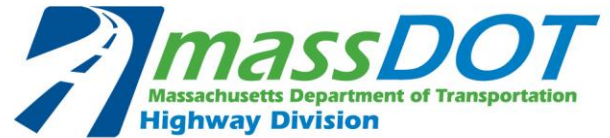




Maura Healey, Governor
Kimberley Driscoll, Lieutenant Governor
Monica Tibbitts-Nutt, Secretary & CEO
Jonathan L. Gulliver, Highway Administrator



TO: Rebecca Tepper, Secretary
Executive Office of Energy & Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

THROUGH: Kurt Gaertner, Asst. Secretary for Environmental Policy

FROM: John DeLeire, Director of the Right of Way Bureau
Massachusetts Department of Transportation
10 Park Plaza, Suite 7160
Boston, MA

DATE: July 22, 2024

RE: PLPA Alternative Analysis and Replacement Land Waiver Request
Stoughton Corridor Improvement Project (Route 138)

Public Lands Preservation Act (PLPA) – Alternatives Analysis:

In accordance with the Executive Office of Energy and Environmental Affairs (EEA) and the Guidance on Public Lands Preservation Act (PLPA) Implementation issued in February 2023, the Massachusetts Department of Transportation (MassDOT) issues the following alternatives analysis as required by the PLPA for the change of use of land related to the proposed corridor safety improvement project along Washington Street (Route 138) in Stoughton (the "Project"). The purpose of the alternatives analysis is to demonstrate that no feasible or substantially equivalent alternative exists that avoids or further minimizes impacts to the public land adjacent to the project site subject to Article 97 of the Massachusetts Constitution.

(i) Explain the Proposed Article 97 Action and Identify the Public Purpose that it will Serve

In 2001 and 2012, planning studies by the Massachusetts Central Office of Transportation Planning Studies and the Old Colony Planning Council published reports and provided recommendations to improve the corridor. In September of

2017, MassDOT initiated the project design. In 2018, MassDOT conducted a road safety audit for the corridor. The results of the audit revealed three high-crash cluster segments along the corridor where the most common crashes were angled crashes from turning movements and high speed.

In response to the results of the safety audit, MassDOT designed the Project to improve traffic operations and safety along the corridor, including addressing the following:

- a. Poor access management – MassDOT to improve access by providing well defined driveway openings and exits.
- b. Inconsistent pavement and lane marking, and poor signage leads to driver confusion – MassDOT to provide consistent pavement, lane markings and signage throughout corridor.
- c. Outdated traffic signals at major intersections – MassDOT to replace outdated equipment with new traffic signal technology, improve signal control and lane conflagration to eliminate conflicts between vehicle movements.
- d. Inconsistent and non-ADA-compliant pedestrian accommodations – these areas will be made compliant and consistent by MassDOT throughout the corridor.
- e. Lack of bicycle facilities along the corridor – MassDOT to provide safe and consistent pedestrian and bicycle accommodations along the corridor.

A portion of the Project involves lands owned by the town of Canton which are subject to Article 97 and therefore fall under the PLPA. The land owned by the town of Canton on the westerly side of Route 138 is essential to the Project and ensures continuity of the improvements along the corridor on both the easterly and westerly sides of Route 138.

(ii) Identify the Alternatives Considered

The following alternatives were considered and evaluated:

- a. Eliminate property owned by town of Canton on the easterly side of Route 138 from the Project.
- b. Eliminate property owned by the town of Canton on the westerly side of Route 138 from the Project.

(iii) Describe Why Each Alternative Not Selected is Not Feasible or Substantially Equivalent to the Proposed Article 97 Action

- a. Easterly side of Route 138 – the goal of the Project is to improve traffic operations and safety along the corridor. If the Project leapfrogs over the

Canton owned lands, it will interfere with the continuity and success of the Project. Specifically, this land is critical for the following: roadway widening, sloping of land, installation of guardrail and utility pole/anchors, creation of a drainage outfall, wetland replication, regrading below the slope and clearing/grubbing.

- b. Westerly side of Route 138 - the goal of the Project is to improve traffic operations and safety, as well as provide safe and consistent pedestrian and bicycle accommodations along the corridor. If the Project leapfrogs over the Canton owned lands, it will impede traffic operations and safety, and defeat the goal of safe and consistent pedestrian and bicycle accommodations. Specifically, this land is critical for the following: sloping of land, installation of the sidewalk, utility pole/anchors and traffic signal equipment, creation of a drainage outfall, regrading and clearing/grubbing beyond the top and bottom of the slopes and behind the sidewalk.

Public Lands Preservation Act (PLPA) – Funding in Lieu Request:

MassDOT respectfully requests that the Secretary make findings to allow it to provide funding in lieu of replacement land for the Project consistent with M.G.L. c. 3, § 5A. MassDOT believes that the areas within the parcel being permanently changed are not of significant natural resource or recreational value. Generally, the land in question is overgrown brush on the side of the roadway that is almost never occupied by the public. The Project serves a significant public interest in that it will improve safety along the Route 138 corridor in Stoughton for vehicles, bicycles, pedestrians and those individuals requiring ADA compliant accommodations. MassDOT completed an Environmental Justice (EJ) Population assessment and analysis in conjunction with this Project. Based on the information gathered during this assessment, the identified EJ populations do not bear an existing “unfair or inequitable” environmental burden and related public health consequences as compared to the general population. Any minor short-term environmental or public health impact during the Project construction is greatly outweighed by the mitigation and site improvements to be implemented by the Project. The environmental and public health impacts are unlikely to result in a disproportionate adverse effect on the EJ populations within one mile of the Project.

Funding in Lieu allows the protected landowner, in this case the town of Canton, the ability to purchase multiple smaller parcels of land or pool funds to target larger, more useful tracts of land.

MassDOT would like to share with the Secretary some concerns if this request is not approved. Specifically, if required to provide replacement land, MassDOT may lose Federal funding for following reasons:

(i) MassDOT will not likely be able to advertise the Project on time (February 2025)

MassDOT is currently in the process of appraising Article 97 land owned by the town of Canton needed for the Project. Once that appraisal is complete, MassDOT will know the value of a replacement parcel it should acquire. MassDOT will then need to locate and appraise a replacement parcel to ensure that it complies with the following PLPA requirements:

- a. the parcel is not already subject to Article 97
- b. the parcel is located in an area of equal or greater natural resource value than the Article 97 land
- c. the parcel is of equal or greater acreage and monetary value than the Article 97 land.

When a replacement parcel has been identified and satisfies the requirements of the PLPA, MassDOT environmental team will need to perform an environmental assessment to determine if permitting or approvals are necessary before acquiring the replacement parcel. The environmental assessment may also result in a determination that the replacement parcel cannot be acquired due to possible contamination issues, historical significance, current 4F or 6F designation, etc.

MassDOT environmental permitting for the Project was approved based on the Project parameters as submitted to MEPA and NEPA. If MassDOT is required to acquire a replacement parcel these approved permits may be negatively impacted.

After a replacement parcel of appropriate value has been selected and passed environmental review, the process of acquisition by eminent domain can proceed which could take an additional 9 to 12 months ensuring the project would not meet the current advertising date. Additionally, an adversarial taking of land not required by the project design opens the door for litigation. This litigation will not enjoy the typical benefits of said land being used for a safety improvement project. A layer of complexity will burden the Attorney General's office in their efforts to defend such a claim.

(ii) Federal Highway may not approve of MassDOT taking property outside the project limits

Federal Highway may not condone the taking of private property which has no relation to the Project. They may not be willing to continue providing funding for the Project.

(iii) MassDOT will be required to perform an Environmental Justice analysis on any replacement land

Federal Highway requires an EJ analysis on all property impacted by a project. By adding replacement land to the Project, MassDOT will now be required to complete an EJ analysis. Failure to complete the analysis will potentially result in a loss of Federal funds. Alternatively, complying with the requirement will be time consuming, possibly resulting in MassDOT not being able to advertise on time which would also jeopardize the federal funding.

Public Lands Preservation Act (PLPA) – Public Notice

MassDOT, in conjunction with the Town of Canton, posted Notice of this Request as required by the PLPA.

Thank you for considering this request. We look forward to hearing from you.