



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

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

January 12, 2024

Paula Vaughn-MacKenzie
Director of Planning and Land Use
Town of Lincoln
16 Lincoln Road
Lincoln, MA 01773

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

Dear Ms. Vaughn-MacKenzie,

The Executive Office of Housing and Livable Communities (EOHLC) received a pre-adoption review application from the Town of Lincoln submitted electronically on October 17, 2023. The application requested that EOHLC conduct a pre-adoption review for the Town of Lincoln's proposed "Multi-family and Mixed-Use Overlay Districts" ("3A District") 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 as submitted does not demonstrate that the 3A District will meet the requirements of Section 3A and the Guidelines if it is adopted.** We hope these comments will assist the Town in creating zoning that can be deemed compliant and EOHLC staff is ready to review the findings of this review with you at your convenience.

Lincoln is designated as a Commuter Rail community with 2,771 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 635 units, a minimum land area of 42 acres, and a minimum gross density of 15 dwelling units per acre. At least twenty percent of the district's minimum unit capacity and land area requirements must be met within one half mile of Lincoln's commuter rail station.

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

1. Only parcel level GIS data was provided. The district compliance application requires submission of a GIS shapefile showing each district or subdistrict as single polygons. This is used in spatial analysis to confirm that requirements such as land area, contiguity, and gross density are met.
2. The GIS shapefiles provided show a district that excludes street and rail right of way areas. The definition of gross density in G.L. Chapter 40A, Section 1A requires including right of way areas in calculations. Therefore, these areas must be included in district shapefiles even if local practice is to not include them in zoning districts. Including these areas will affect the district's land area and gross density calculation.
3. Some parcels in the 3A District appear to lack frontage, and possibly access, especially m214532-907035 and m214570-906978. No documentation in the application shows that these parcels have sufficient frontage to meet the District's minimum requirement, and multi-family housing cannot be developed as of right on a non-conforming lot. Therefore, the unit capacity for those parcels must be removed, or proposed zoning requirements changed, to allow for as of right development of multi-family housing on them.

4. The 3A District appears to be within Aquifer Protection & Watershed Protection Overlay Districts. These districts require special permits for rendering impervious more than 15 percent of a lot, or 2500 square feet of land, whichever is greater. Section 3A requires that development of multi-family housing can proceed without the need for a special permit or other discretionary zoning approval. EOHLC recommends that the Town of Lincoln consider amendments to allow multi-family housing and mixed use developments to proceed in the 3A Districts by satisfying the substantive criteria required by the Aquifer Protection & Watershed Protection Overlay Districts without “special permits” or discretionary zoning approvals. EOHLC may issue additional guidance on this topic in the future.
5. The Village Center Overlay District, which was put forward as the Town’s mixed-use development district, contains language suggesting that parking can be required for non-residential uses, including the language “Parking for non-residential uses shall be per the approved Site Plan” and “For Mixed-Use Developments under this section, the applicant shall demonstrate that the proposed parking is sufficient to meet the needs of the development.” Section 5c(vii) of the Guidelines prohibits minimum parking requirements associated with the non-residential uses allowed as of right. The purpose of mixed-use development districts in connection with Section 3A is to preserve pedestrian access to amenities in an existing village-style or downtown development.
6. The proposed 3A District requires 10% of units to be restricted as affordable. However, an Economic Feasibility Analysis was included for a 15% of units requirement. EOHLC has not yet reviewed the Economic Feasibility Analysis, but can do so at your request, should the town want to include a requirement for more than 10% of units to be affordable.

For the foregoing reasons, EOHLC determined that the application submitted does not fully demonstrate that the 3A District will comply with Section 3A as proposed. The Town must address items 1-5 while ensuring that the resulting zoning district retains the minimum numerical requirements of Section 3A and the Guidelines.

Please note that scope of this pre-adoption review is limited to the specific issues identified at this stage, based on materials provided by the Town of Lincoln. This review did not include a full review of the Town’s zoning bylaw and does not constitute a representation that resolution of the identified issues would result in a compliant zoning district. The complete zoning bylaw, including site plan review procedures, and any applicable planning board regulations or design guidelines will be reviewed with a district compliance application to ensure that it does not contain provisions that reduce the scale at which the 3A District permits multi-family housing as of right.

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: Senator Michael J. Barrett
Representative Carmine Lawrence Gentile