



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

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

September 8, 2023

Mayor Dominick Pangallo
City of Salem
Salem City Hall
93 Washington Street
Salem, MA 01970

Re: Salem - District Compliance Determination for MBTA Communities under Section 3A of the Zoning Act (Section 3A)

Dear Mayor Pangallo:

The Executive Office of Housing and Livable Communities (EOHLC) received a district compliance application from the City of Salem submitted electronically on May 25, 2023. The application requested that EOHLC grant a determination of compliance for the City of Salem's "Central Business (B5)" zoning district (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 Salem is **compliant** with Section 3A, as it finds that Salem meets, or exceeds, the requirements of Section 3A and the Guidelines.

Salem is designated as a commuter rail community with 20,349 existing housing units per the 2020 United States Decennial Census, and 266 acres of developable land within one half mile of MBTA transit stations. The City is required to have a district with a minimum land area of 41 acres, and a minimum multi-family unit capacity of 3,052 units. At least 40 percent of each minimum requirement (acreage and unit capacity) must be located within one half mile of transit stations ("transit station areas").

EOHLC has conducted a thorough review of the application, and has made the following determinations:

1. The district comprises **129.26 acres**.
2. As of right multi-family unit capacity for the district is estimated at **3,414 units**.
3. The gross density of the District is estimated at **27.18 dwelling units per acre**.
4. **One hundred (100%) percent** of the land area and multi-family unit capacity for the District is located within transit station areas.
5. At least **fifty (50%) percent** of the District is one contiguous land area.

6. The multi-family housing allowed as of right in the District is suitable for families with children pursuant to Section 3A and Section 7 of the Guidelines.
7. There are no dimensional zoning requirements not captured by the compliance model that are likely to substantially affect the District's estimated multi-family unit capacity.
8. Taken as a whole, the District meets the land area, multi-family unit capacity, gross density, land area within transit station area (acres), multi-family unit capacity within transit station area (units), and contiguity requirements of Section 3A and the Guidelines.

The following table shows the **required** District minimums, the estimates **submitted** in the District application, and estimates as **determined** by EOHLIC following its review:

	Required	Submitted	Determined
Land area (acres)	41	90.8	129.26
Multi-family unit capacity (units)	3,052	4,953	3,414
Gross density (units per acre)	15	55.9	27.18
Land area within transit station areas (acres)	16.4	86.8	129.26
Multi-family unit capacity within transit station areas (units)	1,221	4,953	3,414
One 50% contiguous area	Yes	Yes	Yes

EOHLIC determinations differ from the application estimates for the following reasons:

1. The land area submitted (**90.8 acres**) did not include rights of way areas in the District, which must be included in land area for gross density calculations. Including those rights of way areas produces a larger land area (**129.26 acres**).
2. EOHLIC removed multi-family unit capacity from all parcels that appeared to be substantially affected by the Flood Hazard Overlay District. Since the submitted District meets approval criteria without including the capacity of the affected parcels, EOHLIC did not review the flood zone permitting process to determine whether it is consistent with the as of right zoning requirements of Section 3A.
3. EOHLIC approved an override request to include unit capacity at 24 Charter St, a parcel that has been transferred to private ownership and is available for as of right development of multi-family housing. It did not approve override requests for 252 Bridge Street, or 32-34 Federal Street. However, the decision not to approve 252 Bridge Street or 32-34 Federal Street was not a conclusive determination that they could not qualify for an override. EOHLIC did not make a determination because the submitted District meets approval criteria without including the capacity of those parcels, and it was not immediately evident that the parcels have been or will be made available for as of right development of multi-family housing.

EOHLC made the following additional observations that could affect as of right multi-family housing development in the District:

1. Developments of six or more units are subject to site plan review pursuant to Section 9.5 of Salem's zoning ordinance. The criteria set forth in the site plan review are consistent with the requirements of Section 4.a. of the Guidelines.
2. The District is affected by multiple local historic districts and historic resources.

Permitting decisions made in connection with the above must not effectively reduce the estimated multi-family unit capacity of the District. If permitting decisions do reduce the estimated multi-family unit capacity of the District, EOHLC may revisit Salem's compliance with Section 3A, and could require the City to remedy any deficiency with amendments to its zoning.

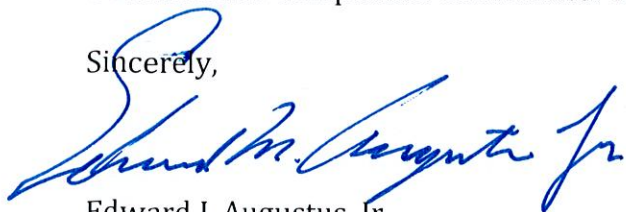
Based on the information provided in the Application, EOHLC has determined that Salem meets or exceeds the requirements set forth by Section 3A and the Guidelines and is currently **compliant** with Section 3A of M.G.L. c. 40A.

Please note that continued district compliance is **conditioned** upon the following requirements:

- Municipalities must notify EOHLC in writing of any proposed or active zoning amendment that affects the District, or of any other by-law, ordinance, rule, regulation, or municipal action that limits the development of multi-family housing in the District.
- EOHLC may establish a system to monitor compliance over time to ensure that approved districts allow multi-family housing in accordance with the criteria under which they were approved.
- EOHLC may rescind a determination of district compliance or require changes to the District to remain in compliance as per Section 10 of the Guidelines.

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,



Edward J. Augustus, Jr.
Secretary

cc: Senator Joan B. Lovely
Representative Manny Cruz