



OLD NORTH BRIDGE

TOWN OF CONCORD

TOWN HOUSE - P.O. BOX 535
CONCORD, MASSACHUSETTS 01742

MCI Concord Advisory Board Agenda

Monday, September 15, 2025 at 12:00 PM

Town House, 22 Monument Square
Select Board Meeting Room and via Zoom

More information on the MCI Concord Redevelopment:

www.mci-concord.org

Join Zoom Meeting

<https://us02web.zoom.us/j/81576196291?pwd=h70I9l3Maprfb0s4a10scJaqkjbCpi.1>

Meeting ID: 815 7619 6291
Passcode: 614038
Dial In: 1-646-931-3860

#	Agenda Item
I.	Call to Order - Clerk of the Meeting
II.	Approve Meeting Minutes - September 2, 2025
III.	Updates from Town Staff and DCAMM Coordination
IV.	Review Additional Deliverables from Agency Landscape + Planning
V.	Reports from Subcommittees
VI.	Report from Select Board
VII.	Public Comment

VIII.	Executive Session under M.G.L. c. 30A, § 21(a)(6) to consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body <i>and not to return to Open Session</i>
IX.	Adjournment

**Times are approximate and subject to change*



The Town of Concord endeavors to make public meetings accessible to all members of the community. To request a meeting accommodation or modification, please contact our ADA Coordinator Jessica Porter at jporter@concordma.gov or at 978-318-3028. Please make any requests for accommodation or modifications at least two (2) business days prior to the scheduled meeting.

**Town of Concord
MCI Concord Advisory Board
Minutes
September 2, 2025**

Pursuant to notice duly filed with the Town Clerk, the MCI Concord Advisory Board convened in a meeting at Concord Municipal Light Plant, Public Meeting Room and via Zoom on Tuesday, September 2, 2025 at 6:00 PM.

Present were: Elizabeth Akehurst-Moore, Scott Bates, John Boynton, Erin Cusker, Dan Gainsboro, Co-Chair, Mark Howell, Peter Lowitt, Patrick McCurdy, Co-Chair, Linda Miller, Emily Rush, and Lee Smith

Also present were: Megan Zammuto, Deputy Town Manager and Alan Cathcart, Director of Public Works

Call to Order

Co-Chair Gainsboro called the meeting to order at 6:00 PM.

Approval of Meeting Minutes

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to approve the meeting minutes of August 4, 2025 and August 18, 2025.

Roll Call Vote:

Ms. Akehurst-Moore – Aye
Mr. Boynton – Aye
Mr. Bates – Aye
Ms. Cusker – Aye
Mr. Gainsboro – Aye
Mr. Howell – Aye
Mr. Lowitt – Aye
Mr. McCurdy – Aye
Ms. Miller – Aye
Ms. Rush – Not yet present
Mr. Smith – Aye

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to approve the Executive Session meeting minutes of August 4, 2025 but to not yet release the minutes.

Roll Call Vote:

Ms. Akehurst-Moore – Aye
Mr. Boynton – Aye
Mr. Bates – Aye
Ms. Cusker – Aye
Mr. Gainsboro – Aye
Mr. Howell – Aye
Mr. Lowitt – Aye

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Mr. McCurdy – Aye
Ms. Miller – Aye
Ms. Rush – Not yet present
Mr. Smith – Aye

Department of Capital Asset Management & Maintenance (DCAMM)
Coordination Updates

Wastewater Treatment Plant Negotiation Updates

- DCAMM has granted an extension of the negotiation process through August 2026.
- The existing WWTP at MCI Concord is a surface water discharge facility, which is a valuable asset for the Town.
- The current state of the WWTP requires approximately \$25 million in investment to refurbish and restore it to its original design capacity of 310,000 gallons per day (GPD).
- Historically, the WWTP has not consistently operated at its 310,000 GPD capacity, but this was due to lack of need, not a fundamental incapacity.
- The collection system and pipe leading from the State's facilities (the Farm, DOT building) to the WWTP are in significant disrepair and will need to be replaced by the state.
- The Town is exploring expanding treatment capacity by utilizing former sand beds on the site for groundwater discharge (similar to a larger-scale leaching field).
- This expansion is crucial because it's not simply about accommodating on-campus redevelopment, but providing additional capacity for the rest of the Town too.
- The expansion aims to reduce the cost per gallon of new capacity for both on-campus and off-campus development, creating a win-win for any development in Town.
- Preliminary estimates suggest an additional 150,000 to 300,000 GPD could be generated through groundwater discharge, bringing the total potential capacity to 460,000 to 610,000 GPD.
- Currently, the Town charges \$44 per gallon for additional capacity, but the actual cost is closer to \$100 per gallon, making the current fee inadequate. Refurbishing the existing 310,000 GPD capacity would cost about \$80-100 per gallon (preliminary estimate). Expanding with groundwater discharge could lead to a lower marginal cost per gallon for the increased capacity.
- A 300-foot buffer around the existing infrastructure is being considered as part of the designated wastewater treatment area. This buffer is based on New England Institute of Water Pollution Control Commission guidance to avoid residential development due to odor and aesthetics. This area would primarily be used for treatment and groundwater recharge, and while not suitable for residential buildings, could accommodate trails, paths, dog park, open space, or even parking on top of leaching fields.
- Environmental assessment work (Phase 2) is needed for this designated area.

State's Declaration of Surplus Properties

- DCAMM has declared approximately 20 other properties in Eastern Massachusetts as surplus, including one in Bedford.

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- The Advisory Board noted that they would like to assess the list of properties further at the next DCAMM coordination meeting with Town staff.

Land Use Working Group Updates

- The Land Use Working Group has formed Subcommittees:
 - Municipal Office Consolidation
 - Public Safety
 - Public Works
- There is a recognized "space deficiency" for housing, but the Working Group is prioritizing Public Safety and Public Works campuses first.
- The Town is compliant with MBTA Communities requirements, but its existing proposal doesn't meet all Housing & Land Conservation (HLC) criteria. The MCI Concord site has not been extensively considered for MBTA Communities due to the initial focus on other work, but Junction Village is under the MBTA communities as one of the districts, and there's ongoing discussion about greater involvement of the MCI Concord footprint.

Executive Session under M.G.L. c. 30A, § 21(a)(6)

Upon a motion duly made and seconded, it was UNANIMOUSLY **voted:** to enter an **Executive Session under M.G.L. c. 30A, § 21(a)(6)** to consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body *and not return to Open Session.*

Roll Call Vote:

Ms. Akehurst-Moore – Aye
Mr. Boynton – Aye
Mr. Bates – Aye
Ms. Cusker – Aye
Mr. Gainsboro – Aye
Mr. Howell – Aye
Mr. Lowitt – Aye
Mr. McCurdy – Aye
Ms. Miller – Aye
Ms. Rush – Aye
Mr. Smith – Aye

Meeting Materials:

[MCI Concord Advisory Board Meeting Packet for September 2, 2025](#)

[MCI Concord Advisory Board Meeting Recording for September 2, 2025](#)

Kerry A. Lafleur

Town Manager

MEMORANDUM

To: Town of Concord, Select Board
Kerry A. Lafleur, Town Manager
Megan Zammuto, Deputy Town Manager

From: Mina S. Makarios and Marissa Grenon Gutierrez
ANDERSON & KREIGER LLP

Re: MCI-Concord Zoning Analysis

Date: September 4, 2025

The state-owned prison in Concord, “MCI-Concord”, closed in 2024. On August 28, 2024, the Massachusetts Division of Capital Asset Management and Maintenance (“DCAMM”) extended the Town of Concord (the “Town”) an offer to negotiate the terms of a conveyance of certain associated real estate (the “Property”) pursuant to 2024 Stat. 140, § 193. The Town accepted DCAMM’s offer to discuss the potential terms of a conveyance of the Property or a portion thereof and has been working collaboratively with DCAMM since that time. On August 22, 2025, DCAMM agreed to extend the negotiation period through August 31, 2026.

In preparation for this potential transfer, and to allow for the Town’s planning for surrounding land uses, you asked us to analyze: (i) how the Property could be developed by a future owner under its existing zoning; and (ii) how the Town of Concord (the “Town”) might control the future development of the Property through additional zoning regulations. In this updated version of our original Memorandum from May 2024, we include a section examining the impact of the Affordable Housing Act, 2024 Stat. 150, on how the Property could be developed under its existing zoning.

I. THE PROPERTY

The Property comprises two main parcels, which are analyzed in this memorandum: 965 Elm Street and 431 Commonwealth Avenue.¹ While the Commonwealth of Massachusetts owns a number of other contiguous parcels, they are largely used for purposes unrelated to MCI-Concord and therefore have been excluded from this analysis. Details of each parcel within the Property are as follows:

¹ We have omitted 999 Barrett’s Mill Road from this analysis where it is no longer included within the disposition plan.

	Address	Parcel ID	Size (Acres)	Zoning District	Zoning Overlays & Notes
Parcel A	965 Elm Street	1381 (Map 8D, Parcel 2013)	51	Industrial Park A	Floodplain Conservancy District Wetlands Conservancy District Wireless Communication District
Parcel B	431 Commonwealth Avenue	1385 (Map 8D, Parcel 2014)	18.09	Residence B	Wireless Communication District <i>Abuts bike path</i>

Although these three parcels are contiguous, they are physically separated by Commonwealth Avenue and Route 2, and therefore would likely be treated as separate parcels for the purposes of zoning and development.

I. CURRENT ZONING

A number of principal uses are currently permitted within the Property pursuant to the Town’s Zoning Bylaw (the “Bylaw”). Because the various parcels are within two different zoning districts, their respective permitted uses differ.

Some noteworthy uses permitted on Parcel A (965 Elm Street), the largest parcel within the Property, include: hotel, medical center and laboratory, warehouse, R&D and light manufacturing, and manufacturing, packaging, processing, testing. None of the foregoing uses are permitted at the remaining parcels on the Property. Notable uses of Parcel B include single-family residential (as of right) and various other residential uses by special permit. Concord Zoning Bylaw § 4.2. A full table of the principal uses permitted either as of right or by special permit (i.e., excluding any principal uses not permitted within either the Industrial Park A or the Residential B zoning district) is attached as Exhibit A.

In addition to the base zoning districts, the following overlay zoning districts applicable to the Property will affect their future development:

- (1) A small portion of the eastern side of Parcel A (965 Elm Street) is within the **Floodplain Conservancy District**. Regulations governing the Floodplain Conservancy District are found in Section 7.2 of the Bylaw and may require certain engineering studies and resulting design specifications to ensure the particular development is consistent with the purposes of the overlay – namely, the prevention of flooding and mitigation of its consequences, and the preservation of water supply quality.
- (2) A small portion of the eastern side of Parcel A (965 Elm Street) is within the **Wetlands Conservancy District**. Regulations governing the Wetlands Conservancy District are

found in Section 7.3 of the Bylaw and require that the development of a property with wetlands thereon be required to comply with any Order of Conditions issues under the Wetlands Protection Act and/or the Town's Wetlands Bylaw.

- (3) The majority of Parcel A (965 Elm Street) (excluding its southernmost third) and the entirety of the other parcels (Parcel B) within the Property are within the **Personal Wireless Communications Facility Overlay District**. Regulations governing the Personal Wireless Communications Facility Overlay District are found in Section 7.8 of the Bylaw, and address certain visual elements of new construction with respect to wireless communication facilities.

Although these zoning overlays may affect the final design of a future development on the Property, they are unlikely to wholly prevent any particular project as they largely require additional planning and studies before development is allowed.

Similarly, the dimensional regulations applicable in each zoning district will limit the size and layout of any structures permitted at the Property but are unlikely to wholly prevent any particular project. For example, the maximum lot coverage applicable to 965 Elm Street is 20% with respect to structures only, and 50% when including paved areas. The dimensional regulations applicable to the Property based on Table III of the Bylaw is attached as Exhibit B.

II. AFFORDABLE HOMES ACT

On August 6, 2024, Governor Healey signed into law the Affordable Homes Act, 2024 Stat. 150 ("AHA"). The AHA focuses on rapidly expanding the number of available and affordable housing units in the Commonwealth, by: (1) creating a streamlined disposition process for land under control of a state agency to be conveyed for housing purposes; (2) requiring municipalities to permit no fewer than four units of housing per acre as of right on land conveyed under this new disposition procedure; and; (3) requiring municipalities to permit Accessory Dwelling Units ("ADUs") of under 900 square feet as of right in districts zoned for single-family residential use, prohibiting owner occupancy and on-site parking requirements for the same.

This statutory change somewhat expands how DCAMM could use the Property at present, without seeking re-zoning or other Town zoning-related approvals.²

First, Section 121 of the AHA establishes a new procedure through which the Commissioner of DCAMM can make a determination that the Property is "surplus real property." 2024 Stat. 150 § 121(a). Because DCAMM is the state agency with "care and control" of the Property at present, this determination does not require advanced notice to other state entities under the AHA. *Id.* §

² Although the AHA preempts most local zoning provisions, DCAMM would still need to comply with the local Wetlands Bylaw to the extent that it proposes to alter jurisdictional area.

121(b)(2)(i). To date DCAMM has taken no such steps toward this action. Further, it is our opinion that DCAMM would have to reconcile the procedures required I Chapter 140 of the Acts of 2024 regarding disposal of the Property with the less rigorous procedures under the AHA. The Town, through its discussions with DCAMM on conveyance of the MCI wastewater treatment plant, should consider communicating its desire to learn of any such plans ahead of their announcement in order to be better included in the planning process and to better understand DCAMM’s position regarding the interplay between the two statutes.

Once DCAMM determines that the Property is “surplus real property,” DCAMM may “sell, lease for a term not to exceed 99 years, transfer or otherwise dispose of surplus real property for housing purposes.” *Id.* § 121(b)(1). DCAMM is required to provide notice to the chair of the Select Board, the Zoning Board of Appeals, and the Planning Board once it makes a determination that the Property is “surplus real property”. *Id.* §121(d)(1). DCAMM is obligated to provide the Town and the general public not less than 30 days to respond and must consider those comments in good faith. EOHLC and DCAMM have also suggested affected municipalities, *i.e.* the Town, would receive advanced notice as well. *See* Executive Office of Housing and Livable Communities Guidance at 1 (“EOHLC Guidance”).³

If DCAMM determines that the Property is “surplus,” it can then (in consultation with EOHLC) dispose of the Property by either: (i) utilizing appropriate competitive processes and procedures (*e.g.*, absolute auction, sealed bids and requests for price and development proposals); or (ii) entering a sales-partnership agreement with the Town.⁴ *Id.* § 121(d)(2). The sales-partnership approach requires the Town to use competitive processes to sell the land and split the net proceeds 50-50 with the Commonwealth; the benefit to this approach is that the Town selects the developer. *Id.* § 121(d)(2). The Property must be conveyed with a restriction requiring it to be used for “housing purposes”—which include affordable housing as well as market rate housing. *Id.* § 121(d)(4). DCAMM has indicated repeatedly to Town leadership that this is not its preferred option, and that it would prefer for the Town to negotiate a host benefits agreement or community mitigation separately with the selected developer.

If DCAMM conveys the Property itself, it must establish the value of the Property (provided it utilizes customarily accepted appraisal methodologies) and restrict its use to affordable housing purposes. *Id.* § 121(e)(1)-(2). DCAMM may include an enforceable revisionary clause to the

³ EHOHC, *Affordable Homes Act – Section 122 Surplus Land Guidance*, <https://www.mass.gov/doc/affordable-homes-act-section-122-surplus-land-guidance/download> (June 2, 2025). If DCAMM determines that the Property is surplus to the Commonwealth’s current needs, but may be foreseeably needed by a state agency in the *future*, it can instead make the property available for a temporary period for housing and related purposes by offering the Property to municipalities, public agencies, and nonprofit organizations for nominal consideration. 2024 Stat. 150 § 121(b)(2)(ii)-(iii). Another option DCAMM has is to directly transfer the Property to the care and control of another state agency for housing purposes. *Id.* § 121(f).

Commonwealth if the Property ceases to be used for the anticipated housing purposes. *Id.* § 121(e)(2)(i).

Most importantly, **all property conveyed pursuant to Section 121 of the AHA**—whether by sale developer, transfer to another agency’s control, or temporary disposition to a nonprofit or municipality for nominal consideration—**must allow no fewer than four (4) housing units as of right**. 2024 Stat. 150 § 122. This section applies notwithstanding local zoning, such that the entirety of the Property (if conveyed pursuant to the surplus land procedure outlined above) could be used for housing regardless of how it is zoned by the Town. *Id.* However, Parcel A could be used for mixed-use development, where it is currently zoned to allow light industrial use and the construction of four housing units per acre would apply *in addition to* the underlying zoning. In addition, the Town could expand the permitted uses of the Property allowed under the Zoning Bylaw through the normal zoning amendment process.

Even if DCAMM does not use the surplus land disposition procedure, where Parcel B are currently zoned for single family residential uses, construction of a single “housing unit” triggers Section 8 of the AHA, requiring the Town to permit addition of an ADU by right. 2024 Stat. 150, § 7-8. In this case, the Town would be allowed to “reasonably” regulate the ADUs, including in accordance with 310 CMR 15.000 *et seq.* EOHLC has not yet issued regulations implementing this provision of the AHA, nor has it promulgated regulations implementing Sections 121-122.

III. OPTIONS FOR REGULATION OF HOUSING “BY RIGHT” ON SURPLUS LAND

If the Property is conveyed via the new procedure for disposition of surplus real property under Section 121 of the AHA, the Town would be prohibited from requiring a variance, special permit, zoning amendment, waiver, or any other type of “discretionary zoning approval” for housing. *EOHLC Guidance* at 4.

However, there are still avenues through which Concord could exercise some degree of control over development on the Property. For example, the Town could still regulate the following aspects of development: (i) bulk and height of structures; (ii) yard sizes; (iii) lot area; (iv) setbacks; and (v) open space and building coverage. The Town can also require redevelopment to undergo Site Plan Review. *Id.* According to EOHLC’s recently issued Guidance, EOHLC plans to promulgate regulations to more fully articulate the parameters of “reasonable regulations” in the context of the AHA. *Id.* The Town should consider providing public comments on these regulations as they are developed.

The Town could also preemptively amend its zoning bylaw to require site plan review for development at the Property; however, if the Town proceeds along this path, it must ensure that its site plan review is based on clear and objective requirements, so that site plan review does not result in the imposition of discretionary decisions on an “as of right” use. *Id.* at 4.

An alternative approach suggested in the EOHLC Guidance is for the Town to negotiate a voluntary, legally binding agreement with a developer to govern any subsequent permits or approvals the developer seeks. *Id.* This does not require the Town to be part of a sales partnership agreement with DCAMM. In fact, the EOHLC Guidance “encourage[s]” municipalities to negotiate agreements before developers submit applications for permits or other approvals, and to identify to DCAMM early in the surplus real property process what areas it plans to negotiate, so that DCAMM can provide that information to prospective developers during the competitive selection process. *Id.* Such an approach could allow the Town to negotiate binding requirements for the Property beyond what is required under AHA Section 122—such as parking or affordable housing restrictions—provided the density of four housing units⁵ per acre is not affected. *Id.* Under such an agreement, the Town would not need to amend its zoning bylaws to retain input over dimensional and other aspects of development, including those that are not granted under the AHA. *Id.* Given the ongoing, collaborative relationship and communication between the Town and DCAMM, the Town could continue to request that such an agreement be encouraged, or even required as part of any direct disposition by DCAMM to a private developer.

If the Commonwealth is not required to obtain certain zoning relief from the Town, a developer’s willingness to negotiate could be limited to attempting to reduce barriers to approval through site plan review and to reduce permitting timelines by gaining support for its project. As we witnessed in the recent work with the Deaconess project, these incentives can produce some concessions from a developer, but less than those that might be gained from an entity that *requires* discretionary municipal support for a rezoning to move forward.

IV. OPTIONS FOR REZONING

In order to further control the development of the Property, the Town could also choose to rezone it before it is conveyed to any other owner. Although the current use of the property is exempt from the Town’s zoning under the Bylaw, rezoning the Property would permit the Town to dictate future uses of the Property if an entity other than the Commonwealth comes to control it (except if the property is conveyed to another entity pursuant to Section 121 of the AHA, as discussed above). There are several possible options for such a rezoning:

First, if one of the existing zoning districts more accurately reflects the Town’s preferred uses for the Property, then the simplest approach would be to amend the zoning map to change the base zoning district applicable to the Property.

Second, if no existing zoning district is appropriate, then the Town may also consider creating a new zoning district for the Property. In doing so, the Town could create a new “Government-Civic Use” zoning district, either as a base zoning district or as an overlay, to be applied to parcels currently owned in fee and operated by governmental entities. This would more accurately reflect

⁵ Note that an ADU does count as a “housing unit.” G.L. c. 40A, § 1A.

the current status of those parcels but would also enable the Town to proactively control their future development following a sale to a non-governmental entity, by requiring a zoning amendment before any such parcel could be developed for a non-governmental purpose. Such an amendment would have to be approved by Town Meeting. Note, however, that where the AHA would permit some amount of housing regardless of the zone, this approach's overall utility may be limited relative to direct discussions with DCAMM.

Any effort to modify the zoning of the Property should be mindful of the limitations on the Town's zoning powers. Rezoning is permissible if there is a substantial relation between the amendment and the general objectives of M.G.L. c. 40A – typically phrased as broadly as “the promotion of the public welfare.” See *Schertzer v. City of Somerville*, 345 Mass. 747, 751 (1963). The Town's rezoning would enjoy a heavy presumption of validity, with a **challenger obligated to demonstrate that the regulation is arbitrary and unreasonable or substantially unrelated to the public health, safety, morals, or general welfare** in order to succeed. See *Johnson v. Town of Edgartown*, 425 Mass. 117, 121 (1997). The most common examples of unlawful zoning practices include so-called “spot zoning” and “contract zoning,” discussed below.

A. Spot Zoning.

Spot zoning is the singling out of one lot for different zoning treatment from that of similar surrounding land indistinguishable from it in character, all for the economic benefit of the owner of that lot. *Whittemore v. Bldg. Inspector of Falmouth*, 313 Mass. 248, 249 (1943). This results in denial of equal protection and violates the uniformity requirement of the zoning act. *Bd. of Appeals of Hanover v. Hous. Appeals Comm. in Dep't of Cmty. Affs.*, 363 Mass. 339, 362 (1973). Therefore, the rezoning of the Property for general purposes, opposed to rezoning for the purpose of specifically preventing or permitting a particular development by a particular owner at the Property, would not run afoul of spot zoning.

Additionally, Massachusetts courts have found that zoning amendments singling out lots within one zoning district for a purpose uncharacteristic of its existing neighborhood to be invalid, for example, zoning amendments that: rezoned a single lot in a residential area to permit the manufacture of ice, for the economic benefit of the lot owner, (*see Whittemore*) established a funeral home district in the midst of a residential area, largely (if not entirely) for the benefit of one person, (*Atherton v. Selectmen of Bourne*, 337 Mass. 250 (1958)) and permitted a boat yard in a residential district (*Beal v. Bldg. Comm'r of Springfield*, 353 Mass. 640 (1968)).

Here, the Property is located partially within an industrial zoning district, and partially within a residential zoning district, further abutting a different residential district (Residence C) and the West Concord Village District. Its unique placement at the intersection of several contrasting districts makes it less likely that a change in zoning designation, to be more in line with either type of district, would be found to be spot zoning. Although Massachusetts courts have also found the rezoning of a single parcel at the intersection of residential and business zoning districts to be

invalid, crucial in such finding was that the amendment economically benefitted one abutting business owner who planned to expand his business, and the rezoning was not an apparent response to a change in demand of the neighborhood. *Id.* The possible re-zoning of the Property is clearly distinguishable, as it is not being driven by the desire to provide an economic benefit to any particular individual, and is being considered solely in response to the **closing and sale of MCI-Concord, which represents a major change in the character and needs of the area.** Given that context, the reevaluation of the Property’s zoning designation is a valid exercise of the Town’s legislative police power.

B. Contract Zoning.

Contract zoning, another invalid zoning practice, occurs when the municipality “contracts away” its police power to regulate on behalf of the public, in exchange for some benefit given by a landowner who is principally served by the rezoning. However, the existence of some agreement between a landowner and municipality is not dispositive: if a zoning action is otherwise valid, then an ancillary agreement accompanying it does not lessen its legitimacy. Indeed, despite recognizing that contract zoning is invalid in theory, courts rarely find it in practice. *See Durand v. IDC Bellingham, LLC*, 440 Mass. 45, 56 (2003). Ultimately, Massachusetts courts will evaluate cases of alleged “contract zoning” with the same criteria as applied to other unlawful zoning practices: whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety, or general welfare. *Id.* at 57.

Here, the Town would consider its rezoning of the Property before a developer or even any potential developers have been identified. The Town’s motivations are therefore unrelated to soliciting any impermissible or unrelated benefit in exchange for an otherwise unlawful zoning amendment, and any claim of contract zoning would not likely be successful.

EXHIBIT A

Table of Permitted Uses

Use	Industrial Park A 965 Elm St	Residence B 431 Commonwealth
4.1.1 Forestry	Yes	Yes
4.1.2 Agriculture, horticulture, floriculture, viticulture	Yes	Yes
4.1.3 Greenhouse	Yes	Yes
4.1.4 Earth removal	<i>Special Permit</i>	Yes
4.1.5 Conservation use	Yes	Yes
4.1.6 Private recreation	Yes	<i>Special Permit</i>
4.2.1 Single-family dwelling	<i>No</i>	Yes
4.2.2 Two-family or additional dwelling unit	<i>No</i>	<i>Special Permit</i>
4.2.5 Residential Compound	<i>No</i>	<i>Special Permit</i>
4.2.6 Residential Cluster Development	<i>No</i>	<i>Special Permit</i>
4.2.7 Planned Residential Development	<i>No</i>	<i>Special Permit</i>
4.2.8 Boarding House	<i>No</i>	<i>Special Permit</i>
4.2.9 Hotel, Extended-stay hotel and Motel	Yes	<i>No</i>
4.3.1 Educational	Yes	Yes
4.3.2 Child care facility	Yes	Yes
4.3.3 Religious	Yes	Yes
4.3.4 Philanthropic	Yes	<i>Special Permit</i>
4.3.7 Cemetery	<i>No</i>	Yes
4.3.8 Lodge and club	Yes	<i>Special Permit</i>
4.4.1 Town of Concord Municipal Use	Yes	Yes
4.4.2 Underground Utility	Yes	Yes
4.4.3 Aboveground Utility	Yes	Yes
4.4.4 Municipal Use not by Town of Concord	<i>Special Permit</i>	<i>Special Permit</i>
4.4.5 Large Ground-Mounted Solar Photovoltaic Installation	Yes	Yes
4.5.3 Craft shop	Yes	<i>No</i>
4.5.4 Restaurant	Yes	<i>No</i>
4.5.5 Indoor amusement	Yes	<i>No</i>
4.5.7 Funeral Home	Yes	<i>No</i>
4.5.8 Repair shop and building trade	Yes	<i>No</i>
4.5.9 Veterinary and kennel	Yes	<i>No</i>
4.5.10 Financial and business office	Yes	<i>No</i>
4.5.11 Professional office	Yes	<i>No</i>
4.5.12 Medical center and laboratory	Yes	<i>No</i>
4.5.13 Auto service station	Yes	<i>No</i>
4.5.14 Auto repair shop	Yes	<i>No</i>
4.5.15 Vehicular dealerships	Yes	<i>No</i>
4.5.16 Boat sales and rental	Yes	<i>No</i>
4.5.17 Parking facility	Yes	<i>No</i>
4.5.18 Transportation services	Yes	<i>No</i>
4.6.1 Warehouse	Yes	<i>No</i>
4.6.3 R&D and Light manufacturing	Yes	<i>No</i>
4.6.4 Manufacturing, packaging, processing, testing	Yes	<i>No</i>

EXHIBIT B

Table of Dimensional Regulations

<u>Zoning District</u>	<u>Min. Area</u>	<u>Min. Frontage</u>	<u>Frontage Except.</u>	<u>Min. Width</u>	<u>Min. Front Yard</u>	<u>Min. Side/Rear Yards</u>	<u>Corner Clearance</u>	<u>Max. Height</u>	<u>Max. Cover.</u>	<u>Max. FAR</u>
Residence B	20,000 sf	125'	100'	100'	20'	Side: 15' (subject to Section 6.2.7) Rear: Lesser of 30' or 25% lot depth	10'	35' (subject to Section 6.2.11)	N/a	0.24 + (1200 / actual lot area)
Industrial Park A	4 acres	200' on public way, or 50' on a new private interior street	N/a	N/a	100' from public way, or 20' from new private interior street	20', or 100' from residential	10'	40', but not more than 3 stories	50% including paved areas; 20% by structures	N/a

MCI Concord



Date of meeting presentation
Name of meeting

Agency Landscape + Planning

With:
Buro Happold, Nitsch Engineering, Merge Architects,
Designing Justice + Designing Spaces, Landwise Advisors, U3 Advisors

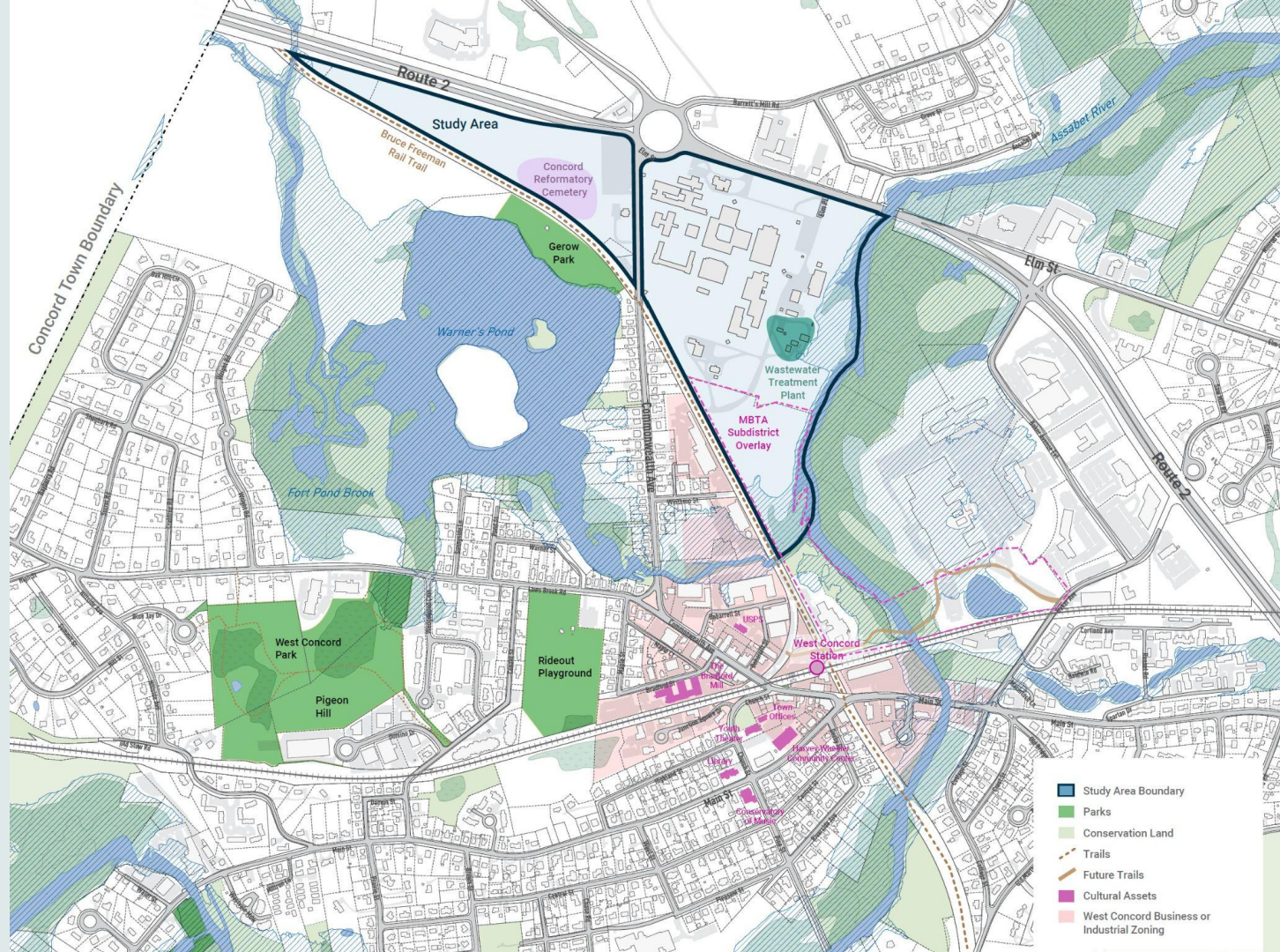
Agenda

- 1 Site Overview
- 2 Project & Process Overview
- 3 A Community-Driven Vision
- 4 Site Understanding
- 5 Site Framework & Scenarios
- 6 Evaluating Scenarios
- 7 Bringing the Vision to Life

Site Overview

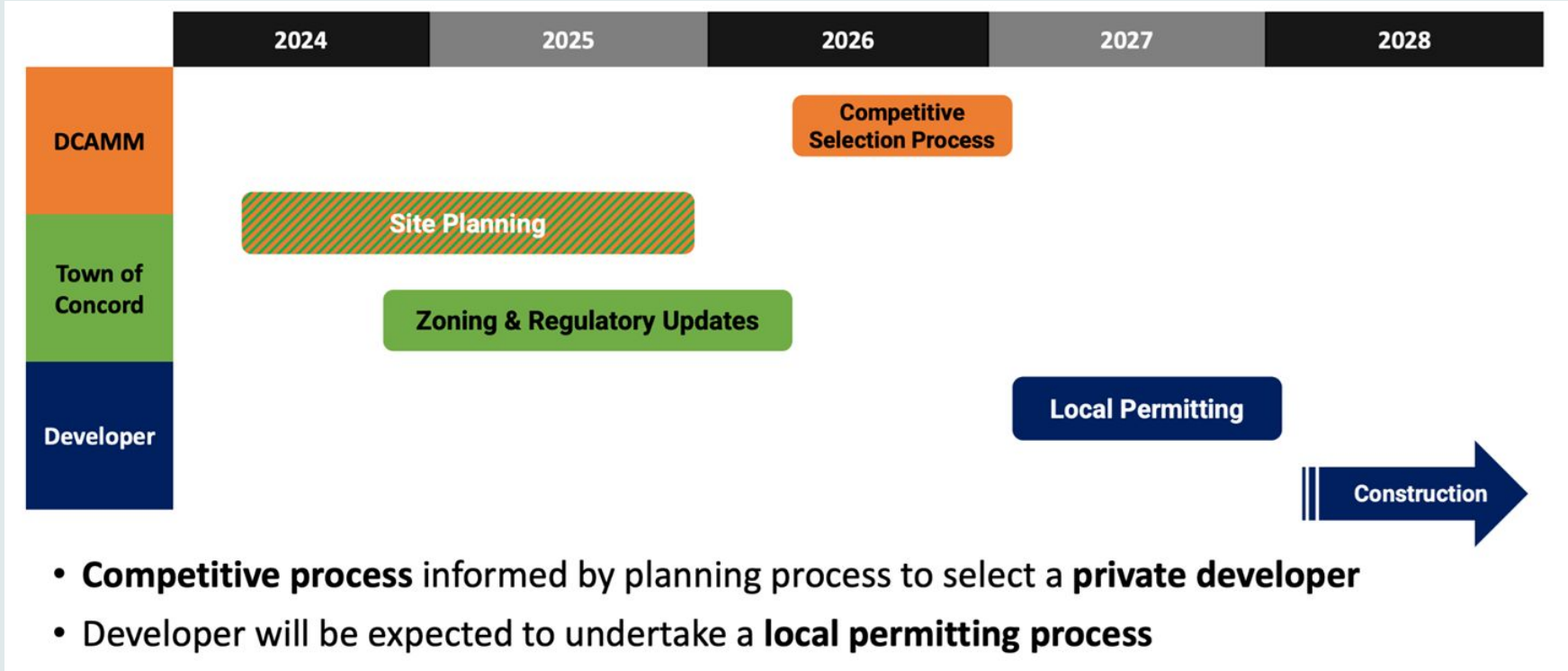


Site Map



Process & Project Overview

Process Overview 2024-2028



2025

February

March

April

May

June

DISCOVER

Discovering the site and remembering its history

LISTEN

Reaching out and listening by the Advisory Board

Visioning Workshops + Survey

Scenarios Workshops + Survey

ANALYZE

Undertaking a concept plan process and approach

ENVISION

Assessing economic impact, market analysis and feasibility

Stakeholder Outreach

Interviews + Listening Sessions

Website + Newsletter Updates

A Community-Driven Vision

The community has been intimately involved throughout the planning process, from attending public workshops to listening in on Advisory Board meetings to submitting detailed feedback online.

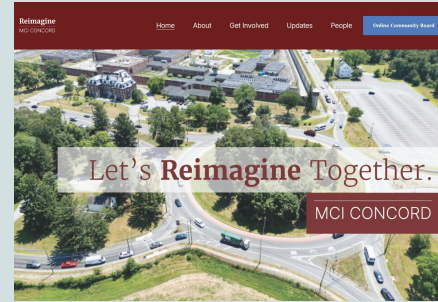
Methods of Engagement



Outreach to
>95
Town
stakeholder
groups



>8,700
Postcards
mailed to Concord
Households



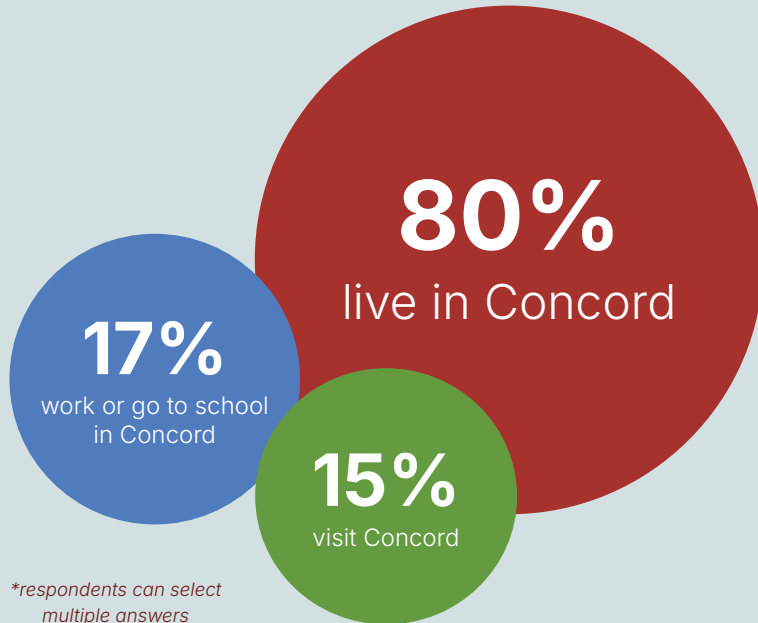
>5,200
website visits
(> 4,200 unique visitors)
(+ 2 online surveys)



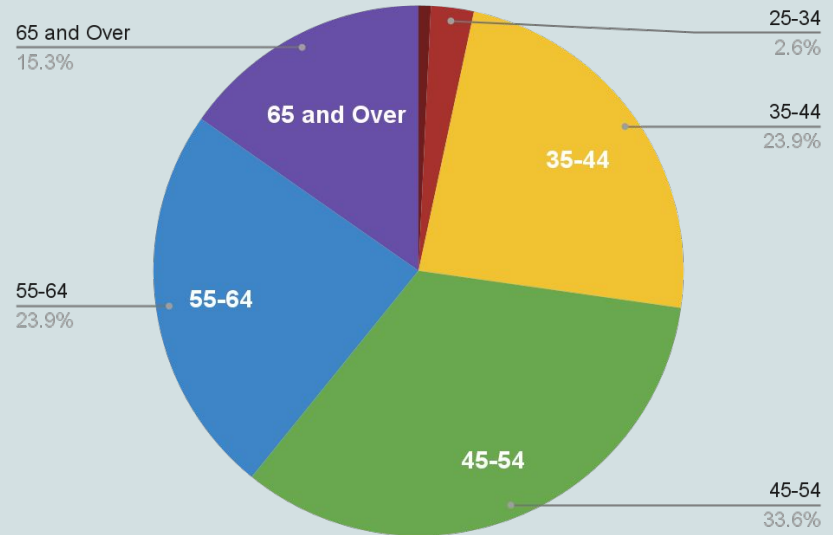
5
Public
workshops
with +/- 375
attendees in-person
and online

Survey Responses

Two rounds of surveys were conducted: the first for Vision and the second for Scenarios. Among the 325 total survey responses:



Survey Respondents Age



What We've Heard So Far

Community + Culture

- 40% of respondents prioritized **more attainable housing**, while 23% supported options for **aging in place** and a **range of housing sizes** to meet diverse needs.

Buildings + Structures

- 30% of the comments suggested **showcasing the site's history** through a museum, public art, or interpretive signage
- Interest in affordable housing and hotel

Environment + Open Space

- When asked about future amenities, 33% wanted **natural spaces**, 18% **walking trails**, and 17% a **community center**
- There was strong support for restoring pedestrian **access to the Assabet River** and linking it to the rail trail

"Affordability creates diversity"

"Community healing through all sharing OUR Stories is OUR best way forward"

"There are not enough hotels here despite us envisioning ourselves as a destination"

"Connecting existing rail trails, accessibility or users of all ages and abilities"

"Public space commemorating the prison"



Feedback Analysis

Transportation + Access

- 25% of comments wanted better **pedestrian and bicyclist access and safety**
- 25% of comments were about the **rotary or Route 2**, with lots of confusion about planned changes

Energy + Infrastructure

- There was lots of interest in efficient **reuse of the wastewater treatment plan** and **sustainable building practices**
- Of Concord's sustainability goals, the most relevant to this development were **direct attention to mobility** and a **focus on natural resources**

Economics + Feasibility

- 42% of comments highlighted **mixed-use development** or adding **amenities** that enhance the town
- There was agreement to keep **big box stores out** of Concord and to protect West Concord businesses

"Maximize non-vehicular connections to West Concord, and add bridges over the rivers for enhanced bike/ped nature access"

"Create a mixed use mini town connected w/ West Concord village"

"Don't incentivize driving! Don't make the highway too convenient"

"The site should be net zero or better"

"Protect West Concord business. No big stores at MCI-Concord"

"The rotary redo is key and access should avoid direct access from Rt 2"

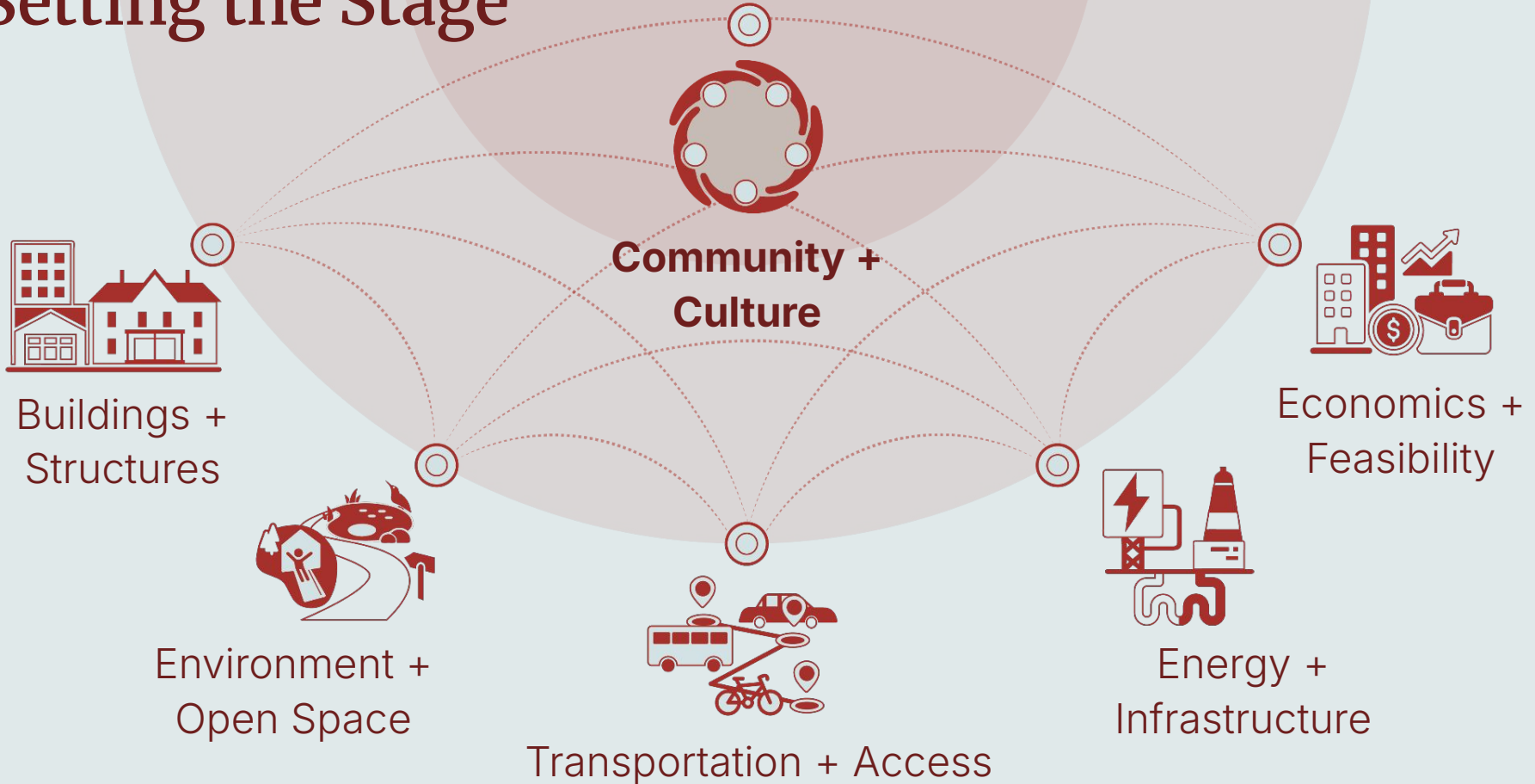


Site Understanding

- Community + Culture
- Buildings + Structures
- Environment + Open Space
- Transportation + Access
- Energy + Infrastructure
- Economics + Feasibility

Site Understanding

Setting the Stage



Community + Culture

Concord, **known for its rich history and progressive roots**, is experiencing demographic shifts and growing pressure on housing affordability. In response, the town is **working to balance growth while preserving its character**.

\$212,315
Median household income

75%
Family households

1M
visitors come to Concord and the surrounding region each year



The Concord Female Anti-Slavery Society

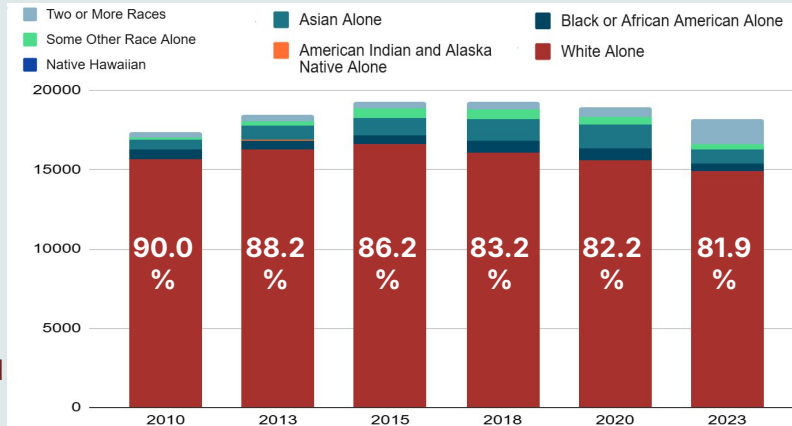
Transcendentalism & Social Reform



The Underground Railroad

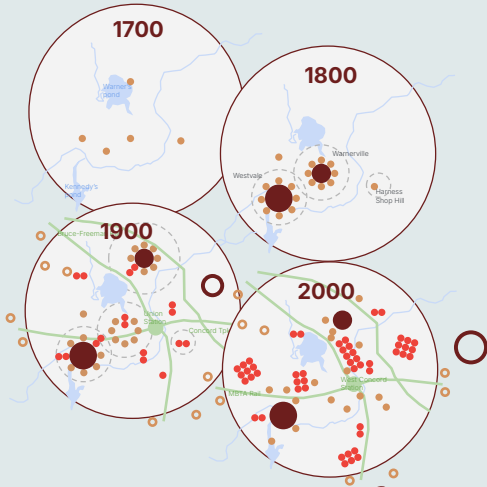


+91% People of color population **+42%** Foreign-born population

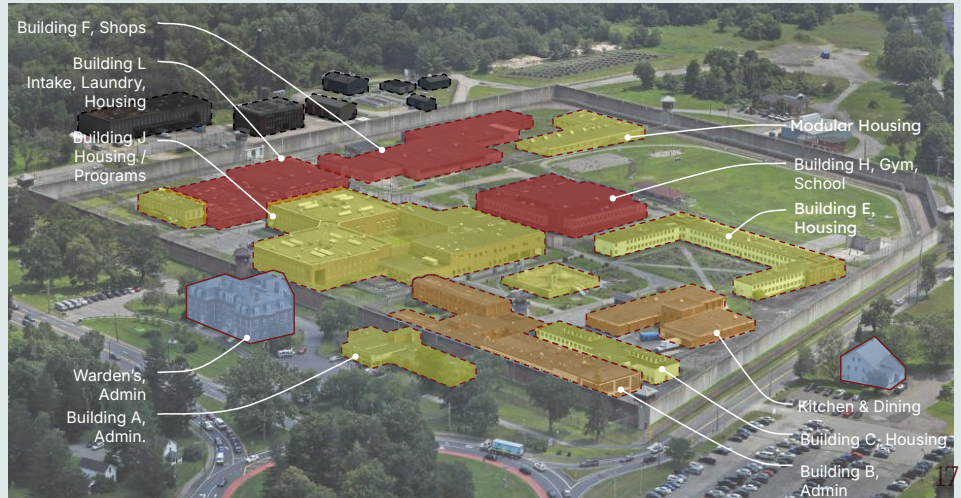


Buildings + Structures

West Concord's housing patterns have evolved with changing industries, with the 1878 reformatory driving growth through the use of incarcerated labor. Today, understanding the adaptive reuse potential of existing prison structures means balancing memory, cost, and sustainability.

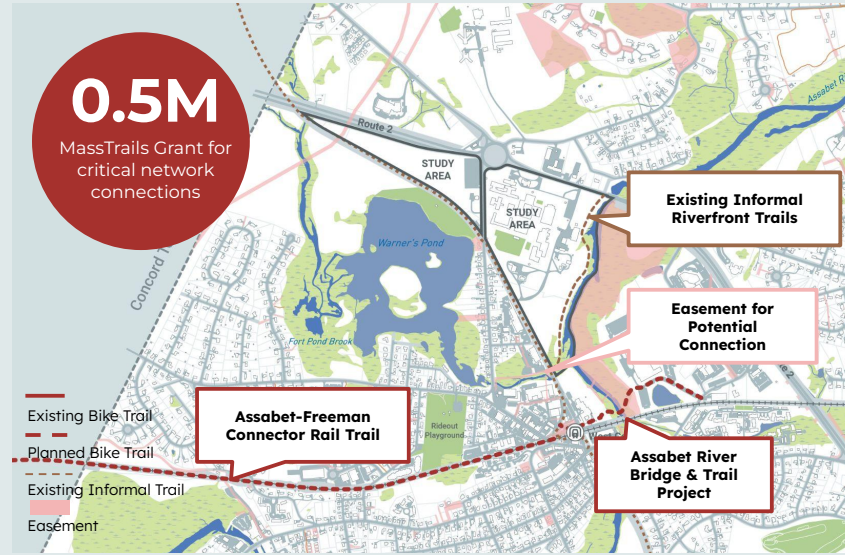
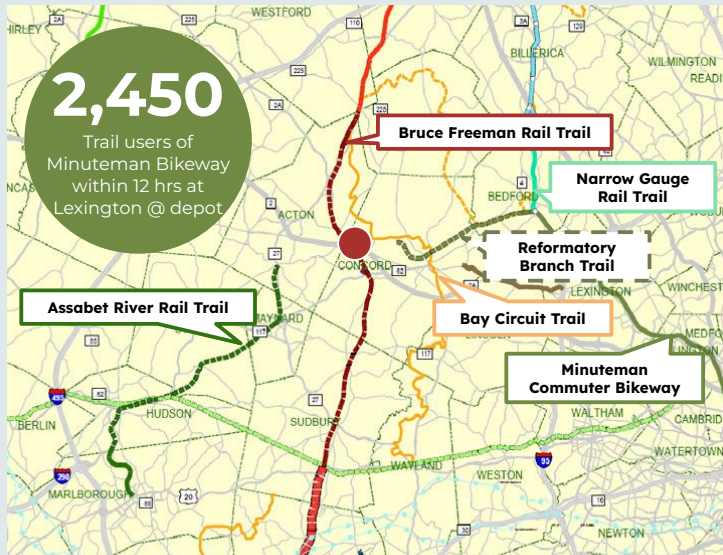


- Historic structures (MA state list)
- Reuse potential
- Some reuse potential
- Low reuse potential
- Facilities, service to remain



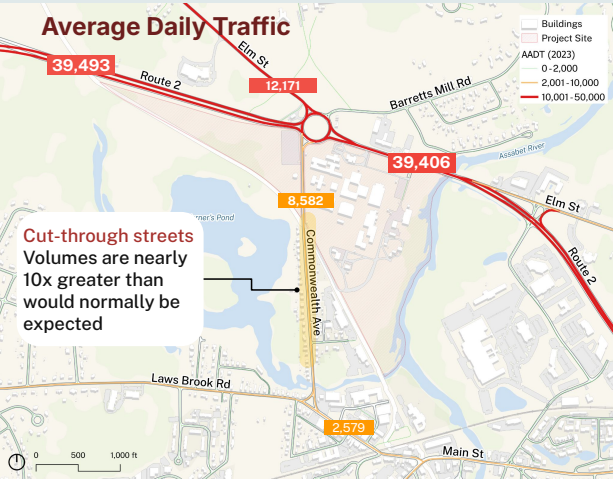
Environment + Open Space

Concord has a **robust network of open spaces, trails, and high quality recreational amenities**. There are opportunities for this site to **expand the network, enhance the quality of experiences** for a variety of audiences, and **protect vital habitats and waterways**.

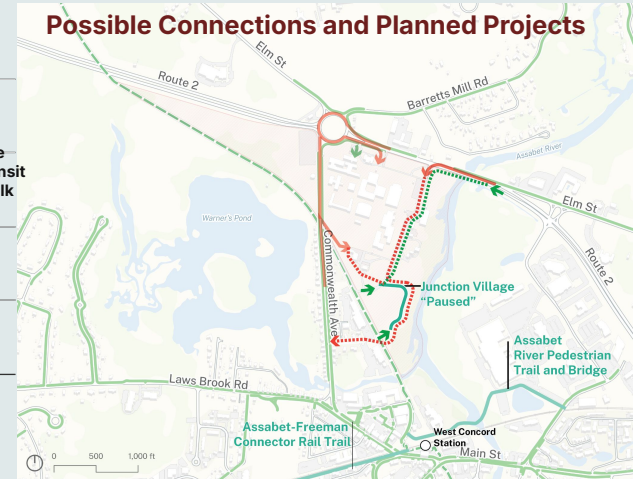
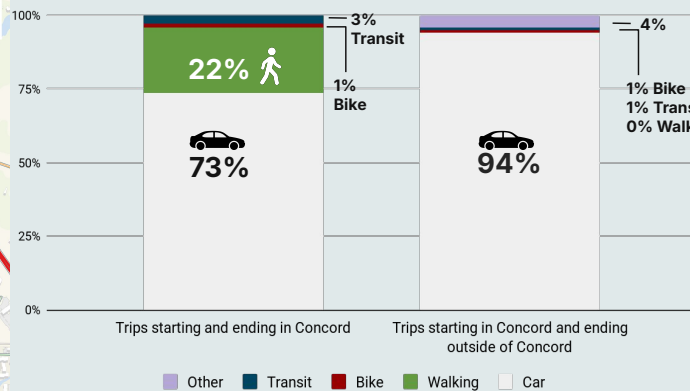


Transportation + Access

The **development of the site can leverage the substantial existing infrastructure and capitalize on numerous opportunities.** By enhancing connections, minimizing traffic impacts, and promoting active transportation, it can build on the Town of Concord's ongoing efforts and align with planned mobility projects in the area.

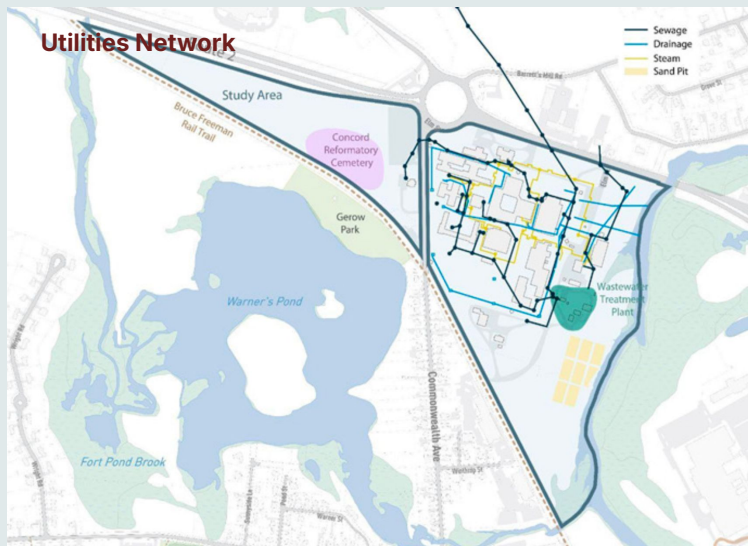


Trips Originating in Concord by Mode in and Out of Concord

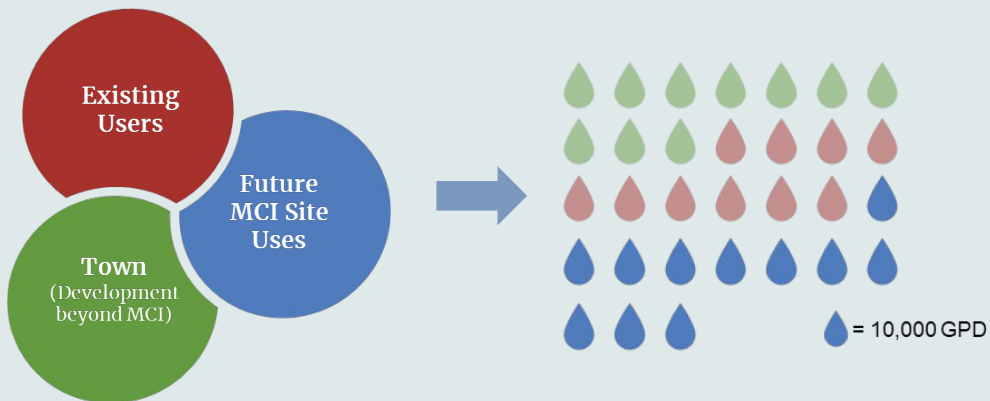


Energy + Infrastructure

The site's underground utilities create a complex network extending beyond the site's boundaries. **Stormwater mitigation strategies** can enhance resilience and local water quality. The **wastewater treatment plant** could dictate development intensity.

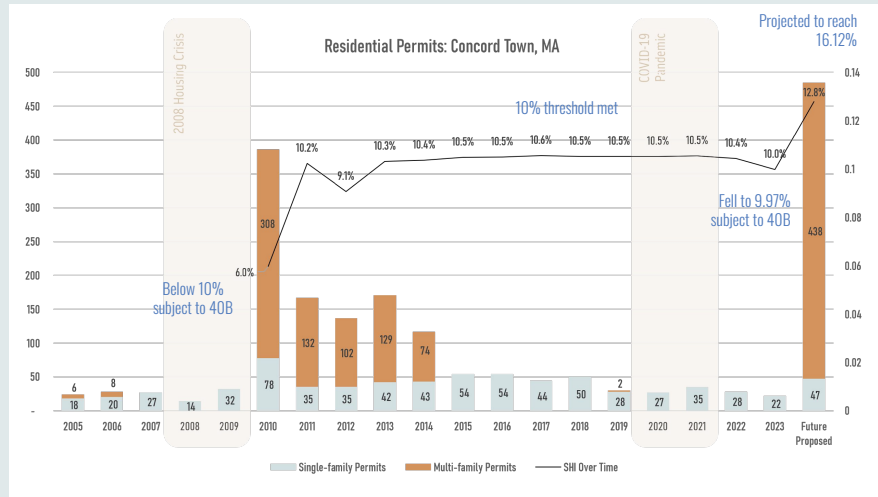
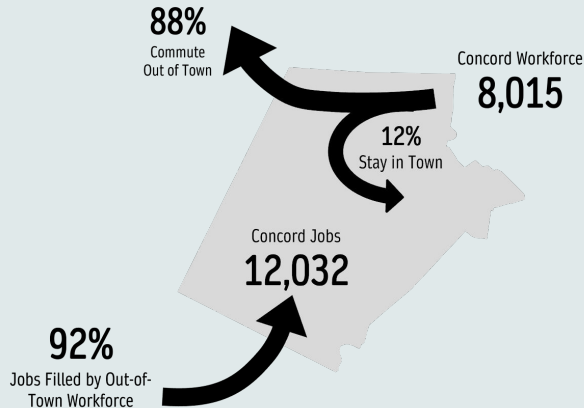


Wastewater Treatment Plant Capacity Interests



Economics + Feasibility

Development will need to strike a balance between offsetting site preparation and infrastructure needs, traffic capacity, and public appetite for density. Housing is in demand, while near-term commercial demand will be driven more by hospitality and retail than office and lab. Mission-driven uses are desired but challenged.



Site Framework and Scenarios

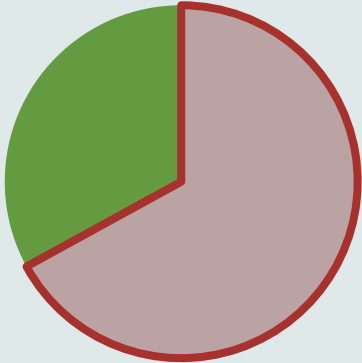
- Site Framework
- Range of Possible Scenarios
- Three Scenarios to Explore:
 - Civic and Institutional Campus
 - Vibrant Center for Commerce
 - Thriving Mixed-Use Neighborhood

Site Context

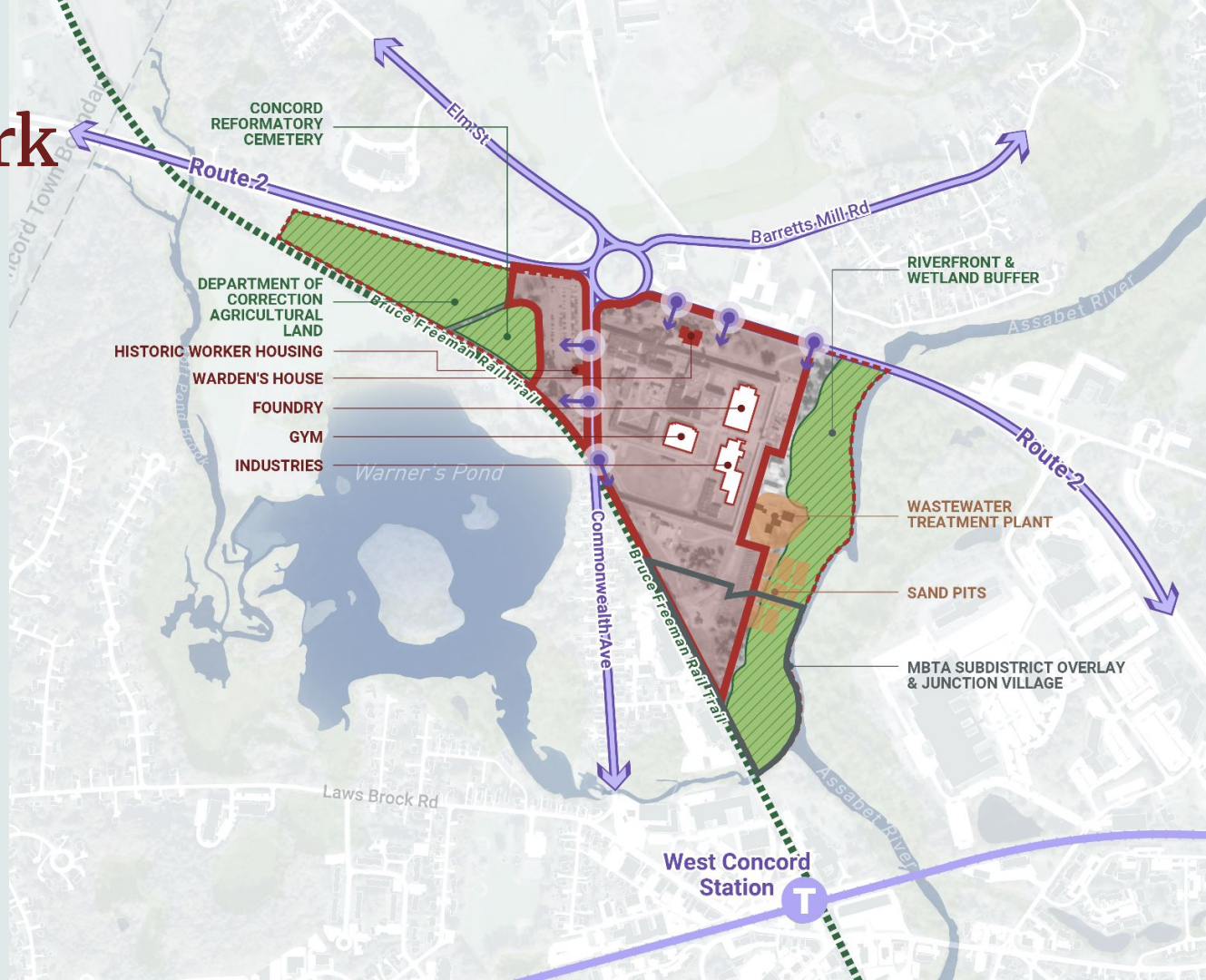
Site Framework

The site is **83 acres** overall and is subject to various constraints.

29 acres preserved for wetlands, agriculture, and cemetery



54 acres are developable



Some important context for the site...

- The **State currently owns the site** and will manage its transfer to a future owner or owner(s).
- Preparing the site will require a significant upfront investment, which will likely be the responsibility of a **future owner or owner(s)**.
- The **Department of Corrections** will maintain ownership and stewardship of the MCI reformatory and agricultural lands. The **riverfront and wetlands buffers** will remain in place.
- The **Town of Concord has the ability to rezone** the site, helping shape the future mix of land uses and types of development.
- The MBTA Communities Overlay and Junction Village site has been included in the scenarios to ensure integrated site planning. The site is currently owned by **Concord Housing Development Corporation (CHDC)** who could either transfer the property to a master developer or implement redevelopment in a coordinated way.

Possible Site Programs

Open Spaces

Nature Play and Camps



NATURAL



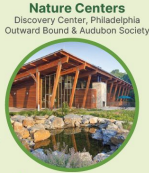
Water Access
Airline Highway Park



Wildlife Observation



Playgrounds, Recreational Fields and Courts
Downtown Cary Park



Nature Centers
Discovery Center, Philadelphia
Outward Bound & Audubon Society

STRUCTURED

Housing

Single-family Homes
Concord Millrun
(3.8 units/acre)



LOW DENSITY



Townhouse
Nantucket Townhomes
(11.2 units/acre)



Low-rise Multifamily (6-9 units)
Cable Mills Modern Mill
(12.7 units/acre)



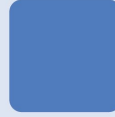
Low-rise Multifamily (apartment block)
Jackson Hole Workforce
(36 units/acre)



Mid-rise Mixed-use
Northwest Arkansas Housing
(44.4 units/acre)

HIGH DENSITY

Community and Civic Uses



Town Service and Storage Yards

LOW DENSITY



Food Distribution Sites
ICA watershed, Boston



Training Centers
Boston EMS Training Facility

LOW DENSITY



Training Campus
Chicago Joint Public Safety Training Campus



Community Gathering Centers
Amsterdam Former Bijlmerbajes Prison Complex

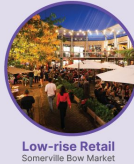
HIGH DENSITY

Commercial



Commercial Street
Cambridge Winthrop Street

LOW DENSITY



Low-rise Retail
Somerville Bow Market

LOW DENSITY



Industrial Maker Spaces
Brooklyn Powerhouse Arts

LOW DENSITY



Mid-rise Mixed-use
Lowell Mill #5
Cotton House Lofts

LOW DENSITY

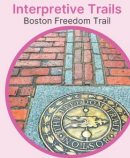


High-rise Mixed-use
Somerville Assembly Row

HIGH DENSITY

Interpretive and Cultural Uses

*Any scenario can include elements of interpretive marker or cultural historic uses.



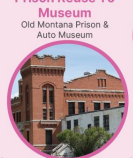
Interpretive Trails
Boston Freedom Trail

HISTORIC MARKER



Signage and Installations
Beijing 798 Art Zone

LOW DENSITY



Prison Reuse to Museum
Old Montana Prison & Auto Museum

LOW DENSITY



Museum Complex
MASS MoCA

LOW DENSITY



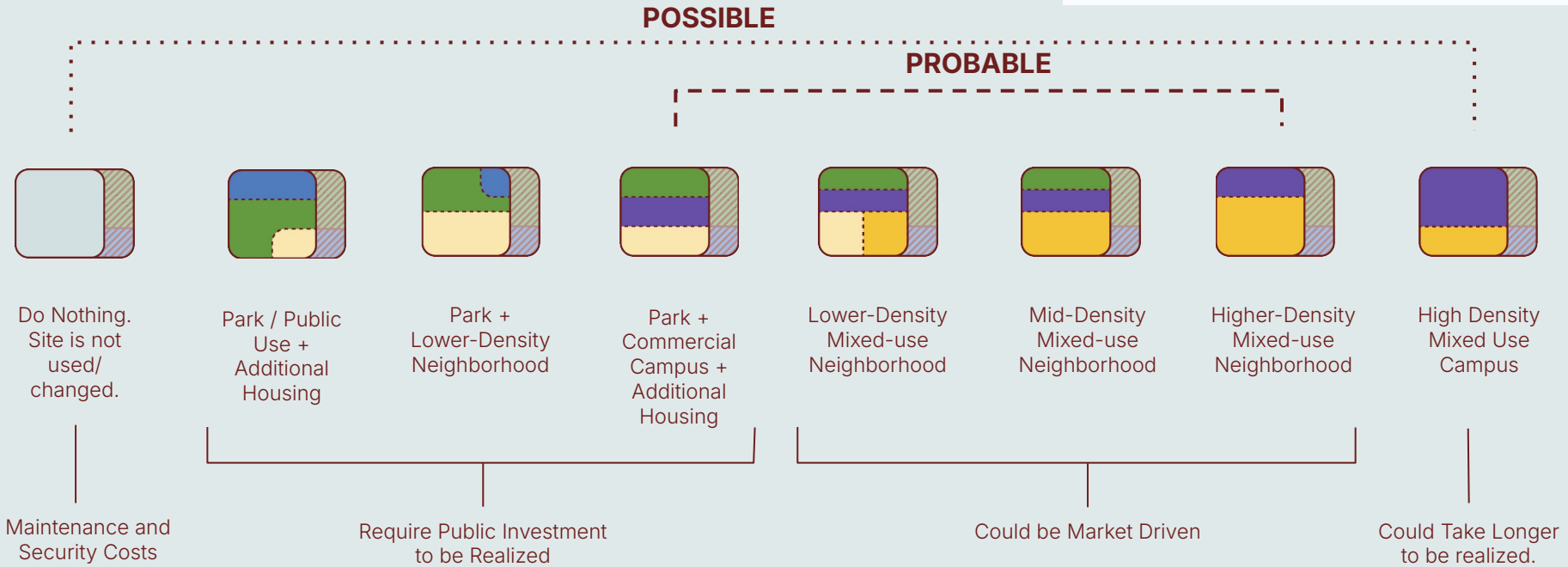
Institutional Campus
SCI-Arc

CAMPUS

Range of Possible Scenarios

LEGEND

- Existing
- Open Space
- Community and Civic Uses
- Housing (Low to High Density)
- Commercial (Retail, Office, Hotel, Light Industrial)



Which of these scenarios is **PREFERABLE**?

Scenarios to Explore



Town Annual Fiscal Impact

Net-negative



Community Facilities

High



Implementation Timeframe

Long



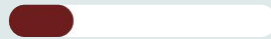
Net-positive



Medium



Long



Significantly net-positive



Medium



Medium



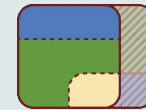
Annual impact to Town finances. Note: Tax Revenues - Costs = Net Revenues



Direct community facilities (like programming, events, parks, trails, buildings) that support Town residents and align with recent Town plans



How long will it take to reinvest in the entire site given the scenario's proposed program



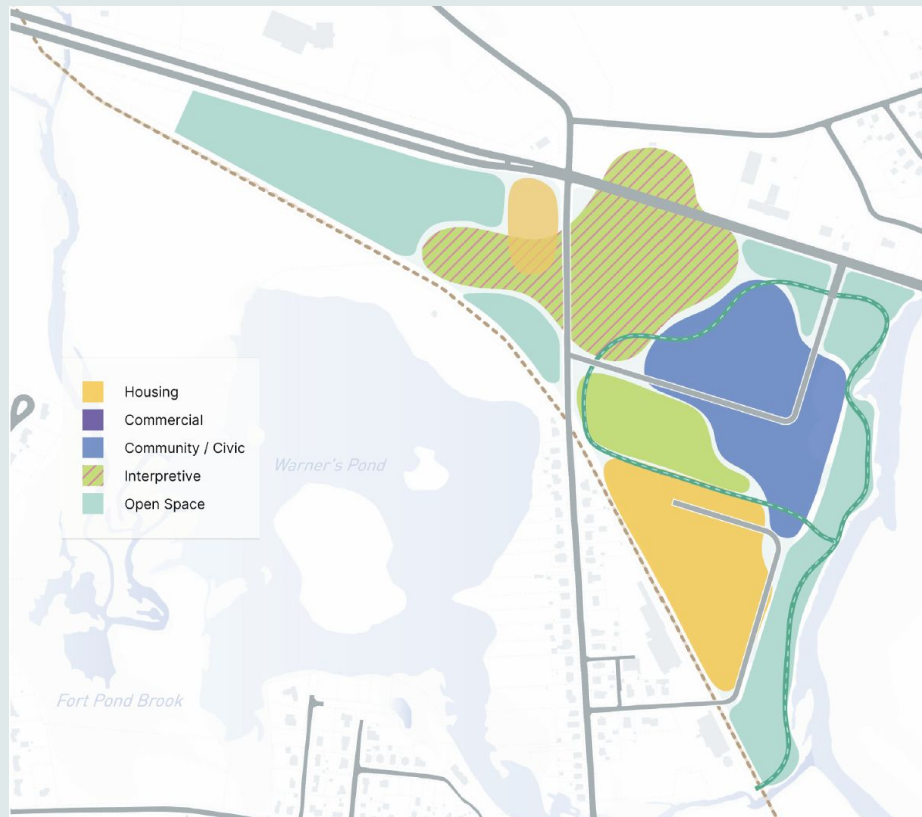
A Civic and Institutional Campus

A Civic Commons Rooted in Open Space and Building Preservation

Nestled into the pastoral context of Concord, the Civic and Institutional Campus scenario provides interpretive trails, scenic overlooks, recreation amenities and civic uses that prioritize highlighting the historic character of the campus. A compact neighborhood anchors the southern edge of the site.

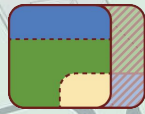
-  **+/- 300 Units** Housing
-  **125,000 SF** Community/ Civic (adaptive reuse)
-  **5,600 SF** Community/ Civic (new construction)
-  **29,000 SF** Interpretive/ Museum (adaptive reuse)

*Not including WWTP



A Civic and Institutional Campus

Interpretive journey tells many stories of the site's past through relics, art and the cemetery



Mini-neighborhood honoring historic fabric of Commonwealth Ave

Museum and cultural center

Preserve mature oaks along Route 2

Adaptive re-use of industries and community buildings

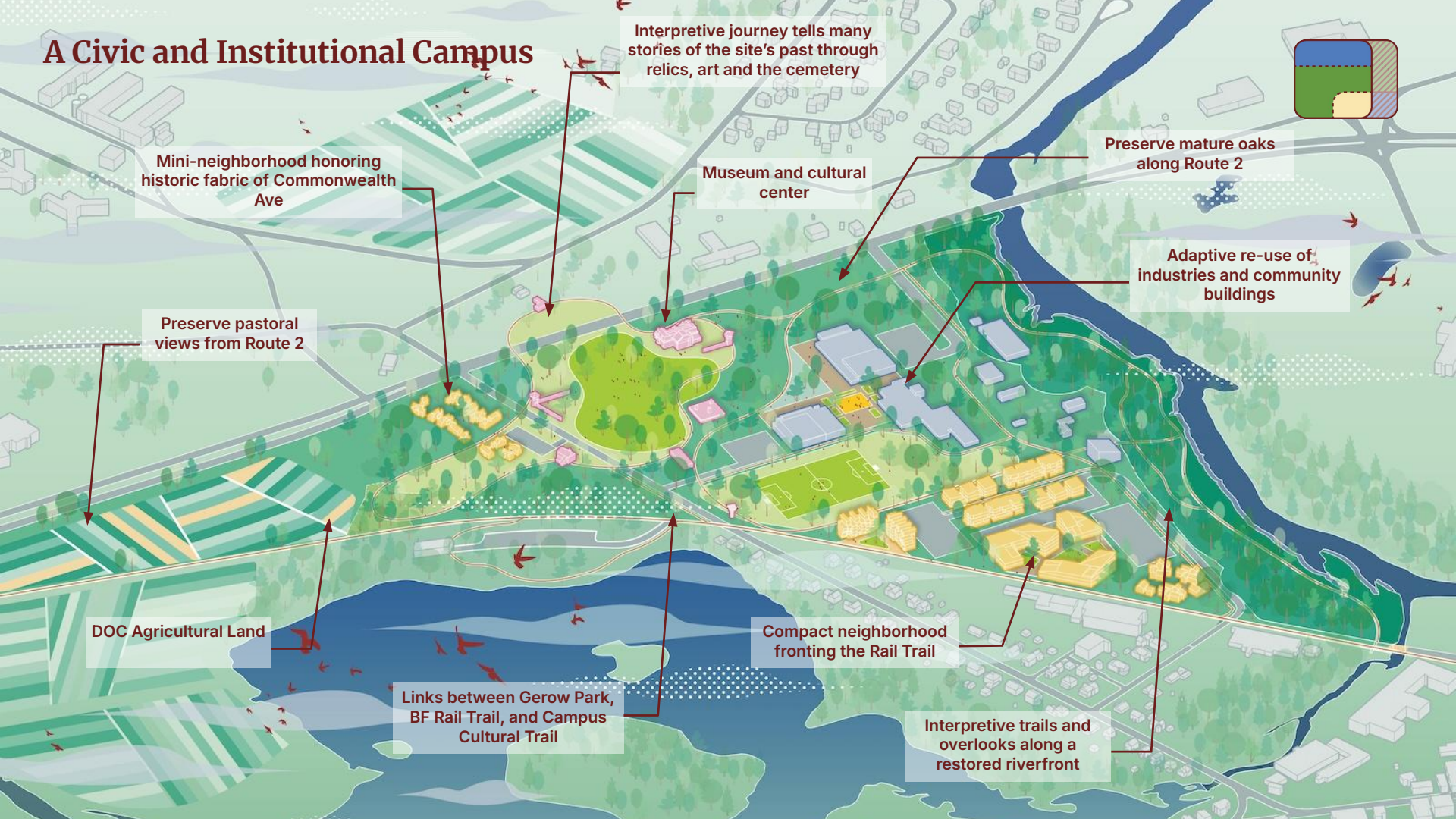
Preserve pastoral views from Route 2

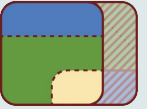
DOC Agricultural Land

Compact neighborhood fronting the Rail Trail

Links between Gerow Park, BF Rail Trail, and Campus Cultural Trail

Interpretive trails and overlooks along a restored riverfront





A Civic and Institutional Campus



What Concordians had to say about this scenario:

"Need more housing!"

"I like that the everything on the scheme would enhance West Concord businesses rather than compete with them."

"While this is a dreamy scenario, clearly the town needs to make more revenue than this scenario provides."

"I like that the housing is mostly buffered from Rt 2 by the civic buildings."





"More housing, less open space, more built infrastructure. Needs to be more dense"



A Vibrant Center for Commerce

A Dynamic Hub for Innovation and Everyday Life

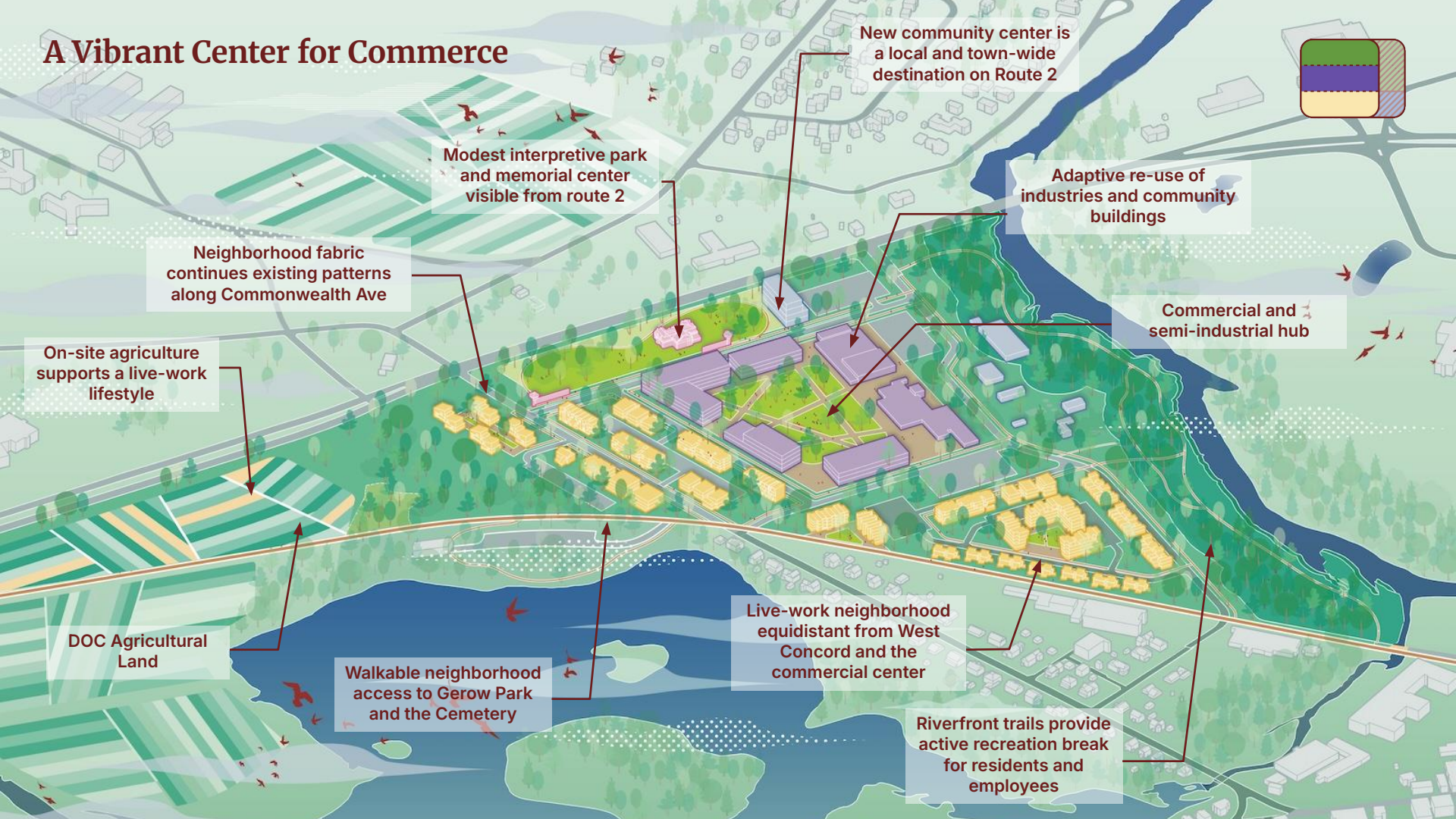
Grounded by adaptive re-use of the existing industries buildings, the Vibrant Center for Commerce scenario builds out a series of active commercial and semi-industrial spaces around an activated campus quad. Live-work neighborhoods along the Rail Trail and Commonwealth Ave balance commemorative space flanking Route 2.

-  **+/- 500 Units** Housing
-  **76,100 SF** Commercial/ Light Industrial (adaptive reuse)
-  **340,000 SF** Commercial/ Light Industrial (new construction)
-  **33,700 SF** Civic (new construction)
-  **17,800 SF** Interpretive/ Museum (adaptive reuse)

*Not including WWTP



A Vibrant Center for Commerce



New community center is a local and town-wide destination on Route 2



Adaptive re-use of industries and community buildings

Commercial and semi-industrial hub

Live-work neighborhood equidistant from West Concord and the commercial center

Riverfront trails provide active recreation break for residents and employees

Walkable neighborhood access to Gerow Park and the Cemetery

DOC Agricultural Land

Neighborhood fabric continues existing patterns along Commonwealth Ave

On-site agriculture supports a live-work lifestyle

Modest interpretive park and memorial center visible from route 2



A Vibrant Center for Commerce



What Concordians had to say about this scenario:

"Multi family and affordable housing is great."

"We need commercial/ industrial development and revenue"

"This scenario could be improved if there were more tax benefits to existing residents while also allowing for more low-income housing options."





"Innovation campus is a great idea, specially surrounded by affordable housing."



A Thriving Mixed-Use Neighborhood

Thriving Together: A Sustainable, Complete Neighborhood

Rooted in the fabric of West Concord, this comfortable new village offers walkable access to friends, community center, recreational opportunities and lifestyle-focused commercial amenities. Venturing further afield, residents can make easy bikeable connections to town center and the region.

-  **+/- 750 Units** Housing
-  **344,000 SF** Commercial/ Light Industrial (new construction)
-  **36,800 SF** Civic (new construction)
-  **16,300 SF** Interpretive/ Museum (adaptive reuse)

*Not including WWTP



A Thriving Mixed Use Neighborhood

Activated commercial spine provides ground-floor lifestyle retail

Commercial buildings with visibility along Route 2 protect the neighborhood

Farm to table supports prison job training and provides local produce

DOC Agricultural Land

Increased pedestrian access to Gerow Park and Warner's Pond

Commonwealth Avenue development extends existing residential fabric

Non-profit or cultural use of former Warden's House anchors mini-interpretive zone

Parking below residential development provides communal amenities above

Riverfront trails and overlooks provide a communal backyard along a restored river

Community center and recreational amenities anchor the neighborhood center

Neighborhood fabric less than a 10 minute walk from West Concord shops and train





A Thriving Mixed-Use Neighborhood



What Concordians had to say about this scenario:

"Positive fiscal impact on the town"

"Building footprints are too large - residential should focus on creating a "Concord neighborhood" feel with single family, duplex, some townhouses."

"Net revenue positive. Good balance among uses. Quicker implementation than other scenarios."

"It makes the most sense based on our housing situation and tax base."

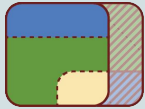
"Dense housing with a community center could create sense of community"

Online Survey Responses

The Scenarios Survey was open from May 30, 2025 through June 24, 2025.

Among the 270 survey responses:

MISSION LEANING



A Civic and Institutional Campus



Average

2.6/5 stars

Median: 2/5 stars
Mode: 1/5 stars

REVENUE FOCUSED



A Vibrant Center for Commerce



Average

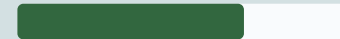
3.0/5 stars

Median: 3/5 stars
Mode: 3/5 stars

FEASIBILITY DRIVEN



A Thriving Mixed-Use Neighborhood



Average

3.4/5 stars

Median: 4/5 stars
Mode: 5/5 stars

Evaluating Scenarios

- Financial Feasibility
- Fiscal Impact + Community Facilities
- Implementation Timeframe
- Mobility + Infrastructure Considerations
- Housing Density
- Cultural and Historic Storytelling

Financial Feasibility

Scenario #1

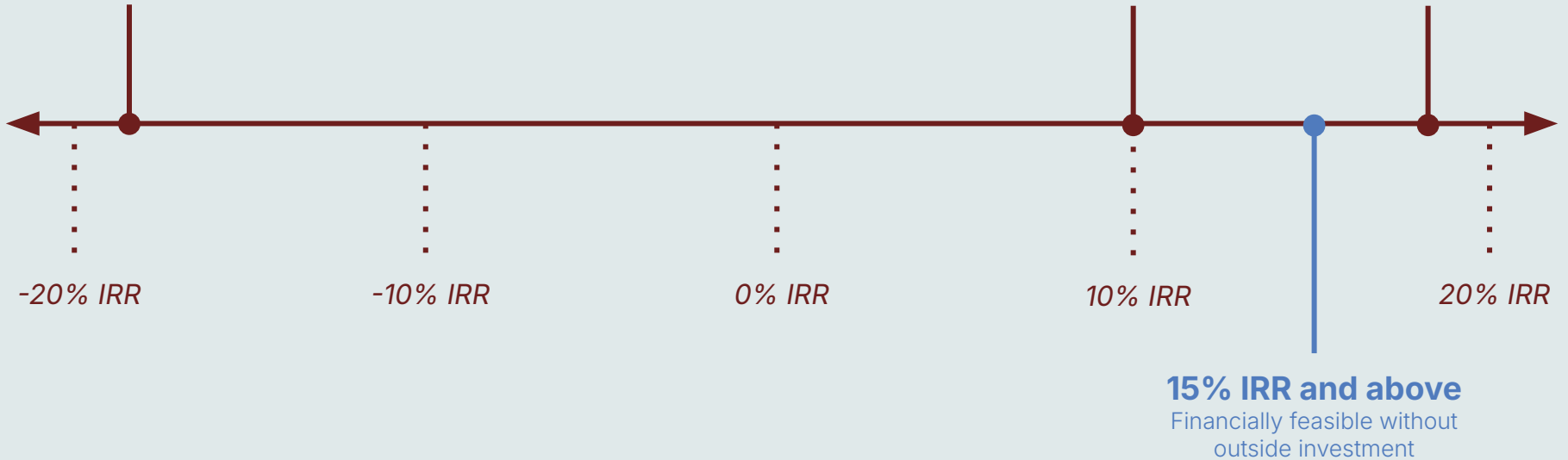
\$66.5M total cost
\$42.1M total revenue
-18% IRR
Need for \$33 million subsidy

Scenario #2

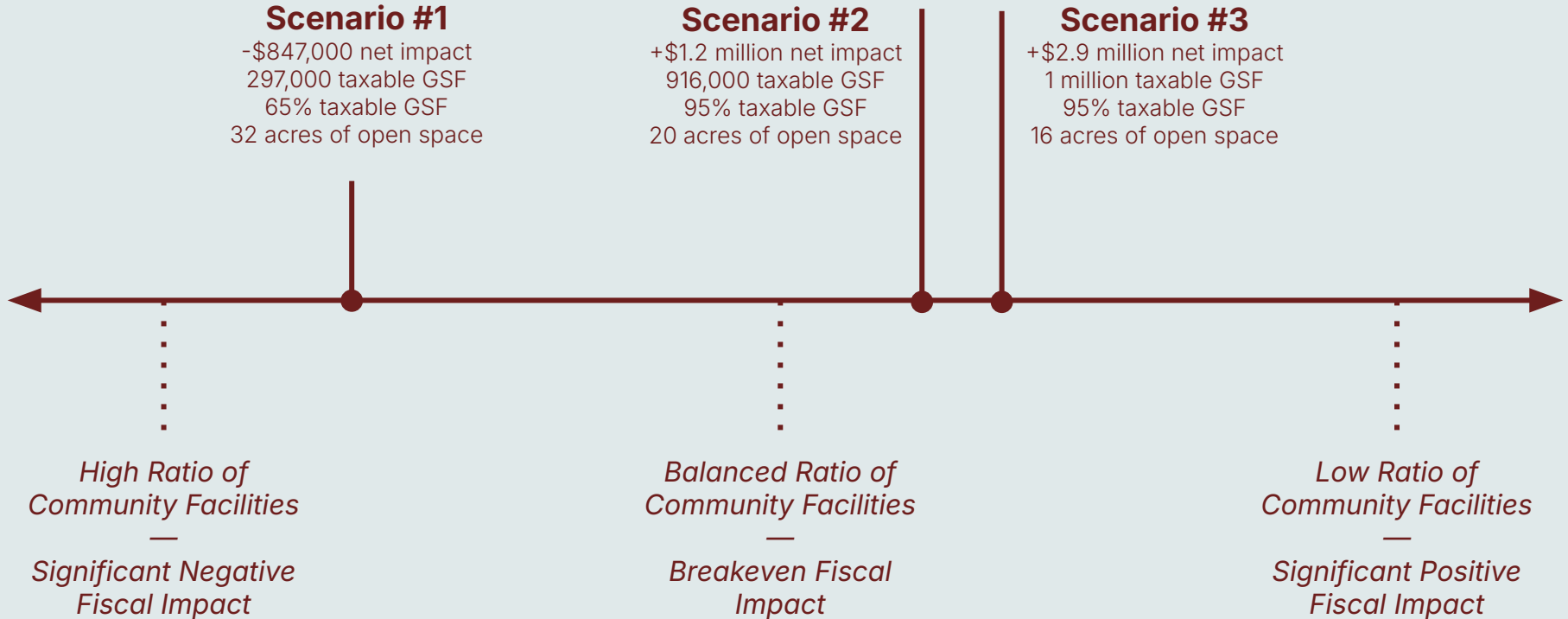
\$79.3M total cost
\$109.1M total revenue
10% IRR
Need for \$7 million subsidy

Scenario #3

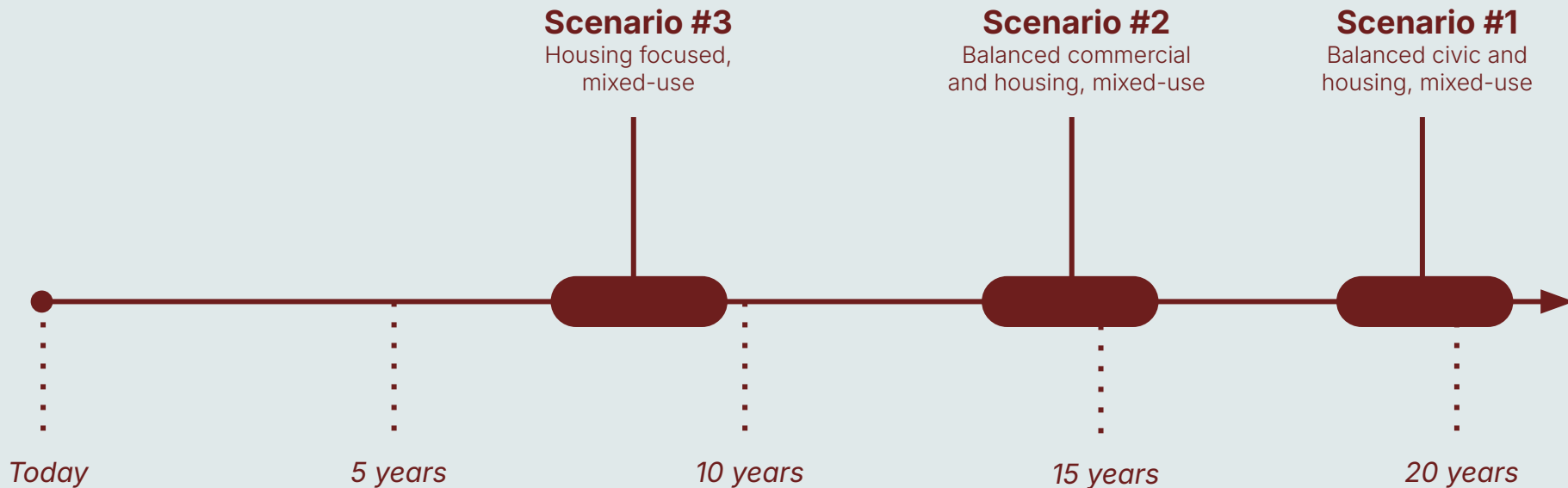
\$94.2M total cost
\$158.2M total revenue
17% IRR
No subsidy needs



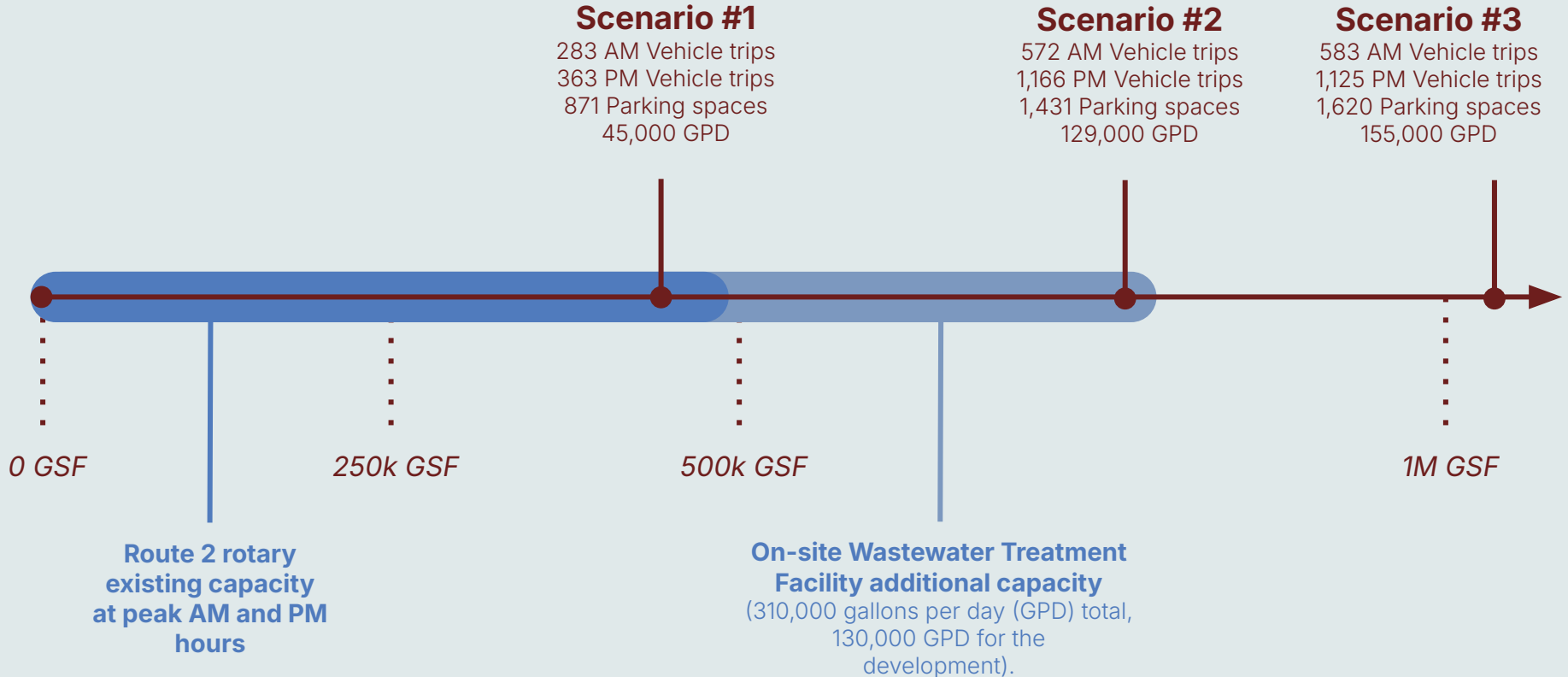
Fiscal Impact + Community Facilities



Implementation Timeframe



Mobility + Infrastructure Considerations



Housing Density

Scenario #1

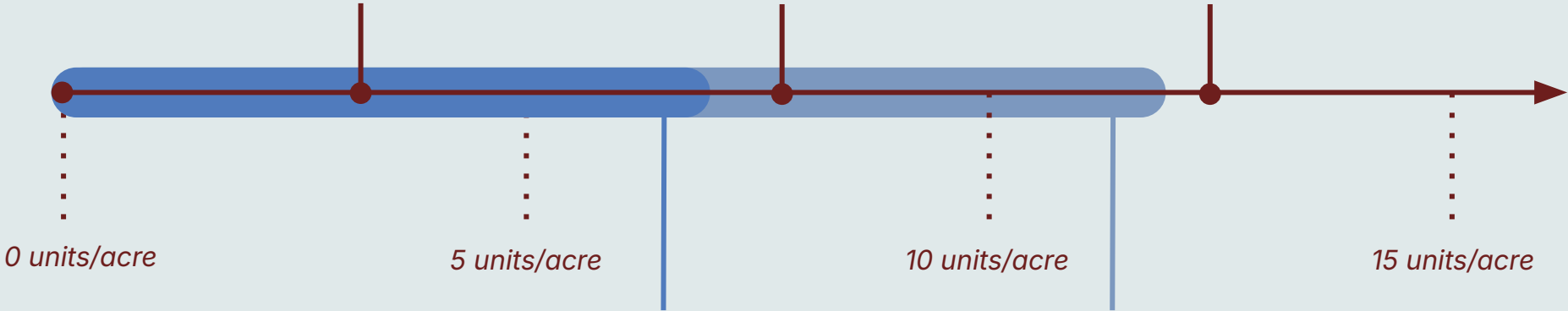
300 Units
4.3 dwelling units/acre
68 projected students
*34 projected students with
50% age-restricted housing*

Scenario #2

500 Units
7.2 dwelling units per acre
115 projected students
*58 projected students with
50% age-restricted housing*

Scenario #3

750 units
10.7 dwelling units per acre
173 projected students
*86 projected students with
50% age-restricted housing*



0 units/acre

5 units/acre

10 units/acre

15 units/acre

Unit capacity for 80 students with no restricted housing.
Housing with more than 400 units may require age-restrictions or further study to confirm enrollment capacity.

Unit capacity for 80 students with 50% age-restricted housing.

Evaluating Scenarios

Cultural + Historic Storytelling

1. Concord Prison Cemetery (high priority)
2. Wardens House (high priority)
3. Original Brick Wall / Interpretive Entry (high priority)
4. Malcolm X's Cell (high priority)
5. Concord Reformatory Worker Housing (medium priority)
6. Watch Towers / Interpretive reconstruction (low priority)
7. Chapel Site (low priority)
8. Concord Reformatory Superintendent's House (off-site)
9. Concord Reformatory Farm (off-site)



Bringing the Vision to Life

- Reflect and Update Community Values
- Keep Up Momentum

Bringing the Vision to Life

Reflect and Update Community Values

Immediate Tactics:

- Update the website
- Consider assembling a “leave behind” printed material that summarizes the plan
- Work with DCAMM to host a public workshop at the MCI Concord Site

Within a Year:

- Communicate Zoning to the Town

Bringing the Vision to Life

Keep Up Momentum

Immediate Tactics:

- Create a schedule with key milestones for the project's next steps
- Reconfirm the goals and role of the Advisory Board
- Consider applying to include the Warden's House and Concord Reformatory Superintendent's House (offsite) as part of a National Register of Historic Places

Within a Year:

- Zoning Ordinance and Zoning Maps Amendments
- Wastewater Treatment Facility Implementation
- Phasing Plan
- Cultural Alignment and Implementation Strategy
- Property Disposition

Ongoing Coordination with MassDOT, DCAMM, and other local and state agencies

Questions?

Follow along on the website for more: mci-concord.org