31 Park Street  
 WARD 2, PRECINCT A – Levi Heywood Memorial Library, 55 West Lynde Street  
 WARD 2, PRECINCT B – Levi Heywood Memorial Library, 55 West Lynde Street  
 WARD 3, PRECINCT A – City Hall, Perry Auditorium, 95 Pleasant Street  
 WARD 3, PRECINCT B – City Hall, Perry Auditorium, 95 Pleasant Street  
 WARD 4, PRECINCT A – Police Headquarters, 200 Main Street  
 WARD 4, PRECINCT B – Police Headquarters, 200 Main Street  
 WARD 5, PRECINCT A – Polish American Club, 171 Kendall Pond Road W  
 WARD 5, PRECINCT B – Polish American Club, 171 Kendall Pond Road W

It is further directed that his Order be posted in accordance with the provisions of Section 63 of Chapter 54 of the General Laws.

BY ORDER OF THE CITY COUNCIL

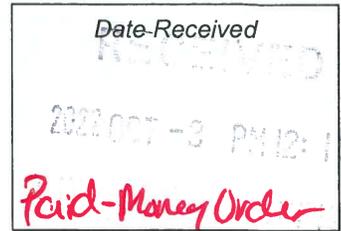
A handwritten signature in cursive script that reads "Titi Siriphan".

TITI SIRIPHAN  
City Clerk



CITY OF GARDNER, MASSACHUSETTS  
City Hall - Room 121 - 95 Pleasant Street  
Gardner, MA 01440-2630  
Tel: 978-630-4058 Fax: 978-630-2589

10814



### APPLICATION FOR LICENSE TO BUY AND SELL SECOND HAND MOTOR VEHICLES

New  Renewal  Class 1  Class 2  Class 3 (Circle all that apply to this Application)

1. Legal Name of Business: Sylvester R Anghuy  
(Name as registered with the Secretary of the Commonwealth's Corporations Division. If individual or partnerships enter names)
2. Doing Business As: \_\_\_\_\_  
(If conducted under any name other than the Applicant's Legal Name. An active Business Certificate must be on file with the City Clerk)
3. Business Address: 146 Sherman Street, Gardner, MA 01440  
(Complete street address where business will be conducted and P.O. Box, if any)
4. Business Tel. \_\_\_\_\_ Cellular 617-821-0792 Fax \_\_\_\_\_ E-Mail \_\_\_\_\_
5. Is the business an individual, partnership, association or corporation? Individual
6. If an individual, state full name and residential address: Sylvester R Anghuy  
146 Sherman Street, Gardner, MA 01440
7. If a partnership, state full names and residential addresses of all partners: \_\_\_\_\_
8. If an association or corporation, state full names of the principal officers:  
President \_\_\_\_\_  
Secretary \_\_\_\_\_  
Treasurer \_\_\_\_\_
9. Are you engaged principally in the business of buying, selling, or exchanging motor vehicles? Yes, internet only
  - a. If so, is your principal business the sale of new motor vehicles? No
  - b. Is your principal business the buying and selling or exchanging of second hand motor vehicles? Yes
  - c. Is your principal business that of a motor vehicle junk dealer? No
  - d. Is your principal business that of a "Repairs"? No
  - e. Is your principal business that of "Repossession"? No
9. Provide a complete description of all the premises to be used for the purpose of carrying on the business:  
Residential driveway and an off site storage unit
10. Are you a recognized agent of a motor vehicle manufacturer? YES \_\_\_\_\_ NO  X  
If yes, state the name of the manufacturer: \_\_\_\_\_

11. Do you have a signed contract as required by Section 58, Class I? YES \_\_\_\_\_ NO X
12. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? YES \_\_\_\_\_ NO X  
 If yes, in what city or town? \_\_\_\_\_  
 Did you receive a license? YES \_\_\_\_\_ NO X For what year? \_\_\_\_\_
13. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? YES \_\_\_\_\_ NO X If yes, please explain: \_\_\_\_\_

**Provide the following items/documentation with the completed Application form:**

- Applicable License Application Processing Fee(s)**, check payable to **“City of Gardner”**
- Surety Bond** in the amount of **\$25,000** executed by a surety company authorized to transact business in Massachusetts, or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority. A separate bond shall be required for each different name under which the dealer conducts his business. (Applies only to Class 2 Dealers).
- State and Federal Tax Certification Affidavit**
- City of Gardner **PERMIT/APPLICATION GOOD STANDING CERTIFICATE**
- Criminal Offender Record Information (CORI) Authorization form.**
- Workers Compensation Insurance Affidavit: General Businesses**
- Parking Plan** (scaled 1" = 40 ft.) showing Building Department-approved parking layout. Six (6) copies shall be reduced to either 8½" x 11", or if applicable, 11" x 17".
- Site Plan** (scaled 1" = 40 ft.) showing all available parking, driveways, entrances and exits, building location, etc. Six (6) copies shall be reduced to either 8½" x 11", or if applicable, 11" x 17".
- Zoning Opinion** from the Building Commissioner.
- Planning Board and/or Board of Appeals Decisions (*if applicable*).

THE APPLICANT CERTIFIES THAT ALL STATE TAX RETURNS HAVE BEEN FILED AND ALL STATE AND LOCAL TAXES REQUIRED BY LAW HAVE BEEN PAID AND AGREES TO COMPLY WITH THE TERMS OF ITS LICENSE AND APPLICABLE LAW, AND ALL RULES AND REGULATIONS PROMULGATED THERETO. APPLICANT FURTHER CERTIFIES THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE AND ALSO AUTHORIZES THE LICENSING AUTHORITY OR ITS AGENTS TO CONDUCT WHATEVER INVESTIGATION IS NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THIS APPLICATION.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

*Sol Ventes P. Hughes*  
 INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE OFFICER OR APPLICANT

DATE SIGNED 09/27/20

\_\_\_\_\_  
 SOCIAL SECURITY NUMBER

OR

\_\_\_\_\_  
 EMPLOYER IDENTIFICATION NUMBER (EIN)

**License Fee must be submitted with this form. Make check payable to City of Gardner. Mail completed Application Form, along with all required documentation and check to: City Clerk, 95 Pleasant Street, Room 121, Gardner, MA 01440.**

**NOTICE:** The filing of this application confers no rights on the part of the Applicant to undertake any activities until the license has been granted. The issuance of a license under this section or sections is subject to the Applicant’s compliance with all other applicable Federal, State or local statutes, ordinances, bylaws, rules or regulations. The Licensing Authority reserves the right to request any additional information it reasonably deems appropriate for the purpose of determining the terms and conditions of the License and its decision to issue a License. The provisions of G.L. c.152 requires the filing of a Workers’ Compensation Insurance Affidavit with this application. Failure to file the Affidavit, along with any other required information and/or documentation, **shall be sufficient cause for the denial of the License application.**

# CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING



October 13, 2022

Elizabeth Kazinskas, Council President  
C/o Titi Sirphan, City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440

RE: Petition #10798 – Zoning Map Amendment – West Broadway, Kendal Pond Road to Templeton Line

Dear President Kazinskas:

On October 11, 2022, the Planning Board voted unanimously (3-0) to recommend the City Council consider approving the proposed zoning map amendment referenced above. The amendment includes changing the zoning of 20 parcels from Commercial 2 to General Residential 3. The Planning Board also voted to request a joint Public Hearing between the Board and City Council on the matter. Currently, all uses on the impacted parcels are residential and either preexisting nonconforming or developed through a use variance. The change would create all conforming uses for the existing developed parcels and allow residential uses on the undeveloped parcels, including those owned by the petitioner of the amendment.

The Planning Board looks forward to joining the City Council at a public hearing scheduled at your earliest convenience. Please contact Trevor Beauregard if you have any questions or need additional information.

Sincerely,

Mark M. Schafron, Planning Board Chairman

C: Mayor Michael J. Nicolson  
Trevor M. Beauregard, Director  
Roland Jean, Building Commissioner



# Christine Tree Legal

Christine M. Tree  
[ctree@christinetreelegal.com](mailto:ctree@christinetreelegal.com)  
 Anthony Zarrella, Of Counsel  
[azarrella@christinetreelegal.com](mailto:azarrella@christinetreelegal.com)

September 14, 2022

Elizabeth J. Kazinskas, Gardner City Council President  
 c/o Titi Siriphan, City Clerk  
 City Hall  
 Gardner, MA 01440

Re: Petition to Amend Gardner Zoning Map, Ward 3, West Broadway

Dear President Kazinskas:

Please be advised that I represent PrivateOversight, LLC, managed by Joanne Tavano, which owns property off West Broadway and more particularly three parcels on West Broadway with the property ID's H17-7-1, H17-12-2, and H17-13-9. As permitted by M.G.L. c. 40A §5, and after consultation with the Building Department, the Planning Department, and informal presentation to the Planning Board, I am submitting the enclosed Petition on behalf of the property owner for amendment of the Gardner Zoning Map on the westerly side of West Broadway in Ward 3. PrivateOversight's lots lie in two different zoning districts for Gardner, C2 and R2, and a corner lies in Templeton. My client is requesting a change in the zoning designation for these lots and the surrounding area to GR3, which would be substantially more suitable for the company's planned residential development as well as for the existing residential uses on the surrounding parcels.

Under the Zoning Ordinance the C2 Zoning District does not permit residential development, not even single family homes, without a variance. Currently, only 7 of the 28 occupied parcels in this section of the C2 district are conforming (most parcels are not being used in conformity with zoning), and a map showing the parcels proposed to be changed to a GR3 designation is enclosed with a list. My client has also conducted a traffic study concerning her proposed residential development, which is enclosed herewith for informational purposes.

A change in the zoning would be beneficial not only for my client, but for the other parcels in this district. Most of the properties on West Broadway west of Kendall Pond are residential uses, but are located in C2, a commercial zone. These are either preexisting nonconforming residences, or allowed by a use variance such as the cul-de-sac neighborhood on Deer Hill Road. All residential uses,

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 GARDNER, MA

including single-family homes, are prohibited in C2, and are therefore treated as a nonconforming use for zoning purposes. This means the use is subject to more limitations. As an example, if any single family home is vacant for two or more years, it can be deemed abandoned and will lose its right to be used as a single family home. Additions, extensions or modifications may require zoning relief. In short, the C2 zoning does not match the actual use of the land in this area.

By contrast, the property uses allowed in C2 are likely to cause detriment to the surrounding residents. A retail store, bank, car salesroom, or restaurant could operate by right. A marijuana retailer could open by special permit. Disruptive commercial uses could lead to problems with the surrounding residents due to the hours of operation, delivery trucks, noise and general incompatibility of the use.

For these reasons, we believe that the proposed zoning map amendment would be beneficial to the City and the surrounding neighborhood. My client and I would welcome a chance to meet with you or with any member of the City Council and go through the proposal to answer any questions or concerns. I am also happy to go through the history of this project with the City.

I expect this petition will be referred and pass through a review process with the Planning Board and with the Council. We are happy to respond to any requests for additional information.

Thank you for your time and consideration of the Petition.

**Sincerely,**

**Christine M. Tree**

Enclosures  
CMT/jjr

## TO THE HONOURABLE CITY COUNCIL OF THE CITY OF GARDNER

Ladies and Gentlemen:

The undersigned PrivateOversight LLC Petition your Honorable Body to:

Amend the Gardner Zoning Map by changing the zoning district designation for the following listed parcels, lying at the westerly end of West Broadway to the Templeton municipal boundary, from the Commercial 2 Zoning District and the Rural Residential 2 Zoning District to the General Residential 3 Zoning District, as follows:

| <b>Assessor's Map/Lot/Block</b> | <b>Property Address</b> | <b>Current Zoning District</b> | <b>Proposed Zoning District</b> |
|---------------------------------|-------------------------|--------------------------------|---------------------------------|
| H17-72-1                        | West Broadway           | COM2                           | GR3                             |
| H17-7-1                         | West Broadway           | COM2 & RR2                     | GR3                             |
| H17-12-2                        | West Broadway           | COM2 & RR2                     | GR3                             |
| H17-13-9                        | Airport Road            | RR2                            | GR3                             |
| H17-7-8                         | 1022 West Broadway      | COM2                           | GR3                             |
| H17-7-7                         | 9 Deer Hill Road        | COM2                           | GR3                             |
| H17-7-6                         | 17 Deer Hill Road       | COM2                           | GR3                             |
| H17-7-5                         | 25 Deer Hill Road       | COM2                           | GR3                             |
| H17-12-9                        | 33 Deer Hill Road       | COM2 & RR2                     | GR3                             |
| H17-12-4                        | 41 Deer Hill Road       | COM2 & RR2                     | GR3                             |
| H17-7-4                         | 30 Deer Hill Road       | COM2 & RR2                     | GR3                             |
| H17-7-3                         | 22 Deer Hill Road       | COM2                           | GR3                             |
| H17-7-2                         | 14 Deer Hill Road       | COM2                           | GR3                             |
| H17-7-10                        | 6 Deer Hill Road        | COM2                           | GR3                             |
| H17-3-9                         | 985 West Broadway       | COM2                           | GR3                             |
| H17-8-13A                       | 950 West Broadway       | COM2                           | GR3                             |
| H17-8-16                        | 957 West Broadway       | COM2                           | GR3                             |
| H17-8-13                        | 940 West Broadway       | RR2                            | GR3                             |
| H17-8-15                        | 945 West Broadway       | COM2                           | GR3                             |
| H17-3-1                         | 935 West Broadway       | COM2                           | GR3                             |

The proposed amendment to the zoning map will bring the zoning district for these parcels into better conformity with their current actual use for residential purposes, while still allowing for the possibility of home occupations accessory to the primary residential use. This will also eliminate parcels falling across two zones, and nonconformities in the neighborhood, and is in furtherance of declared purpose of the Zoning Ordinance “to encourage the most appropriate use of land throughout the City.”

No new lot boundaries are created by this proposed amendment, merely the reclassification of existing parcels.

The Petitioner PrivateOversight, LLC, by Joanne M. Tavano, Member/Manager, is the owner of Parcels H17-7-1, H17-12-2 and H17-13-9, which are parcels to be affected by the zoning map amendment pursuant to M.G.L. c. 40A §5, and is therefore eligible to Petition for this zoning map amendment.

AN ORDINANCE AMENDING AN ORDINANCE ESTABLISHING THE BOUNDARIES OF THE DISTRICTS OF THE CITY WITH REGULATIONS AND RESTRICTIONS TO BE ENFORCED AND TO BE KNOWN AS THE ZONING ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDNER AS FOLLOWS:

That “An Ordinance Establishing the Boundaries of the Districts of the City with Regulations and Restrictions to be enforced and to be known as the Zoning Ordinance” (Compilation of Ordinances No. 62) adopted by the City Council December 9, 1970 and amended several times thereafter be further amended as follows:

Designate parcels H-17-72-1 (a non-listed use), H17-7-1, H17-12-2, H17-13-9 (currently vacant lots) H17-7-8, H12-7-7, H17-7-6, H17-7-5, H17-12-9, H17-12-4, H17-7-4, H17-7-3, H17-7-2, H17-7-10, H17-3-9, H17-8-13A, H17-8-16, H17-8-13, H17-8-15, and H17-3-1 (currently single family homes) as General Residential 3 (GR3) pursuant to Article III, §675-310 Types of districts and Article XI, §675-1160 Amendments. Said General Residential 3 (GR3) shall be shown on the Zoning Map of Gardner, Massachusetts.

# Parcels to be Rezoned

## Petition 10798- Zoning Map Amendment COM2/RR2 TO GR3

Conformity of affected parcels if the proposed zoning map amendment is passed.

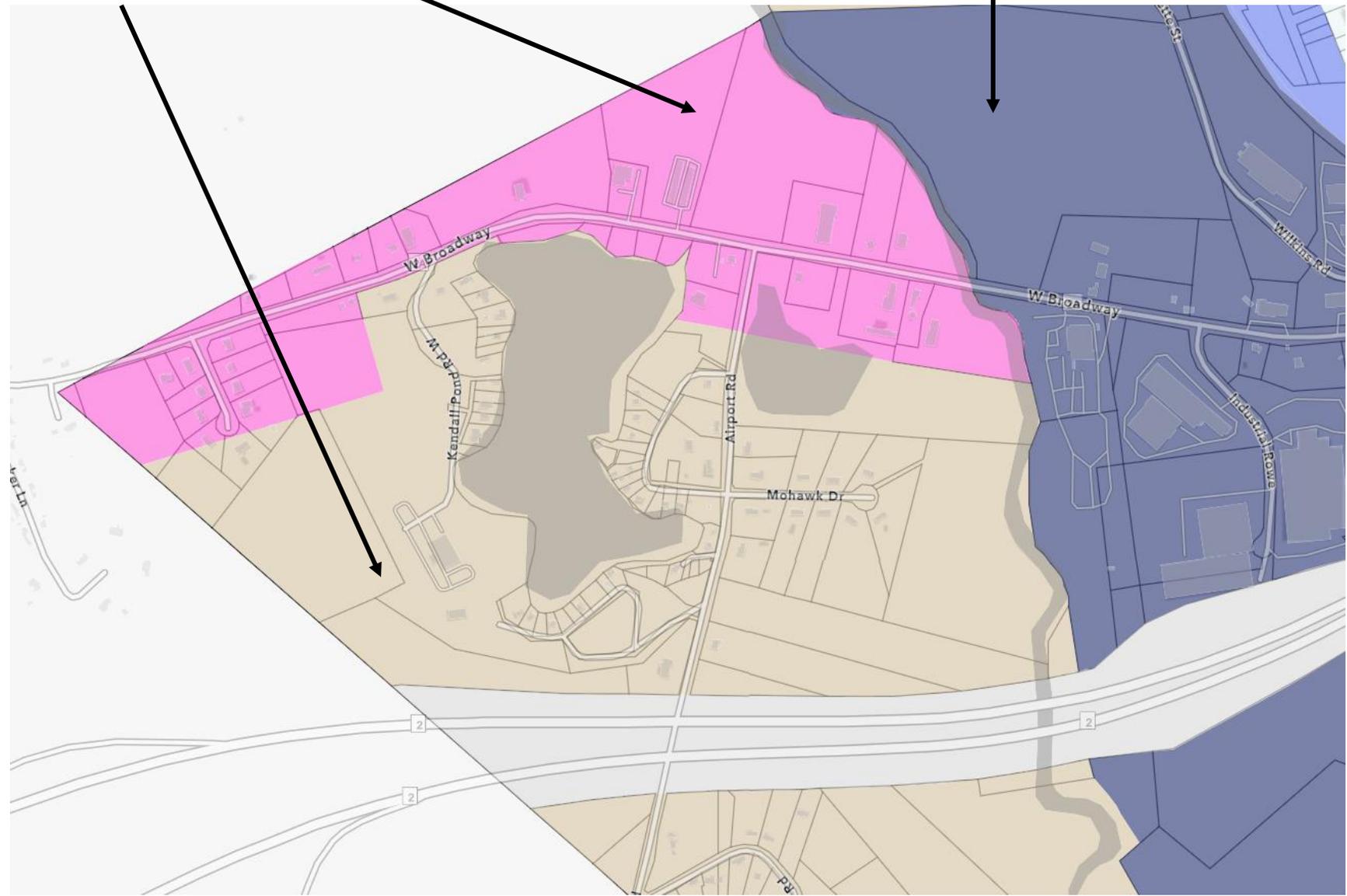
| No. | Parcel ID | Use                         | Property Address   | Conformity Pre-Change        | Conformity Post Change |
|-----|-----------|-----------------------------|--------------------|------------------------------|------------------------|
| 1   | H-17-72-1 | Not Listed                  | West Broadway      | UNKNOWN                      | UNKNOWN                |
| 2   | H17-7-1   | Vacant-Proposed Multifamily | 0 West Broadway    | NP                           | SP                     |
| 3   | H17-12-2  | Vacant-Proposed Multifamily | 0 West Broadway    | NP                           | SP                     |
| 4   | H17-13-9  | Vacant-Proposed Multifamily | 0 Airport Road     | NP                           | SP                     |
| 5   | H17-7-8   | Single Family               | 1022 West Broadway | Pre-existing, non-conforming | Conforming             |
| 6   | H17-7-7   | Single Family               | 9 Deer Hill Road   | Variance                     | Conforming             |
| 7   | H17-7-6   | Single Family               | 17 Deer Hill Road  | Variance                     | Conforming             |
| 8   | H17-7-5   | Single Family               | 25 Deer Hill Road  | Variance                     | Conforming             |
| 9   | H17-12-9  | Single Family               | 33 Deer Hill Road  | Variance                     | Conforming             |
| 10  | H17-12-4  | Single Family               | 41 Deer Hill Road  | Variance                     | Conforming             |
| 11  | H17-7-4   | Single Family               | 30 Deer Hill Road  | Variance                     | Conforming             |
| 12  | H17-7-3   | Single Family               | 22 Deer Hill Road  | Variance                     | Conforming             |
| 13  | H17-7-2   | Single Family               | 14 Deer Hill Road  | Variance                     | Conforming             |
| 14  | H17-7-10  | Single Family               | 6 Deer Hill Road   | Variance                     | Conforming             |
| 15  | H17-3-9   | Single Family               | 985 West Broadway  | Pre-existing, non-conforming | Conforming             |
| 16  | H17-8-13A | Single Family               | 950 West Broadway  | Pre-existing, non-conforming | Conforming             |
| 17  | H17-8-16  | Single Family               | 957 West Broadway  | Pre-existing, non-conforming | Conforming             |
| 18  | H17-8-13  | Single Family               | 940 West Broadway  | Pre-existing, non-conforming | Conforming             |
| 19  | H17-8-15  | Single Family               | 945 West Broadway  | Pre-existing, non-conforming | Conforming             |
| 20  | H17-3-1   | Single Family               | 935 West Broadway  | Pre-existing, non-conforming | Conforming             |

CURRENT ZONING MAP

COMMERCIAL 2 DISTRICT

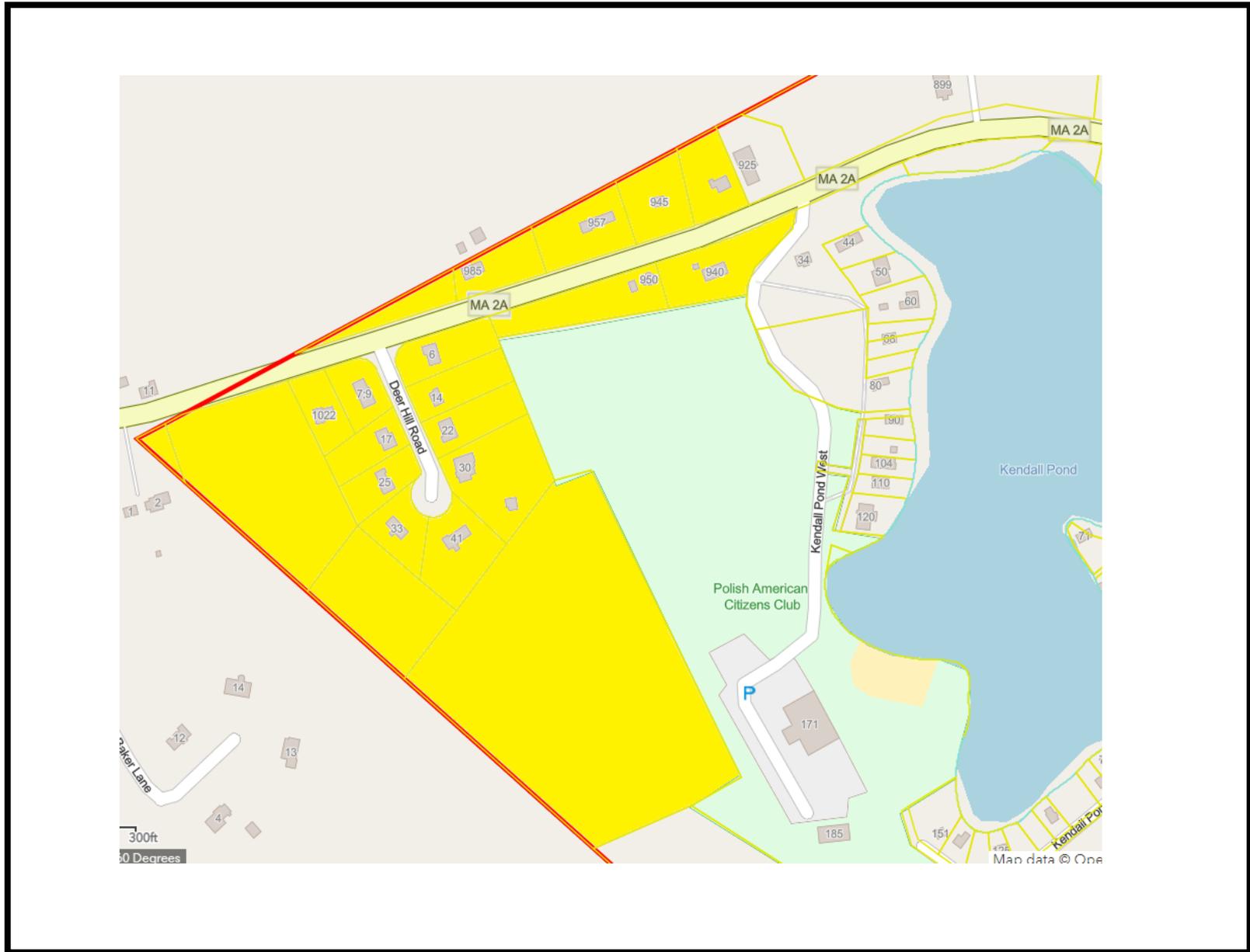
INDUSTRIAL 2 DISTRICT

RURAL RESIDENTIAL 2 DISTRICT

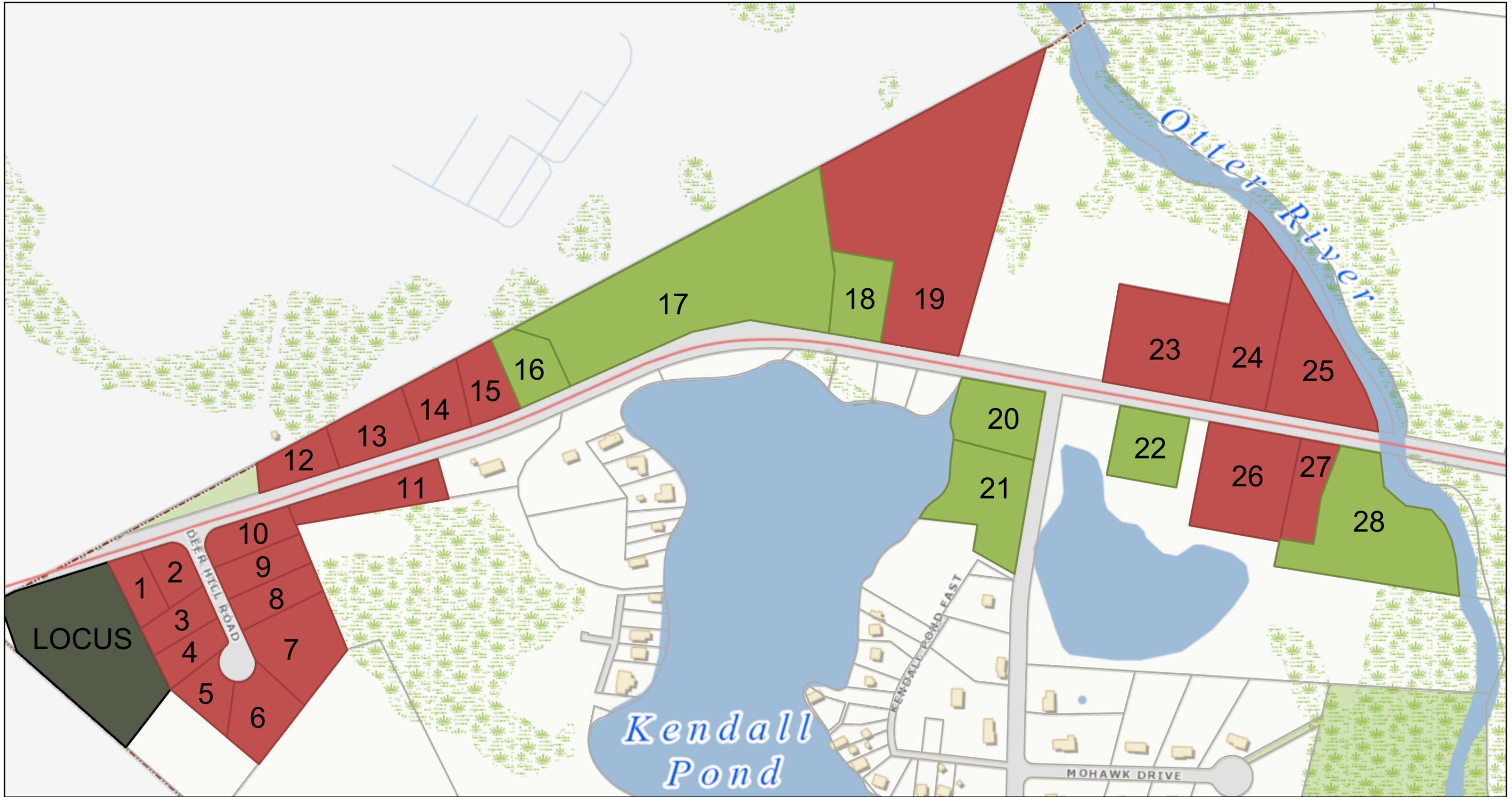


# Proposed Zoning Map Amendment

## Parcels to be designated as General Residential 3 Zoning District



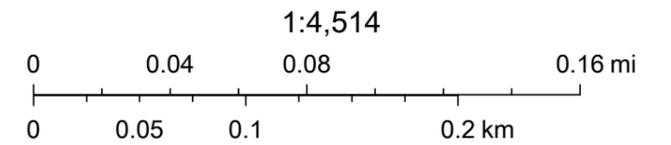
# Gardner- Conformity Parcels



7/16/2021, 1:11:01 PM

### Areas

- Override 1
- Override 2
- Override 3
- Parcels (2020)



City of Gardner GIS

| <b>TABLE OF NONCONFORMING USES</b> |                   |                                                |                    |                    |
|------------------------------------|-------------------|------------------------------------------------|--------------------|--------------------|
| <b>Parcel No.</b>                  | <b>Address</b>    | <b>Owner</b>                                   | <b>Use</b>         | <b>Conforming?</b> |
| 1                                  | 1022 W. Broadway  | Charles Lemos                                  | Single Family      | NO                 |
| 2                                  | 9 Deer Hill Road  | Bryan & Nicole Keith                           | Single Family      | NO                 |
| 3                                  | 17 Deer Hill Road | Thomas & Dianne Lupaczyk                       | Single Family      | NO                 |
| 4                                  | 25 Deer Hill Road | Linda Daniels                                  | Single Family      | NO                 |
| 5                                  | 33 Deer Hill Road | Becky Cooper-Glenz                             | Single Family      | NO                 |
| 6                                  | 41 Deer Hill Road | Cornerstone Church of the<br>Assemblies of God | Rectory            | NO                 |
| 7                                  | 30 Deer Hill Road | Jeanne Kia                                     | Single Family      | NO                 |
| 8                                  | 22 Deer Hill Road | Louise, Daniel,<br>& Christopher Caissie       | Single Family      | NO                 |
| 9                                  | 14 Deer Hill Road | Monique Aviles                                 | Single Family      | NO                 |
| 10                                 | 6 Deer Hill Road  | Thurston Silva                                 | Single Family      | NO                 |
| 11                                 | 950 W. Broadway   | Deborah G. Leabman<br>Revocable Trust          | Single Family      | NO                 |
| 12                                 | 985 W. Broadway   | Joseph Kiarie                                  | Single Family      | NO                 |
| 13                                 | 957 W. Broadway   | Barbara & Lee Forgues                          | Single Family      | NO                 |
| 14                                 | 945 W. Broadway   | Mark & Susan Harty                             | Single Family      | NO                 |
| 15                                 | 935 W. Broadway   | N/A                                            | Single Family?     | NO                 |
| 16                                 | 925 W. Broadway   | Global Investments 1, Inc.                     | Office             | YES                |
| 17                                 | 899 W. Broadway   | City of Gardner                                | Animal Control     | YES                |
| 18                                 | 871 W. Broadway   | Christine Caron, Trustee                       | Gym                | YES                |
| 19                                 | 855 W. Broadway   | D & A Holdings, Inc.                           | Self Storage       | NO                 |
| 20                                 | 838 W. Broadway   | Grove Street Realty Trust                      | Daycare            | YES                |
| 21                                 | 23 Airport Road   | Lithuanian Outing Assoc., Inc.                 | Fraternal Org.     | YES                |
| 22                                 | 800 W. Broadway   | Eric Hill                                      | Auto Repair        | YES                |
| 23                                 | 795 W. Broadway   | Anthony Manca, Trustee                         | Truck Terminal     | NO                 |
| 24                                 | 771 W. Broadway   | Anthony Manca, Trustee                         | Warehouse          | NO                 |
| 25                                 | 765 W. Broadway   | Garrick Contract Carriers, Inc.                | Truck Terminal     | NO                 |
| 26                                 | 766 W. Broadway   | Charles Manca                                  | Warehouse          | NO                 |
| 27                                 | 758 W. Broadway   | Charles Bachelder                              | Three Family       | NO                 |
| 28                                 | 750 W. Broadway   | City Electric Supply Company                   | Retail < 10,000 SF | YES                |

**ON MAP: GREEN= CONFORMING; RED=NONCONFORMING**



August 12, 2022

Joanne Tavano  
Privateoversight, LLC  
21 B West Hill Dr  
Westminster, MA 01473

Re: Traffic Review  
West Broadway Condos, Gardner, MA  
Fuss & O'Neill Reference No. 20220691.A10

Dear Ms. Tavano,

Fuss & O'Neill, Inc. (F&O) has completed a traffic review for the proposed condominium development on West Broadway in the Town of Gardner, MA. The following sections are a summary of the traffic related findings.

### **Existing Traffic Conditions**

A site visit was conducted on Tuesday, July 27, 2022, to observe the existing traffic conditions in the vicinity of the site. The observation was performed during the anticipated AM peak hours, between 8:15 AM and 9:15 AM. Over the course of this hour 265 vehicles were recorded, with 110 going westbound and 155 going eastbound. Photos 1 and 2 show the existing conditions at the site and depict the existing visibility in both roadway directions from the proposed driveway.



Photo 1: West Broadway at Proposed Driveway (looking east)

1550 Main Street  
Suite 400  
Springfield, MA  
01103  
t 413.452.0445  
800.286.2469  
f 413.846.0497

[www.fando.com](http://www.fando.com)

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Rhode Island  
Vermont



FUSS & O'NEILL

Joanne Tavano  
August 12, 2022  
Page 2



Photo 2: West Broadway at Proposed Driveway (looking west)

Speed data adjacent to the proposed site was gathered using radar. The 85<sup>th</sup> percentile of speeds during this one-hour interval are 43 mph westbound and 49 mph eastbound with a combined 85<sup>th</sup> percentile speed of 46 mph. The roadway posted speed limit is 40 mph at the Templeton town line.

Intersection sight distance (ISD) and stopping sight distance (SSD) were measured and evaluated at the proposed site driveway location in accordance with criteria set forth by the American Association of State Highway and Transportation Officials (AASHTO). Intersection sight distance accounts for the perception time and reaction time needed to identify an appropriate gap in oncoming traffic that allows the vehicle to safely turn onto a roadway and accelerate without undue speed differential conflicts with vehicles already on the roadway, measured using a line of sight across the corners of the intersection. The target used for sighting the proposed driveway was placed in the grassed area approximately 16 feet from the shoulder of the road to represent the location of the driver's eye.

Stopping sight distance ensures that vehicles will have sufficient visibility to safely stop for another stopped vehicle on the roadway particularly at an intersection where the situation is likely to occur, measured using a line of sight along the major roadway centerline. Stopping sight distance is generally considered the absolute minimum visibility criteria, while intersection sight distance is recommended where feasible and readily achievable.

The SSD on the westbound approach of West Broadway was measured as being greater than 900 feet. The road follows a near straight trajectory for over 900 feet heading towards the intersection



Joanne Tavano  
 August 12, 2022  
 Page 3

with no visual obstructions. The recommended SSD was calculated to be 350 feet based on the prevailing operating speed of 46 mph on a 5% grade. The existing SSD meets the requirement.

The SSD on the eastbound approach of West Broadway was measured as 400 feet. The vertical and horizontal curvature of the roadway impede vision of the intersection. The recommended SSD was calculated to be 295 feet based on the prevailing operating speed of 46 mph on 2% grade. The existing SSD meets the requirement.

The ISD was measured for the westbound approach of West Broadway (looking east from proposed site). An available ISD of 525 feet was measured. The recommended ISD was calculated to be 510 feet based off *Case B1, Left Turn from stop on minor street*, which uses a time gap of 7.5 seconds for passenger cars. The obstruction was trees and vegetation along the south side of West Broadway. The recommended ISD was calculated using the prevailing operating speed of 46 mph. The available distance meets the recommended distance. Table 1 summarizes the sight distance analysis.

The ISD was measured for the eastbound approach of West Broadway (looking west from proposed site driveway). An available ISD of 444 feet was measured. The recommended ISD was calculated to be 440 feet based off *Case B2: Right Turn from stop on Minor Street* which uses a time gap of 6.5 seconds for passenger cars. The obstruction was the vertical curvature of West Broadway heading towards the intersection and the tree line that spans the southern portion of the West Broadway. The recommended ISD was calculated using the prevailing operating speed of 46 mph. The available distance meets the recommended distance. Table 1 summarizes the sight distance analysis.

| TABLE 1<br>SIGHT DISTANCE MEASUREMENTS<br>West Broadway Condominiums - West Broadway, Gardner, MA |                     |                |                         |          |                             |          |
|---------------------------------------------------------------------------------------------------|---------------------|----------------|-------------------------|----------|-----------------------------|----------|
| Location                                                                                          | Direction of Travel | Observed Speed | Stopping Sight Distance |          | Intersection Sight Distance |          |
|                                                                                                   |                     |                | Recommended             | Existing | Recommended                 | Existing |
| <b>West Broadway at Proposed Driveway</b>                                                         |                     |                |                         |          |                             |          |
|                                                                                                   | Westbound           | 46 mph         | 350 ft                  | > 900 ft | 510 ft                      | 525 ft   |
|                                                                                                   | Eastbound           | 46 mph         | 385 ft                  | 400 ft   | 440 ft                      | 444 ft   |

Notes:

Source: American Association of State Highway and Transportation Officials (AASHTO). 2011. *A Policy on Geometric Design of Highways and Streets*



**FUSS & O'NEILL**

Joanne Tavano  
August 12, 2022  
Page 4

### Safety Analysis

State published vehicle crash history between 2018 and 2021, the most recent verified available years, was analyzed on West Broadway adjacent to the proposed site. Only one crash was reported over the 3-year period, indicating no predominant safety deficiency or concern.

### Site Generated Traffic

The expected site generated traffic volume was calculated using existing empirical data from the Institute of Transportation Engineers (ITE) Trip Generation Web-based App. This publication is an industry-accepted resource for determining trip generation.

Trip generation for the proposed development was estimated based on a fully occupied facility. The land use chosen for this analysis is LUC 215: Single-Family Attached Housing as this category most closely matches the proposed use of the site. A total of 43 occupied dwelling units was used based on information from the applicant. Based on ITE Fitted Curve Equations, the proposed development is estimated to produce 25 trips during the weekday morning peak hour and 29 trips will be generated during the weekday afternoon peak hour. All of these trips will be new trips added to adjacent roadways. Table 2 presents the daily and peak hour trip generation estimates.

| <b>LUC: 215 - Single-Family Attached Housing<br/>(43 housing units)</b> | <b>Enter<br/>(vpd)</b> | <b>Exit<br/>(vpd)</b> | <b>Total<br/>(vpd)</b> |
|-------------------------------------------------------------------------|------------------------|-----------------------|------------------------|
| AM Peak Hour of Generator                                               | 6                      | 19                    | 25                     |
| PM Peak Hour of Generator                                               | 18                     | 11                    | 29                     |
| Weekday 24-Hour                                                         | 155                    | 155                   | 310                    |

### Recommendations

Fuss & O'Neill recommends installing standard 30"x30" W2-2 intersection advanced warning signs 175' in advance of the site driveway on the eastbound approach to inform drivers of the driveway location.





Joanne Tavano  
August 12, 2022  
Page 5

Based on the field observations, site trip estimates and results relating to traffic safety, and with implementation of the recommended improvements, it is the professional opinion of Fuss & O'Neill, Inc. that the proposed West Broadway Condos will not have a significant impact to vehicular movements at the proposed driveway nor exacerbate any pre-existing safety concerns.

Sincerely,

Stephen J. Savaria, PE, PTOE  
Senior Project Manager