



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

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

January 4, 2024

Brian Szekely
Planning Director
1 Sylvan Street
Danvers, MA 01923

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

Dear Mr. Szekely:

The Executive Office of Housing and Livable Communities (EOHLC) received a pre-adoption review application from the Town of Danvers submitted electronically on October 6, 2023. The application requested that EOHLC conduct a pre-adoption review for the Town of Danvers' proposed subdistricts called Downtown Core, Downtown Live Work, High Street Mixed Use and Maple Square 40R based on the criteria set forth in the Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act (Guidelines). **After careful review and analysis, EOHLC has determined that the Application 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 these comments will assist the Town in creating zoning that can be deemed compliant.

Danvers is designated as an Adjacent community with 11,763 existing housing units per the 2020 United States Decennial Census. The Town is required to have a district with a minimum multi-family unit capacity of 1,176 units, a minimum land area of 50 acres and a gross density of 15 dwelling units per acre. EOHLC identified the following issues which may affect the subdistricts' compliance with Section 3A:

1. There appears to be an inconsistency between the compliance model and the zoning language which needs resolution. Table 18.7 indicates that multi-family housing requires a minimum of 20% open amenity space. The compliance model needs to be revised to include this requirement in the zoning parameters. does not include a minimum open space requirement.
2. It is unclear whether the setback requirements as described in 18.6.E are accounted for in the compliance model. Please ensure that these requirements are accurately represented in the compliance model, and include a description of this representation with the district compliance application.
3. 10 Webb Street is not contiguous with any other portion of any subdistrict. The parcel is less than 5 acres, thus the land area and unit capacity from this parcel cannot be included in the compliance

calculations.

4. Additionally, there are some points in the zoning that need clarification and/or amendment to ensure that the requirements of compliance are met.
 - Section 18.D, Development Types, appears to apply to all multi-family developments, per 18.D.3 General Residential Development, “A development project containing one or more residential building types...”. If Section 18.D applies to all developments that include one or more multi-family buildings, the compliance model must be corrected to reflect the zoning parameters of this development type, which has a 10,000 square foot minimum lot size. If Section 18.D does not apply to developments that contain only one building, please clarify that interpretation in writing.
 - Table 18-8 states that multi-family buildings are allowed by right in the HSMUC; however, Table 21-1 states that multi-family buildings are allowed only by special permit. Table 21-1 would need to be corrected to meet compliance requirements.
 - Table 18-8 defines Multi-Family Building as a building with 3 or more dwelling units. Table 18-7 #4 defines Multi-Family Building as a building with 4 or more dwelling units. Please ensure that the definition of Multi-Family Building is consistent throughout the bylaw. If this remains inconsistent, the compliance model will need to be corrected to reflect the more restrictive definition.
 - 19.2A and 21.2A state “Pedestrian-oriented and active ground floor uses shall be required along these designated frontages consistent with Section 18.8.D.2.” Section 18.8.D.2 does not exist, and Section 18.8.D.1.a encourages mixed use but does not require mixed use. If the requirement for mixed use in 19.2A and 21.2A is no longer effect, the language should be corrected. If the requirement remains in effect, the compliance model must be adjusted to remove those subdistricts.
 - If 18.11 Transportation Management applies to projects that do not require special permits, this would not be acceptable for an “as of right” designation. To comply, the language of Section 18.11 should be revised to clarify that it does not apply to projects that do not require special permits.
 - If Section 30.2.B, Land Disturbance of One Acre or More, applies to projects that undergo site plan review, this special permit requirement would not be acceptable for an “as of right” designation. To comply, the language of Section 30.2.B should be revised.
5. Please submit the dates of adoption and approval of the 40R district being used for compliance when the district compliance application is completed.
6. The submitted Economic Feasibility Analysis (EFA) does not support the feasibility of the inclusionary zoning as written. The EFA does provide sufficient evidence to support the feasibility of 10+ unit developments at 12.5% affordability and 60% AMI. However, Section 29, Affordable Housing Provisions requires payments or affordable units for projects of fewer than 10 units. The submitted EFA does not consider the feasibility of these smaller projects, despite the fact that 78% of the parcels in the subdistricts have a unit capacity of 9 or less. If the EFA is resubmitted with the district compliance application showing that a smaller project is feasible, the EFA may support the inclusionary zoning requirements.

For the foregoing reasons, EOHLC determined that the application as submitted does not demonstrate that the subdistricts will comply with Section 3A as proposed. The Town must correct the compliance model and revise the zoning language as noted above.

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 Danvers. 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,



Caroline "Chris" Kluchman
Acting Director, Community Services Division

cc: Representative Sally P. Kerans
Senator Joan B. Lovely