FYI

Kim DelNigro

From: Karen Kelleher [planning@stow-ma.gov]
Sent: Friday, December 11, 2009 11:45 AM
To: Kate Hogan; Becky Mattison; Charlie Kern; Kathleen Willis; Michelle Ciccolo Jackson; Nancy West; Roy Miller; Tom Ruggiero; Ken Estabrook; Jennifer Atwood Burney; Liz Allard; Elizabeth Hughes; Planning Department; Jennifer Burke; Jody Kablack; Marcia Rising; Terri Cole; Pat Perry (Work); Susan McLaughlin; Mike Kopczynski
Cc: Bruce Fletcher; Donna Jacobs; Ernie Dodd; Kristen Domurad; Laura Spear; Leonard Golder; Lori Clark; Lori Clark - Home; Malcolm FitzPatrick; Steve Quinn; Susan E. Carter (Littleton); Victoria Fletcher; Town Clerk
Subject: RE: Senator Eldridge Meeting with the Stow Planning Board RE: LUPA and CPA-2

Attachments: 2009-09 Ltr to Senator and Rep LUPA-CPAII%20letter.pdf; 2009-09 LUPA_CPAII_%20Planning%20Board%20Comments.pdf

2009-09 Ltr to Senator and Rep...

2009-09 _CPAII_%20Planni

Senator Eldridge is meeting with the Stow Planning Board on January 5, 2010 at 7:30 pm at the Stow Town Building to discuss the Board's concerns about LUPA and CPA-2 as outlined in the attached letter to Senator Eldridge and Representative Hogan.

Your participation in this meeting is welcome.

Please RSVP to Kristen Domurad at planning2@stow-ma.gov so that we can be sure to reserve a room large enough to accommodate everyone.

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Senator James B. Eldridge
State House
Room 213-A
Boston, MA 02133

Representative Kate Hogan
State House
Room 33
Boston, MA 02133

Dear Senator Eldridge and Representative Hogan:

We are writing to voice concern about the proposed Land Use Partnership Act (LUPA) and Community Planning Act 2 (CPA-2).

The Stow Planning Board has spent a significant amount of time reviewing both documents and has grave concerns about both proposals, especially LUPA, as it diminishes home rule and creates two sets of legislature (Opt-in Communities and Opt-out Communities), and forces development whether or not a market demand exists. Furthermore, Stow is a community with private water and septic; this lack of infrastructure and the cost of installing such, could prevent the Town of Stow from becoming an Opt-in Community.

In addition to the following general comments we are also providing the attached document outlining our concerns relative to specific sections.

- LUPA appears to favor developers and removes local control of how development occurs in individual communities. It appears to be based on the concept that there are not enough jobs because there is not enough housing. It requires a housing production plan showing an increase in "as of right" (No Special Permit) housing by 5% per year, not including age restricted, bedroom restricted, or 40B developments. LUPA will increase local costs, will reduce local land use authority and significantly increase the build-out of communities.

- Both proposals encourage housing, but there was no effort to look at Chapter 40B. We are also concerned about a mandate to create housing with no regard to whether the market exists.

- Both proposals require a Master Plan, which would require considerable cost on the part of some communities. The Master Plan should be a forward looking document whereas Zoning Bylaws are a current document, if both are completely aligned the Master Plan would no longer function as the goals for the town, rather the status quo. In addition LUPA allows for impact fees only in accordance with and proportional to a Capital Improvement Plan, the requirements of which are substantial and would require additional staffing in smaller communities.

- Both proposals require Regional Planning Agency approval of Master Plans. We are concerned that the Regional Planning Agency may not always have the best interest of Stow in mind because of the diversity of each community in the region.

- Many of the benefits of LUPA only apply to communities who adopt a Master Plan that is certified by the Regional Planning Agency. This one-size-fits all approach is not feasible, as it would be impossible for small communities, such as Stow, with no infrastructure to receive certification. Those communities would not obtain priority for State infrastructure spending and grant programs or be able to implement all of the innovative zoning techniques; would not have the grandfather protection time reduced from 8 to 3 years and would not be allowed to have Rate of Growth Development bylaws on two acres or more single family residence zoning. LUPA also would nullify Site Plan Review Bylaws and be replaced with LUPA Site Plan Review provisions one year after LUPA is implemented. Local site plan review allows Towns to address context-specific project impacts and should be continued.

- LUPA will: change the ground rules for development review; eliminate local ability to require developers to provide off-site mitigation for housing and commercial projects; and reduce the review authority of communities over most development proposals. These changes could be detrimental to local government and abutters; may increase local costs; and greatly reduce local land use authority.

Although many of the provisions of CPA II are more reasonable for a small community such as Stow, we strongly urge you to oppose both of these proposals and urge you to work with communities to address concerns raised before moving forward with either proposal. If possible we would like the opportunity to meet with you to review our concerns of the items in the attached document.

Sincerely,

Stow Planning Board

Kathleen Willis
Ernest Dodd
Stephen Quinn
Leonard Golder
Lori Clark

Cc: Town of Stow Board of Selectmen
Metropolitan Area Planning Council

LUPA and CPAII CHANGES
CH 41 81L, CH 40A

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
CHAPTER 41				
CHAPTER 41: SECTION 81L. DEFINITIONS	ADDS DEFINITIONS: "CERTIFIED PLAN COMMUNITY" AND "MINOR SUBDIVISION REVIEW", "CERTIFIED PLAN COMMUNITY", AND AMENDS DEFINITION FOR SUBDIVISION TO INCLUDE REFERENCE TO CERTIFIED PLAN COMMUNITY AND MINOR SUBDIVISION REVIEW	VIRUTALLY IMPOSSIBLE FOR COMMUNITIES SUCH AS STOW TO BECOME A CPC AND PENALIZES THOSE WHO DON'T. MINOR SUBDIVISION REVIEW ONLY APPLIES TO CERTIFIED COMMUNITIES.	AMENDS DEFINITION OF "SUBDIVISION" AND CREATED NEW STREAMLINED DEFINITION	
CHAPTER 41: SECTION 81M. PURPOSE OF LAW	NO CHANGE		ADDED LANGUAGE: *"AND FOR THOSE ASPECTS OF A PLAN ADOPTED BY THE CITY OR TOWN UNDER SECTION 81D OF THIS CHAPTER WHICH ARE PARTICULAR TO THE SUBDIVISION OF LAND"*	
CHAPTER 41: SECTION 81O. REGULATION OF NEW SUBDIVISIONS	NO CHANGE		CLARIFIES REGULATION OF NEW SUBDIVISIONS AND SPECIFIES WHEN A PLAN IS DEEMED SUBMITTED AS THE DATE OF A PLANNING BOARD MEETING	
CHAPTER 41: SECTION 81P. APPROVAL OF PLANS NOT SUBJECT TO CONTROL LAW; PROCEDURE	NO CHANGE (See Chapter 41 Section 81.L definition above)	ADDS MINOR SUBDIVISION REVIEW FOR CERTIFIED COMMUNITIES, SEE COMMENT ABOVE	REMOVES ANR PLAN PROVISISIONS AND ADDS MINOR SUBDIVISION REVIEW.	THIS PROVISION APPLIES TO ALL COMMUNITIES AS OPPOSED TO ONLY CERTIFIED COMMUNITIES UNDER LUPA

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
CHAPTER 41: SECTION 81Q. PLANNING BOARD; ADOPTION OF RULES AND REGULATIONS	REQUIRES THAT RULES AND REGULATONS BE CONSISTENT WITH OTHER MUNICIPAL BOARD REGULATIONS AND REQUIRMENTS. PROHIBITS MITIGATION FEES EXCEPT UNDER CHAPTER 40A, SECTION D.	WHICH BOARDS RULES AND WHICH REGULATIONS TAKE PRECEDENCE? SMALL TOWNS SUCH AS STOW DO NOT HAVE THE STAFF TO COMPLY WITH REQUIREMENTS OF CHAPTER 40A, SECTION D.	ADDS REBUTTABLE PRESUMPTION ON REQUIREMENTS THAT ARE MORE EXCESSIVE FOR DISTRICTS WITH LOT SIZE OF 40,000 SQ. FT. VS. 20,000 SQ. FT. ADDS AUTHORITY TO REQUIRE PARKS FOR PLAYGROUNDS AND RECREATION. PROVIDES AUTHORITY TO REQUIRE AFFORDABLE HOUSING HAVE 25% AFFORDABLE HOUSING REGUALTIONS ADDS AUTHORITY FOR INCLUSIONARY ZONING. REQUIRES RULES AND REGULATIONS TO BE CONSISTENT WITH MASTER PLAN.	DO NOT SUPPORT THE REQUIREMENT FOR RULES AND REGULATIONS TO BE CONSISTENT WITH THE MASTER PLAN.
CHAPTER 41: SECTION 81T. NOTICE OF SUBMISSION OF PLAN; HEARING	NO CHANGE		DELETED: *"OR FOR A DETERMINATION THAT APPROVAL IS NOT REQUIRED"*	
CHAPTER 41: SECTION 81U. APPROVAL, MODIFICATION OR DISAPPROVAL OF PLAN BY BOARD; PREREQUISITES FOR DECISION	NO CHANGE		ADDS REQUIREMENT FOR PERFORMANCE GUARANTEE PRIOR TO PLAN ENDORSEMENT. PROVIDES AUTHORITY TO "REQUIRE" PARKS RATHER THAN SET ASIDE AN AREA FOR THREE YEARS.	THE STOW PLANNING BOARD STRONGLY AGREES WITH THIS CHANGE
CHAPTER 41: SECTION 81X. REQUIREMENTS FOR REGISTRATION OF PLAN	NO CHANGE		DELETES REFERENCE TO SECTION 81 P. (ANR PLANS) AMENDS LANGUAGE REGARDING PLANS RECORDED WITH THE REGISTRY OR LAND COURT FOR PLANS CONFIRMING TITLE.	

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
CHAPTER 41: SECTION 81BB. APPEAL TO SUPERIOR COURT; COUNCIL; COSTS;SURETY OR BOND;SPEEDY TRIAL	CHANGED LANGUAGE PERTAINING TO COURT HEARINGS ASSUMING BOARDS DECISION UNLESS THEY ABUSED ITS DISCRETION		NO CHANGE	TOWN COUNSEL TO REVIEW?
CHAPTER 40A: SECTION 1A. DEFINITIONS	*ADDED DEFINITION FOR "DECLARATION OF DEVELOPMENT INTENT" "DEVELOPMENT IMPACT FEE" and "SITE PLAN REVIEW"	DO NOT SUPPORT DECLARATION OF DEVELOPMENT INTENT - ALLOWS PROTECTION FROM ZONING CHANGES BASED ON A SIMPLE LETTER. DEVELOPMENT IMPACT FEE IS SUBJECT TO THE PROVISIONS OF 40A, SECTION 9 WHICH ARE OVER-BURDENING FOR SMALL COMMUNITIES.	ADDED DEFINITION FOR "DEVELOPMENT IMPACT FEE" AND RATE OF DEVELOPMENT"	DEVELOPMENT IMPACT FEE IS SUBJECT TO THE PROVISIONS OF 40A, SECTION 9 WHICH ARE OVER-BURDENING FOR SMALL COMMUNITIES DUE TO THE LACK OF PROFESSIONAL STAFF
CHAPTER 40A: SECTION 2. REPEALED, 1987, 685, SEC. 2	NO CHANGE		CHANGED TITLE OF SECTION TO: 40A:2. *" CONSTRUCTION AND PURPOSE"* , ALSO ADDED NEW SECTION GIVING TOWNS MORE AUTHORITY WITH "HOME RULE"	STOW PLANNING BOARD SUPPORTS THIS CHANGE, IT WILL HELP PRESERVE TOWNS' UNIQUE CHARACTER IT IMPLIMENTS MANY POSITIVE HOME RULE PROVISIONS
CHAPTER 40A: SECTION 3. SUBJECTS WHICH ZONING MAY NOT REGULATE;EXEMPTIONS; PUBLIC HEARINGS; TEMPORARY MANUFACTURED HOME RESIDENCES	CLARIFIES THAT NO ZONING ORDINANCE OR BY-LAW SHALL REGULATE OR RESTRICT THE MINIMUM INTERIOR OF A SINGLE FAMILY RESIDENTIAL BUILDING. ADDED THE USE OF DIAGRAMS/TEXT BY USING TEXT AND DIAGRAMS IN ZONING ORDINANCE	THE STOW PLANNING BOARD SUPPORTS THIS CHANGE, IT ALLOWS FOR CONTROL OVER THE MAXIMUM SQ. FT. AND SUPPORTS FORM BASED ZONING WITH THE USE OF TEXT AND DIAGRAMS	CLARIFIES THAT NO ZONING ORDINANCE OR BY-LAW SHALL REGULATE OR RESTRICT THE MINIMUM INTERIOR OF A SINGLE FAMILY RESIDENTIAL BUILDING.	

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
CHAPTER 40A: SECTION 4. UNIFORM DISTRICTS	NO CHANGE		ADDS PROVISION FOR ZONING DISTRICT REQUIREMENTS TO NOT BE UNIFORMLY APPLICABLE PROIVDED THE BYLAW STATES A VALID PLANNING OR ZONING BASIS RATIONALLY RELATED TO CHARACTERISTICS OF SUCH STRUCTURES OR USES.	
CHAPTER 40A: SECTION 5. ADOPTION OR CHANGE OF ZONING ORDINANCES OR BY-LAWS; PROCEDURE	*CHANGED ZONING ORDINANCE AMENDMENT VOTING RULES: AMENDED THE VOTE TO MAJORITY INSTEAD OF THE CURRENT TWO THIRDS VOTE. (UNLESS TOWN HAS A MAJORITY VOTE TO VOTE FOR TWO-THIRDS VOTING)	SHOULD KEEP 2/3RDS VOTE AS A MGL REQUIREMENT, ZONING CHANGES ARE SIGNIFICANT TO THE TOWN AND A SIMPLE MAJORITY WOULD NOT BE AN APPROPRIATE FORM TO VOTE BY	*CHANGED ZONING ORDINANCE AMENDMENT VOTING RULES: AMENDED THE VOTE TO MAJORITY INSTEAD OF THE CURRENT TWO THIRDS VOTE. (UNLESS TOWN HAS A MAJORITY VOTE TO VOTE FOR TWO-THIRDS VOTING) *REQUIRES 2/3 VOTE OF LEGILSATIVE BODY EXCEPT IF A LESSER MAJORITY IS PRESCRIBED IN ZONING BYLAW TO CONSIDER A ZONING AMENDMENT, WHICH HAS BEEN UNFAVORABLE ACTED UPON, WITHIN TWO YEARS. *REQUIRES ZONING BYLAW TO BE CONSISTENT WITH MASTER PLAN * ADDS PROVISION FOR REBUTTABLE PRESUMPTION IN ACTION, SUIT, OR ADMINSITRATIVE PROCEEDINGS THAT ITS PROVISIONS ARE NOT CONSISTENT WITH THE PLAN.	DO NOT SUPPORT THE REQUIREMENT FOR ZONING TO BE CONSISTENT WITH THE MASTER PLAN *THE STOW PLANNING BOARD PERFERS THE ATTORNEY GENERAL CONTINUE REVIEWING ZONING BYLAWS AS ANOTHER LEVEL OF REVIEW AND CHECKS AND BALANCES *MASTER PLANS SHOULD BE FORWARD LOOKING DOCUMENTS, ZONING BYLAWS ARE CURRENT DOCUMENTS, HAVING THEM ALIGNED WOULD BE VERY DIFFICULT AND DEFEAT THE PURPOSE OF A FORWARD LOOKING PLAN

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
CHAPTER 40A: SECTION 6. EXISTING STRUCTURES, USES, OR PERMITS;CERTAIN SUBDIVISION PLANS; APPLICATION OF CHAPTER	*STATES CONSTRUCTION OR OPERATIONS UNDER A SPECIAL PERMIT OR SITE PLAN APPROVAL SHALL CONFORM TO AMENDMENT TO ZONING IF CONSTRUCTION IS NOT COMMENCED WITHIN TWO YEARS OF ISSUANCE OF A PERMIT - DEFINES CONSTRUCTION INVOLVING THE REDEVELOPMENT OF A PREVIOUSLY DISTURBED LAND *DELETE REFERENCE TO DEFINITIVE/PRELIMINARY PLANS, ADDS NEW LANGUAGE WITH TRANSISITON RULES WITH VESTING PERIOD OF 2 YEARS FOR CERTIFIED COMMUNITIES.	HOW IS "SUBSTANTIAL INVESTMENT" DETERMINED? SMALL COMMUNITIES THAT ARE UNABLE TO BE CERTIFIED ARE PENALIZED, THE CHANGE IN VESTING PERIOD APPLIES ONLY TO CERTIFIED COMMUNITIES. DECLARATION OF DEVELOPMENT INTENT MAKES IT TOO EASY FOR A DEVELOPER TO BE VESTED.	DELETES SECTION 6 IN ITS ENTIRETY AND PROPOSES A NEW SECTION 6A, WHICH OFFERS PROVISION FOR NON CONFORMING LOTS, STRUCTURES AND USES	*PROVIDE A BETTER DEFINITION FOR THE TERM ABANDONMENT *SUPPORT THE CHANGE IN VESTING PERIOD THAT IS NOT TIED TO A CERTIFIED PLAN.
CHAPTER 40A: SECTION 7. ENFORCEMENT OF ZONING REGULATIONS; VIOLATIONS; PENALTIES; JURISDICTION OF SUPERIOR COURT			ADDED: *" EXCEPT THAT SUCH STRUCTURES SHALL NOT BE DEEMED TO BE A PROTECTED NONCONFORMING STRUCTURE UNDER SECTION 6A OF THIS CHAPTER UNLESS SUCH STATUS IS SPECIFICALLY PROVIDED FOR IN THE ZONING ORDINANCE OR BY-LAW"*	
ADDED CHAPTER 40A: SECTION 7A. SITE PLAN REVIEW	PROVIDES FOR SITE PLAN REVIEW. APPROVAL IS BY SIMPLE MAJORITY. DECISION DUE WITHIN 90 DAYS FROM DATE OF FILING. OFF SITE MITIGATION IS LIMITED TO FEE ONLY	*90 DAYS IS NOT SUFFICIENT TIME, TO ADDRESS ISSUES IN MANY APPLICATIONS. PLANS OFTEN ARE NOT IN COMPLIANCE WITH THE BYLAWS *THE STOW PLANNING BOARD OBJECTS TO THE CHANGE IN MITIGATION, THE TOWN OFTEN USES THIS AS A TOOL	PROVIDES FOR SITE PLAN REVIEW. APPROVAL IS BY SIMPLE MAJORITY. TIMELINE FOR DECISION TO BE PRESCRIBED BY BYLAW - NOT TO EXCEED TIME LIMITS FOR SPECIAL PERMITS.	THE STOW PLANNING BOARD SUPPORTS THESE CHANGES

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
CHAPTER 40A: SECTION 9. SPECIAL PERMITS	AMENDS LANGUAGE PROVIDING FOR TRANSFER OF DEVELOPMENT RIGHTS AMENDS LANGUAGE FOR CLUSTER DEVELOPMENT, AUTHORIZING PROCEEDING AS-OF-RIGHT, UNLESS THE OPEN LAND IS SUBJECT TO CONSERVATION OR AGRICULTURAL RESTRICTION * CHANGED EXPIRATION LENGTH OF SPECIAL PERMITS TO: **NOT LESS THAN TWO YEARS** AND CAN BE INCREASED		AMENDS LANGUAGE PROVIDING FOR TRANSFER OF DEVELOPMENT RIGHT OF LAND WITHIN OR BETWEEN DISTRICTS **AND ADDED** PERMITTING A TRANSFER OF DEVELOPMENT RIGHTS OF LAND IF THEY HAVE ADOPTED COMPLIMENTARY ORDINANCES *DELETED BEGINING OF OLD DEF. FOR CLUSTER DEVELOPMENT, AMENDED WITH: "MEANS A RESIDENTIAL DEVELOPMENT IN WHICH REDUCED DIMENSIONAL REQUIRMENTS ALLOW THE DEVELOPED AREAS TO BE CONCENTRATED IN ORDER TO CREATE PERMANENTLY PRESERVED OPEN LANDS ELSEWHERE ON THE PLOT".... *CHANGED SPECIAL PERMIT VOTING RULES: 2/3RDS, IF MORE THAN 5 MEMBERS, A VOTE OF AT LEAST 4 OF THE 5 MUST AGREE, IF LESS THAN 4 MEMEBERS MUST BE A UNANIMOUS VOTE *DELETED EXPIRATION LENGTH OF SPECIAL PERMIT, KEPT DURATION LENGTH OF **NO MORE THAN TWO YEARS** BUT IT CAN BE INCREASED ALSO THE GRANTING AUTHORITY MAY APPROVE OR EXTEND A SPECIAL PERMIT WITHOUT A PUBLIC HEARING	THE STOW PLANNING BOARD DOES NOT SUPPORT EXTENDING A SPECIAL PERMIT WITHOUT A PUBLIC HEARING

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
CHAPTER 40A: SECTION 9D. DEVELOPMENT IMPACT FEE	ADDED (a) 1 AUTHORITY: DEVELOPMENT IMPACT FEE MAY ONLY BE IMPOSED ON:CONSTRUCTION, ENLARGEMENT, EXPANSION, SUBSTANTIAL REHABILITATION, OR CHANGE OF USE OF A DEVELOPMENT, MONEY MAY ONLY BE USED TO COMPENSATE FOR TOWN CAPITAL INFRASTRUCTURE *ADDED: CAPITAL INFRASTRUCTURE DOES NOT INCLUDE LIBRARY, MUNICIPAL OFFICES, PARKS, CHILD CARE, TRAFFIC	SCHOOLS, PUBLIC SAFETY FACILITIES AND MUNICIPAL OFFICES SHOULD NOT BE EXCLUDED.	ADDED (a) 1 AUTHORITY: DEVELOPMENT IMPACT FEE MAY ONLY BE IMPOSED ON:CONSTRUCTION, ENLARGEMENT, EXPANSION, SUBSTANTIAL REHABILITATION, OR CHANGE OF USE OF A DEVELOPMENT, MONEY MAY ONLY BE USED TO COMPENSATE FOR TOWN CAPITAL INFRASTRUCTURE *ADDED:CAPITAL INFRASTRUCTURE CAN INCLUDE ALL THAT LUPA DOES NOT AND THERE IS ALLOWANCE FOR "OTHER CAPITAL IMPROVEMENTS"	THE STOW PLANNING BOARD SUPPORTS THE PROVISION REGAURDING DEVELOPMENT IMPACT FEES
	ADDED (2) TOWNS MAY IMPOSE OTHER FEES OR REQUIREMENTS FOR MITIGATION OF DEVELOPMENT		ADDED (2) TOWNS MAY IMPOSE OTHER FEES OR REQUIREMENTS FOR MITIGATION OF DEVELOPMENT	
	ADDED (b) LIMITATIONS (1)DEVELOPMENT IMPACT FEES CAN NOT BE IMPOSED ON ANY DWELLING UNIT THAT IS SUBJECT TO AN AFFORDABLE HOUSING RESTRICTION (2) THE FEE MAY NOT BE USED FOR PERSONNEL COSTS		ADDED (b) LIMITATIONS (1)DEVELOPMENT IMPACT FEES CAN NOT BE IMPOSED ON ANY DWELLING UNIT THAT IS SUBJECT TO AN AFFORDABLE HOUSING RESTRICTION (2) THE FEE MAY NOT BE USED FOR PERSONNEL COSTS	
	ADDED (C) REQUIREMENTS (1) BEFORE A DEVELOPMENT IMPACT FEE IS ENACTED, THE TOWN MUST COMPLETE A STUDY THAT ESTIMATES THE IMPACT OF THE DEVELOPMENT, AND MUST BE UPDATED. (4) THE FEE MAY NOT BE ASSESSED MORE THAN ONCE OR OFFSET BY ANY FEDERAL GRANTS OR CONTRIBUTIONS OR MITIGATION COMMITMENTS MADE BY THE APPLICANT	THIS WOULD CREATE A FINACIAL HARDSHIP FOR SMALL TOWNS	ADDED (C) REQUIREMENTS (1) BEFORE A DEVELOPMENT IMPACT FEE IS ENACTED, THE TOWN MUST COMPLETE A STUDY THAT ESTIMATES THE IMPACT OF THE DEVELOPMENT, AND MUST BE UPDATED. (4) THE FEE MAY NOT BE ASSESSED MORE THAN ONCE OR OFFSET BY ANY FEDERAL GRANTS OR CONTRIBUTIONS OR MITIGATION COMMITMENTS MADE BY THE APPLICANT	THIS WOULD CREATE A FINANCIAL HARDSHIP FOR SMALL TOWNS

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
	ADDED (d) ADMINISTRATION (1) A DEVELOPMENT IMPACT FEE MAY BE WAIVED IF THE DEVELOPMENT FURTHERS A PUBLIC PURPOSE, IN EQUITABLE MEASURE OF THE IMPACT (4) LIMITS THE AMOUNT FOR FUNDS NOT EXPENDED FOR **5 YEARS**	THE REQUIRED STUDY AND MAINTENANCE TIMELINE FOR EXPENDITURE OF FEE IS BURDENSOME TO SMALL TOWNS. 5 YEARS IS AN ALMOST IMPOSSIBLE TIME FRAME	ADDED (d) ADMINISTRATION (1) A DEVELOPMENT IMPACT FEE MAY BE WAIVED IF THE DEVELOPMENT FURTHERS A PUBLIC PURPOSE, IN EQUITABLE MEASURE OF THE IMPACTS (4) LIMITS THE AMOUNT FOR FUNDS NOT EXPENDED FOR **10 YEARS**	THE REQUIRED STUDY AND MAINTENANCE TIMELINE FOR EXPENDITURE OF FEE IS BURDENSOME TO SMALL TOWNS. ALTHOUGH THE TIMELINE FOR EXPENDITURE OF FEES IS 10 YEARS AS OPPOSED TO 5 YEARS UNDER LUPA - IT IS STILL BURDENSOME
CHAPTER 40A: SECTION 9E. LAND USE DISPUTE AVOIDANCE	NO COMPARABLE PROVISION		(A) IN ORDER TO AVOID OR MINIMIZE DISPUTES APPLICANTS MAY REQUEST A CONFLICT ASSESSMENT BY A FACILITATOR	NOT FEASIBLE FOR SMALL TOWNS, THIS IS AN ARBITRARY PROCESS THAT LETS DEVELOPERS PUSH THEIR AGENDA AS OPPOSED TO THE PLANNING BOARD
CHAPTER 40A: SECTION 9F, RATE OF DEVELOPMENT	NO COMPRARABLE PROVISION		PROVIDES FOR RATE OF DEVELOPMENT BYLAWS	THE STOW PLANNING BOARD SUPPORTS THIS AS LONG AS THERE ARE NO LIMITS PLACED ON THE TOWN, THE TOWN WOULD LIKE TO BE ABLE TO SPECIFY A RATE OF DEVELOPMENT
CHAPTER 40A: SECTION 9G, AFFORDABLE HOUSING	**LUPA ENCOURAGES AFFORDABLE HOUSING BUT THERE IS NO COMPARABLE PROVISION, AND DOES NOT ALLOW FOR ANY INCENTIVES**		(A) TOWNS CAN PROVIDE INCENTIVES FOR APPLICANTS TO PROVIDE AFFORDABLE HOUSING (B) TOWNS CAN ALLOW APPLICANTS TO GIVE PAYMENT FOR OFF-SITE AFFORDABLE HOUSING UNITS INSTEAD OF BUILDING THEM, FOR THE TOWN TO DEDICATE FOR AFFORDABLE HOUSING	

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
CHAPTER 40A: SECTION 10. VARIANCES	NO CHANGE		DELETED ALL OF SECTION 10, AMENDED LANGUAGE/RULES *ADDED THE PERMIT GRANTING AUTHORITY MAY TAKE INTO CONSIDERATION IF THE HARDSHIP IS SELF-CREATED *CHANGED THE EXPIRATION DATE ON THE VARIANCE IF NOT EXERCISED, FROM 1 YEAR TO 2 YEARS, EXTENSIONS MAY BE GRANTED, BUT NEEDS TO BE FILED 65 DAYS BEFORE END OF 2ND YEAR *THE VARIANCE SHOULD NOT HAVE AN UNDESIRABLE EFFECT ON NEARBY PROPERTIES	THE EXISTING MGL BYLAW LANGUAGE SHOULD BE RETAINED
CHAPTER 40A: SECTION 17. JUDICIAL REVIEW	NO CHANGE		ADDED SECTION ON THE USE OF MEDIATION TO RESOLVE ZONING APPEALS	THERE IS ALREADY A PROVISION THAT EXISTS
CHAPTER 41: 81D. MASTER PLAN; ECONOMIC DEVELOPMENT SUPPLIMENT	MASTER PLAN - NO CHANGE		THE LAND USE AND ZONING PLAN SHALL BE INTERNALLY CONSISTENT IN ITS POLICIES, FORECASTS AND STANDARDS. IT SHALL UNDERLIE A CITY OR TOWN'S ZONING BYLAWS AND SUBDIVISION REGULATIONS, *MORE SPECIFIC RULES FOR TAKING HOUSING INVENTORY AND CREATING A DIVERSITY OF HOUSING ADDS AN ENERGY COMPONENT: EXPLORING LOCALLY-FEASIBLE LAND USE STRATEGIES TO MAX. ENERGY EFFICIENCY, RENEWABLE ENERGY, CONSERVATION	*LEAVE THE MASTER PLAN SECTION AS IS AND USE THE CPAII CHANGES LISTED HERE AS SUGGESTIONS FOR TOWNS TO INCORPORATE *CONCERN THAT REGIONAL PLANNING AGENCIES MAY NOT ALWAYS HAVE THE BEST INTEREST OF THE SMALL TOWNS AND MORE SO FOR THE REGION *DIFFICULT TO COORDINATE WHEN MASTER PLAN IS A FORWARD LOOKING DOCUMENT

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
			SUPPORTS THE REVITALIZATION OF TOWN CENTERS AND PROMOTES COMPACT DEVELOPMENT, CONSERVATION OF LAND, PROTECTING HISTORIC RESOURCES, INERGRATING USES AND COORDINATING HOUSING WITHIN AREAS OF LOCAL JOBS. ENCOURAGES PEDESTRIAN FRIENDLY DISTRICTS AND NEIGHBORHOODS THAT ARE MIXED WITH COMMERCIAL, CIVIC, CULTURAL, EDUCATIONAL, AND RECREATIONAL USES ALONG WITH OPEN SPACE. CREATING A TIME HORIZON ENCOMPASSING MEASURES OF POP. DENSITY, RATE OF DEVELOPMENT AND A METHOD TO DETERMINE AN APPROPRIATE RATE TO ISSUE PERMITS CONTAINS AN IMPLIMENTATION PROGRAM ELEMENT THAT DEFINES AND SCHEDULES THE SPECIFIC MUNICIPAL ACTIONS NECESSARY TO ACHIEVE THE OBJECTIVES OF EACH ELEMENT ANY REQUIRED OR SELECTED OPTIONAL ELEMENT ABOVE SHALL INCLUDE A SELF ASSESSMENT AGAINST A REGIONAL PLAN ADOPTED BY THE REGIONAL PLANNING AGENCY UNDER SECTION 5 OF CHAPTER 40B AND IN EFFECT, IF ANY.	

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
			PLAN SHALL BE MADE OR ALTERED BY A SIMPLE MAJORITY VOTE BY THE PLANNING BOARD AFTER A PUBLIC HEARING. CAN ONLY USE A TWO-THIRDS VOTE WHEN VOTING ON THE LEGISLATIVE BODY OR TO ALTER THIS PLAN INORDER TO BE IN COMPLIANCE, THE PLAN SHOULD BE CERTIFIED BY THE REGIONAL PLANNING AGENCY AND ADOPTED BY THE TOWN	VOTES SHOULD BE 2/3RDS
CHAPTER 40T. LAND USE PARTERNSHIP ACT (REQUIREMENTS FOR LUPA OPT IN PLAN COMMUNITIES)	PROCESS OF CERTIFICATION: SUBMIT PLAN TO REGIONAL PLANNING AGENCY TO DETERMINE COMPLIANCE WITH MINIMUM STANDARDS FROM SECTION 5, THE AGENCY WILL EITHER CERTIFY OR DENY THE PLAN, THEN THE PLAN MAY BE ADOPTED BY THE TOWN'S LEGISLATIVE BODY WITH A SIMPLE MAJORITY VOTE	PLACES EXTREME RESTRICTIONS ON HOME RULE AND FORCES DEVELOPMENT WHETHER A MARKET DEMAND EXISTS OR NOT.	NO COMPARABLE CHANGE	

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
SECTION 5. MINIMUM STANDARDS FOR CONSISTENCY OF PLAN WITH THE COMMONWEALTH'S LAND USE OBJECTIVES	THE FIVE STANDARDS ARE AS FOLLOWS FOR THE PLAN: (A) PROMPT AND PREDICTABLE PERMITTING OF COMMERCIAL/INDUSTRIAL DEV. WITH ONE OR MORE ECONOMIC DEV. DISTRICTS, (B) AS WELL AS FOR RESIDENTIAL DEVELOPMENT; RESIDENTIAL DEVELOPMENT DISTRICTS SHOULD ACCOMMODATE A MULTITUDE OF DIVERSITY HOUSING UNITS AND CAN BE RESTRICTED FOR AGE ETC. C. ANY ZONING DISTRICT REQUIRING MIN. LOT AREA OF FORTY THOUSAND SQUARE FT. OR MORE FOR SINGLE FAMILY RESIDENTIAL DEV. , THE DEVELOPMENT OF FIVE OR MORE NEW HOUSING UNITS UTILIZE OPEN SPACE RESIDENTIAL DESIGN- EXCEPT IF THIS IS NOT FEASIBLE. D. ALL DEVELOPMENT THAT DISTURBS GREATER THAN ONE ACRE OF LAND (INCLUDING AS OF RIGHT) MUST UTILIZE LOW IMPACT DEVELOPMENT TECHNIQUES. E. PROMPT AND PREDICTABLE PERMITTING OF RENEWABLE OR ALTERNATIVE ENERGY GENERATING FACILITIES, RESEARCH AND DEVELOPMENT FACILITIES, AND MANUFACTURING FACILITIES WITHIN ONE OR MORE ZONING DISTRICTS THAT ARE ELIGIBLE LOCATIONS.	NOT APPROPRIATE FOR SMALL COMMUNITIES WITH NO INFRASTRUCTURE (WATER AND SEWER) SMALL COMMUNITIES COULD NOT MEET THE REQURIEMETN FOR REHABILITATION OF HOMES NEAR JOBS, INFRASTRURED AND TRANSPORTATION OPTIONS, AS THESE COMMUNITIES HAVE FEW JOBS AND LIMITED INFRASTRUCTURE TO ATTRACT BUSINESSES OR A TRAIN STOP. MOST REGULATORY AND PERMITTING PROCESS ARE CLEAR AND PREDICTABLE - THE PROCESS IS STREAMLINED WHEN THE APPLICANT CHOSES TO SUBMITT A COMPLETE AND ACCURATE APPLICATION. SMALL COMMUNITIES COULD NOT BE AN "ELIGIBLE COMMUNITY". TARGET OF 5% IS NOT APPROPRIATE FOR SMALL COMMUNITIES - THE MARKET DICTATES HOUSING NEEDS. *PROMPT AND PREDICTABLE PERMITTING EXISTS IF THE APPLICANT CHOOSES TO SUBMIT A COMPLETE AND ACCURATE APPLICATION.		
	**THIS STANDARD (SEC.5) MAY BE WAIVED/MODIFIED BY THE REGIONAL PLANNING AGENCY IF THERE IS A LACK OF WATER SUPPLY AND/ OR WASTEWATER INFRASTRUCTURE WITHIN A TOWN-PROVIDED THAT THEY MAY BE REQUIRED TO PARTICIPATE IN ANY REGIONAL HOUSING PLAN ESTABLISHED BY THE REGIONAL PLANNING AGENCY **			

CHAPTER CHANGES	LUPA	*COMMENTS*	CPAII	*COMMENTS*
SECTION 6. CERTIFICATION AND ADOPTION OF IMPLEMENTING REGULATIONS	BEFORE OR AFTER THE ADOPTION OF THE CERTIFIED PLAN, THE TOWN MAY PREPARE IMPLEMENTING REGULATIONS. THEY WOULD BE PUT IN EFFECT BY THE INTERAGENCY PLANNING BOARD, AND SHALL INCLUDE AT LEAST ONE MODEL PROVISION FOR EITHER OPEN SPACE, RESIDENTIAL DESIGN, LOW IMPACT DEV., OR CLEAN ENERGY FACILITIES. (b) REGULATIONS SHOULD BE SUBMITTED TO THE REGIONAL PLANNING AGENCY FOR CERTIFICATION. THEY WILL DETERMINE, WITHIN 90 DAYS IF THEY ARE CONSISTENT WITH THE CERTIFIED PLAN, TOWNS MAY RE-SUBMIT AT ANY TIME WITH MODIFIED PLANS THAT ADDRESS THE ISSUES BROUGHT FORTH BY THE REGIONAL AGENCY (c) ONCE THE PLAN IS CERTIFIED BY THE REGIONAL PLANNING AGENCY, THE TOWN MAY ADOPT THE PLAN BY A SIMPLE MAJORITY VOTE THROUGH ITS LEGISLATIVE BODY. THE DATE OF ADOPTION IS THE "MUNICIPALITY'S EFFECTIVE DATE" OF BECOMING A CERTIFIED PLAN COMMUNITY.	*SMALL COMMUNTIES WITHOUT INFRASTRUCTURE CANNOT PROVIDE A "RESIDENTIAL DEVELOPMENT DISTRICT". *SMALL COMMUNITIES ARE UNABLE TO BE CONSISTENT WITH REGIONAL PLANS OR GUIDANCE - UNLESS THOSE REGIONAL PLANS RECOGNIZE SMALL COMMUNITIES CANNOT FIT INTO THE SAME CATEGORIES OF LARGE CITIES.		
	DISCRETIONARY FUNDS WILL BE ALLOCATED TO CERTIFIED COMMUNITIES FOR LOCAL INFRASTRUCTURE IMPROVEMENTS; GIVING PRIORITY TO THOSE IMPROVEMENTS IDENTIFIED IN THEIR CERTIFIED PLAN.			