



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

Maura T. Healey, Governor ◆ Kimberley Driscoll, Lieutenant Governor ◆ Edward M. Augustus Jr., Secretary

February 1, 2024

Taylor Torres
Town Planner
801 Washington Street
Canton, MA 02021

Re: Town of Canton: Pre-Adoption Review Application for Compliance with MBTA Communities/Section 3A of the Zoning Act

Dear Mr. Torres:

The Executive Office of Housing and Livable Communities (EOHLC) received a pre-adoption review application from the Town of Canton submitted electronically on November 3, 2023. The application requested that EOHLC conduct a pre-adoption review for the Town of Canton's proposed district called the "Canton Center Economic Opportunity District Area C" ("District") based on the criteria set forth in the Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act (Guidelines).

EOHLC appreciates all the work the town has done to prepare for compliance with Section 3A. The MBTA Communities program staff are available to work through these technical details with you and your staff. **After careful review and analysis, EOHLC has determined that the Application as submitted does not demonstrate that these subdistricts will meet the requirements of Section 3A and the Guidelines if the new zoning is adopted as submitted.** We hope the descriptions of technical corrections will assist the Town in creating zoning that can be deemed compliant.

Canton is designated as a Commuter Rail community with 9,930 existing housing units per the 2020 United States Decennial Census and 451 acres of developable land within one half mile of MBTA transit stations. The Town is required to have a district with a minimum multi-family unit capacity of 1,490 units, a minimum land area of 50 acres and a gross density of 15 dwelling units per acre. At least 50 percent of each minimum requirement (acreage and unit capacity) must be located within one half mile of transit stations ("transit station areas").

EOHLC identified the following issues which may affect the District's compliance with Section 3A:

1. EOHLC may require more information to determine whether the requested developable square footage overrides are permissible. Additionally, please note that an override that is based on publicly owned land would not override the non-public excluded land areas of any affected parcel.

2. The compliance model indicates that some of the District is within the Groundwater Protection Overlay District (GPOD). Due to the requirement of a special permit in the GPOD, the unit capacity of the parcels that are within the GPOD must be removed from the compliance model. Additional alternatives include (a) analyzing the affected parcels as a separate “subdistrict” in the compliance model that to reflect the impervious surface limitation in the GPOD, or (b) revising the zoning to exempt the District from the special permit requirement of the GPOD (but retaining the GPOD’s substantive requirements).
3. There are some components of the zoning that need clarification, revisions, or amendments to ensure compliance:
 - Section 9.8.35 has a definition for Affordable Housing that references section 9.10. Section 9.10 does not appear in the submitted zoning language. Also, Workforce Housing appears in 9.8.40 as a defined term but there was no definition provided.
 - Section 9.8.36 exempts special permit projects from the requirements of the underlying zoning district, but does not specifically exempt multi-family housing, which is and must be a use allowed as of right.
 - Section 9.8.42 references a definition for Common Open Land in section 9.10.2. Section 9.10.2 does not appear in the submitted zoning language.
 - Section 7.4.3 requires a special permit for earth removal operations. Please provide written clarification if the exception in 7.4.6 applies to developments in the District and whether a special permit would be required for depositing material in connection with a development in the District. If a special permit were required in the District, then this section does not comply with the as of right requirement.
 - Section 10.5.8 states “The Zoning Board of Appeals (ZBA), as a condition of granting a permit...” If the use of the word permit in this section is intended to be a discretionary approval, this would not comply with the as of right requirement.
 - Site Plan Review includes procedures and standards from Sections 6.7, 10.5 and 10.7. EOHLC recommends reviewing the site plan review, design review, and performance standards with town counsel to ensure that those sections align with the existing case law concerning site plan review for as of right uses.
4. The zoning as written will require an economic feasibility analysis to support the affordability requirements, due to the requirement for 10% of units to be affordable at 80% AMI, and an additional 10% of units to be affordable at 80-110% AMI. The total percentage of units required to be restricted triggers the requirement for an economic feasibility analysis.
5. Most lots in the proposed district do not meet the minimum lot size requirement. The Guidelines encourage neighborhood scale, transit-oriented zoning. EOHLC likewise encourages the Town of Canton to establish dimensional zoning standards for multifamily housing that render most or all of the lots in the district dimensionally conforming and that are consistent with the purpose of the MBTA Communities law.

For the foregoing reasons, EOHLC determined that the application as submitted does not demonstrate that the District will comply with Section 3A as proposed. The Town must take the steps outlined in this letter to position the District for a determination of compliance.

Please note that this pre-adoption review is limited to the specific issues identified at this stage of review, based on materials provided by the Town of Canton. It does not constitute a representation that resolution of the identified issues would result in a compliant zoning district.

MBTA Communities staff at EOHLC will meet with you and your staff should you want to review the details of this letter. If you have questions or need further assistance regarding this determination, please contact MBTA Communities Compliance Coordinator Nathan Carlucci, at nathan.carlucci@mass.gov.

Sincerely,

A handwritten signature in blue ink that reads "Caroline 'Chris' Kluchman". The signature is written in a cursive style.

Caroline "Chris" Kluchman
Acting Director, Community Services Division

cc: Senator Paul R. Feeney
Representative William C. Galvin