



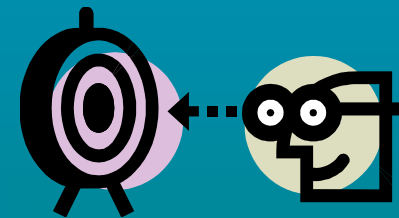
# SHARED SYSTEMS REVIEW

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MassDEP WERO Seminar – 2022

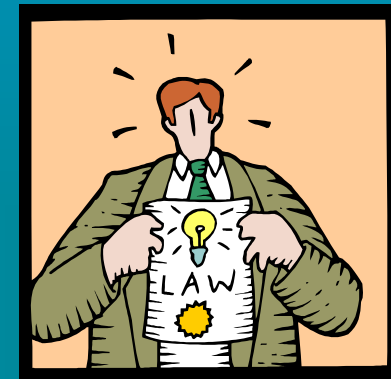
# SESSION OBJECTIVES & STRUCTURE

- Regulatory Requirements
- Permitting Process
  - Technical
  - Legal
- Tools
- Shared System Continuing Oversight



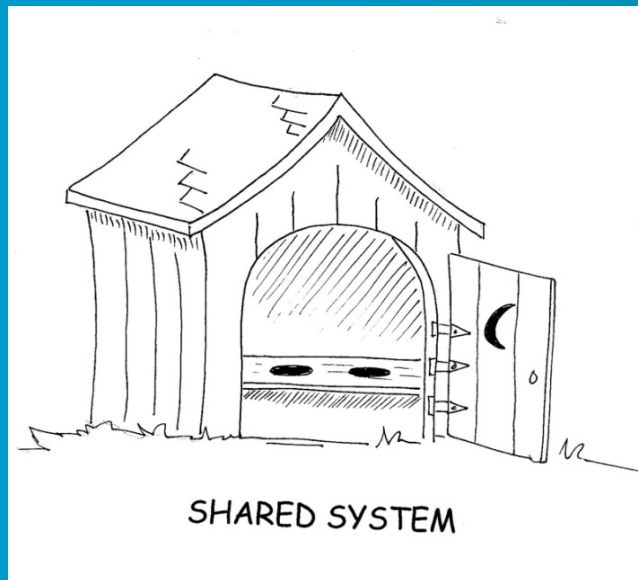
# REGULATORY REQUIREMENTS

- Permitted under 310 CMR 15.290-15.293
- Two important parts of application
  - Legal
  - Technical
- Standards of review
  - Upgrade
  - New construction
  - After-the-fact division of facility



# Shared System

- What is a Shared System?



# Shared System

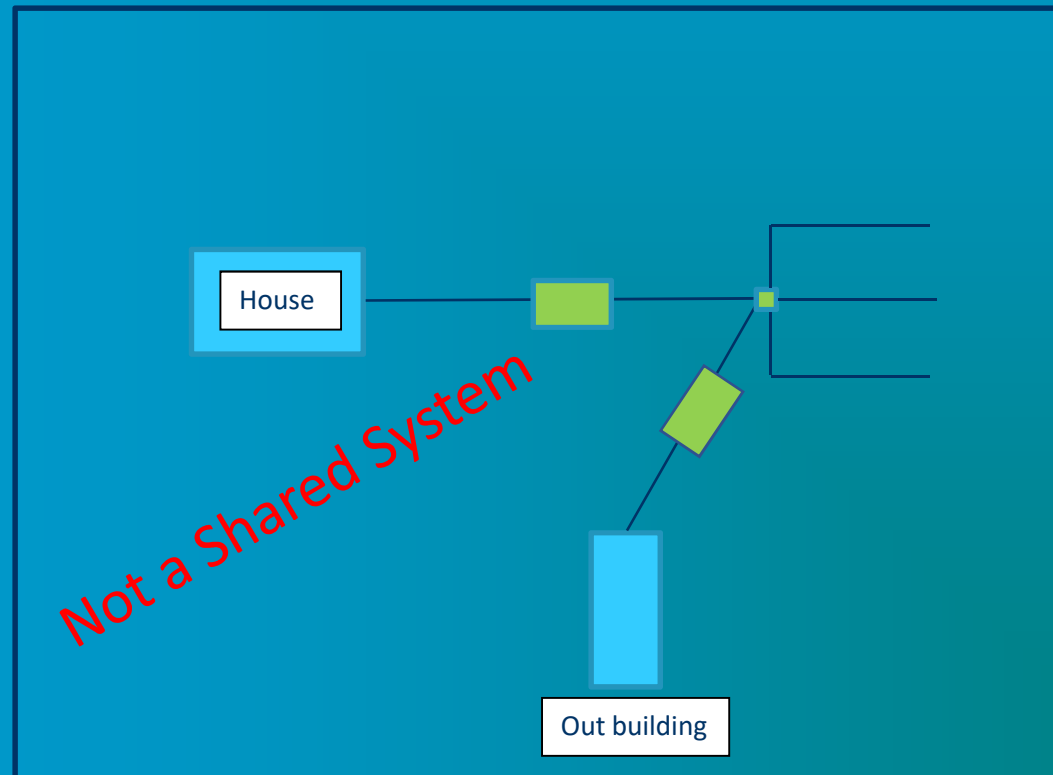
- Shared System:
  - Basically, it is a system that is “shared” by two or more separate legal entities.
  - A “system that is shared” isn’t necessarily a “shared system”.
  - Title 5 provides the legal structure to ensure the mechanisms are in place for ownership and operation & maintenance.

# Shared System

- Shared System:
  - Condominiums are not a shared system as there is only one legal entity: the association.

# Shared System ?

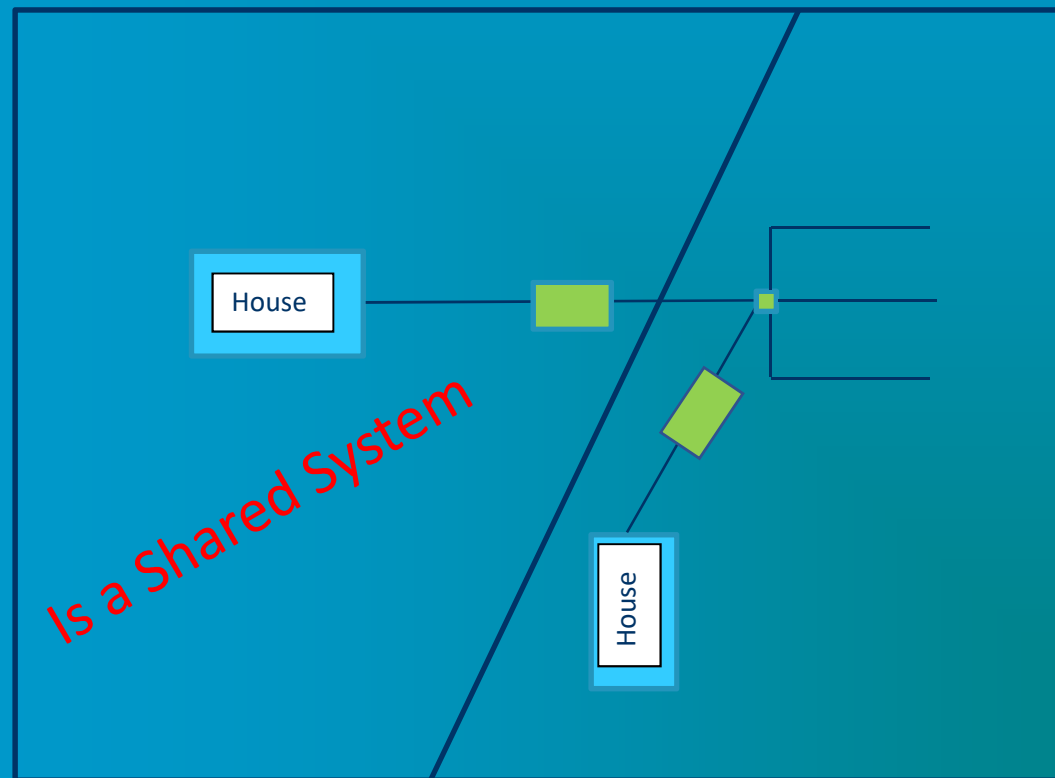
One Single Lot



# Shared System ?

Lot #1

Lot #2







# PROS & CONS OF A SHARED SYSTEM

Good: Cost effective – Economy of Scale

Bad: Neighbors have to work jointly for the O&M of the system.



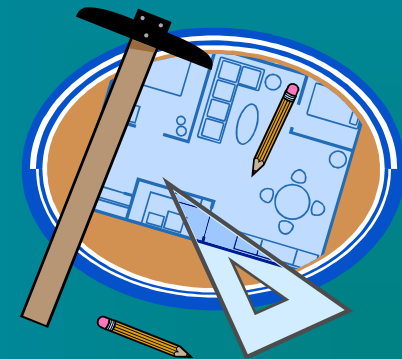
# APPLICATION PROCESS

- Technical Review
- Legal Review

DEP no longer reviews Shared System applications

# Technical Review Components

- Plans defining shared system and facilities served (standard design plans showing all components).
- Demonstration plan, if required
- O&M plan, if needed



# Technical Standards

## 3 Scenarios for Shared Systems:

- Upgrade
- New construction
- After-the-fact division of facility

# Upgrade

- Confirm sizes of existing facilities to be served
- Make sure there is no new construction
- Are variances required for the upgrade? If so, then review variances as part of the shared system.



# New Construction

- Cluster Development
- Non-cluster Development
  - Cluster Development language was added in the 2006 Title 5 revisions.

# Cluster Development

- 310 CMR 15.002 defines “Cluster Development”, lengthy definition.
- Comply with local zoning ordinances/by-laws in accordance with MGL c. 40 A § 9.
- Coordinate with planning board
- Does not require Demonstration Plan





# Non-Cluster Development

- Demonstration plan
- Consistent with pre-April 21, 2006 Title 5 regulations



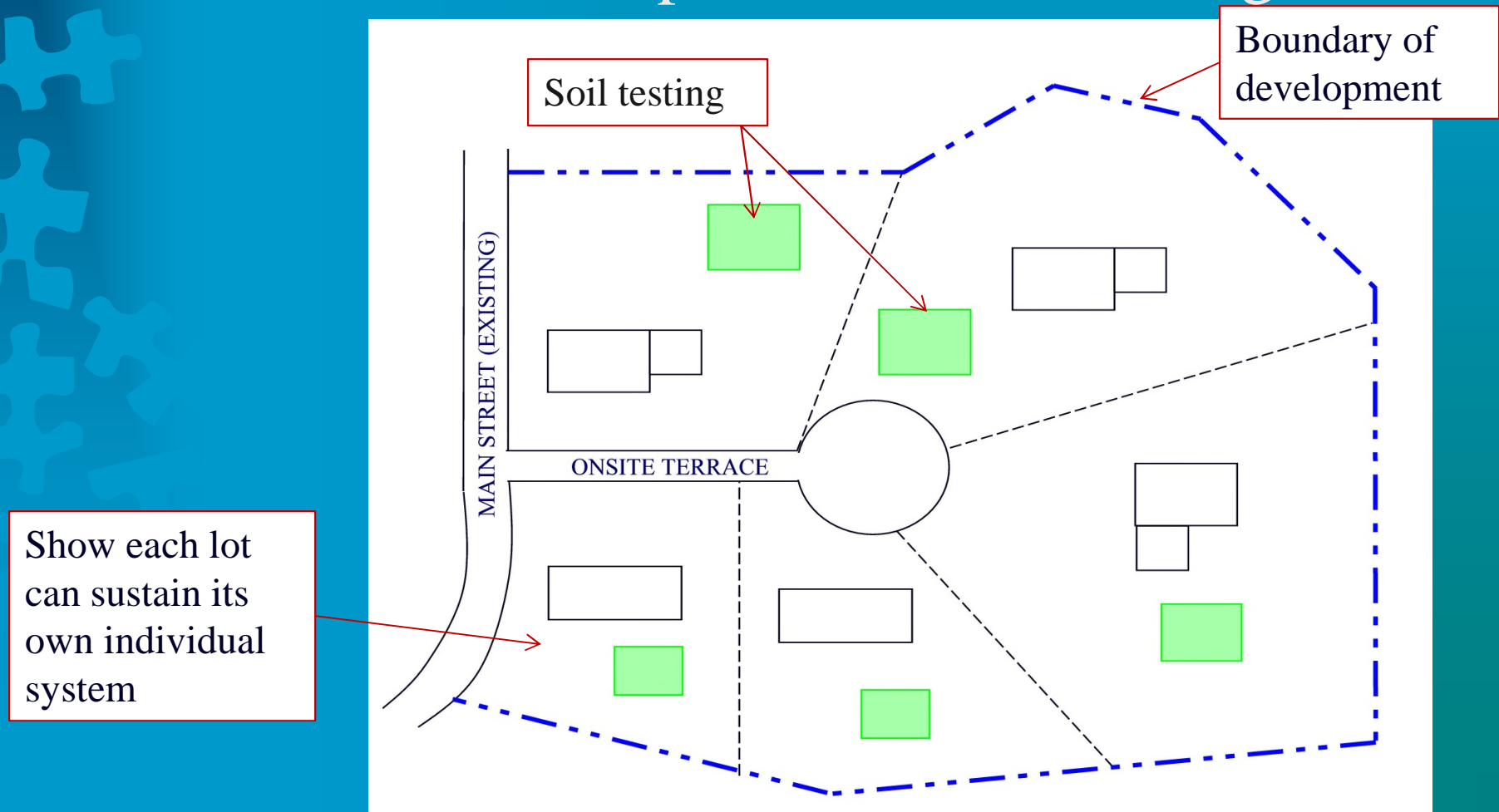
# Demonstration Plan?

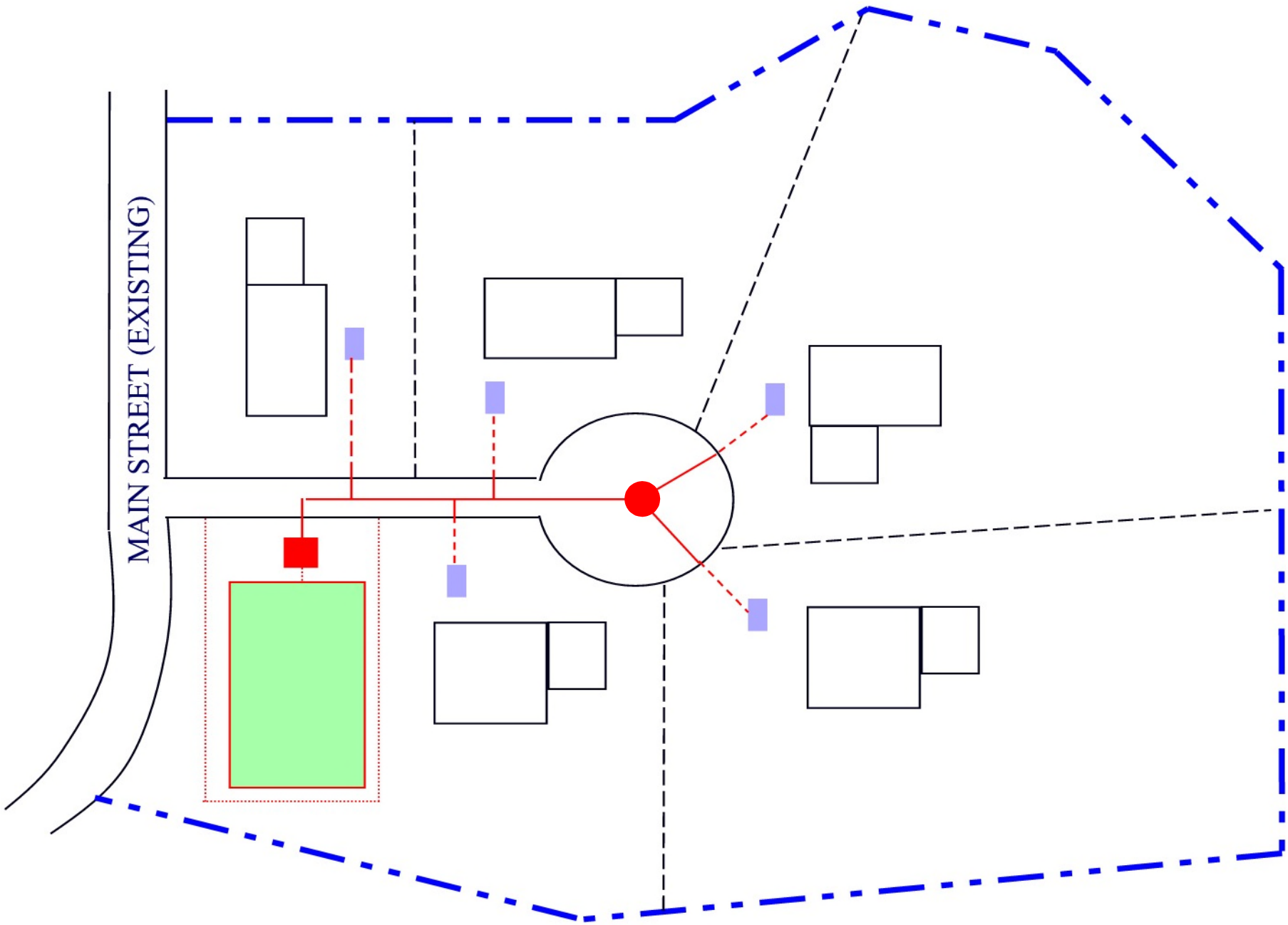
- A demonstration plan must show that the design flow from the facility or facilities to be served by the shared system does not exceed the design flow which could have been constructed without the shared system.

**Translation: A shared system does not get you additional house lots.**

# Non-Cluster Development

- Demonstration plan determines design flow





MAIN STREET (EXISTING)



# After-the-fact Division of Facility

- Existing facility
- Property is proposed to be divided
- System(s) must be inspected
- If system(s) passes,
  - Technical
  - Legal



## After-the-fact Division of Facility

- The new shared system must meet all the requirements of Title 5 with the exception of the property line setback.
- It is presumed to be new construction if construction of any building was completed within 5 years of filing the application.

# LEGAL REVIEW

- Shared system components
  - What is shared?
- Form of Ownership for each component of the shared system
- Financial assurance mechanism
- Grant of Title 5 Covenant and Easement
  - Part of the regulations, fill in the blank form.



# CONTINUING OVERSIGHT

- Board of Health
  - Inspected every 3 years (Section 15.301 (7))
- Ownership Entity
  - Inspected every 3 years
  - Funding
  - Operation/maintenance
  - Oversight of users
  - Policing Authority









# CONTACTS

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