



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

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

Sent via email to alowder@tewksbury-ma.gov

February 28, 2024

Alexandra Lowder
Community/Economic Development Planner
1009 Main Street
Tewksbury, MA 01876

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

Dear Ms. Lowder:

The Executive Office of Housing and Livable Communities (EOHLC) received a pre-adoption review application from the Town of Tewksbury on November 30, 2023. The application requested that EOHLC conduct a pre-adoption review for the Town of Tewksbury's proposed district called the "MBTA Communities Multifamily Overlay 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).

EOHLC appreciates all the work the town has done to prepare for compliance with Section 3A. After careful review and analysis, EOHLC has the following technical feedback to aid the Town in achieving compliance. We hope the descriptions of technical corrections will assist the Town in creating zoning that can be deemed compliant. The MBTA Communities program staff are available to work through these technical details with you and your staff.

Tewksbury is designated as an Adjacent community with 12,139 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 1,214 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 District's compliance with Section 3A:

1. EOHLC recommends reviewing Section 3.6: Site Plan Review to ensure that the standards set forth are objective and nondiscretionary and consult with town counsel to ensure that this section aligns with the existing case law concerning site plan review for as of right uses, especially whether a disapproval under Section 3.6.5 conforms with as of right uses.
2. The District section on Floodplain District seems to exempt the District from the permit requirements of Section 5.5: Floodplain District. However, it is not clear whether Section 5.5.8(A) would take precedence over this exemption. If the District is not exempt, due to the requirements

in Section 5.5: Floodplain District for residential development within the floodplain, the unit capacity of the parcels within the floodplain may need to be adjusted in the compliance model by removing the floodplain area from developable land.

3. Due to the impervious area requirements in Section 5.6: Groundwater Protection District for residential development within the groundwater protection district, the unit capacity of any parcels within the Groundwater Protection District may need to be adjusted in the compliance model by capping the lot coverage at 15%. Alternatively, the Town can revise the zoning to exempt the District from the special permit requirement of the Groundwater Protection District (while retaining the Groundwater Protection District's substantive requirements). It may be helpful to clarify how proposed developments will be permitted as of right in the Groundwater Protection District section of the District.

For the foregoing reasons, EOHLC recommends that the Town address the issues outlined before putting the District to a legislative vote.

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 Tewksbury. It does not constitute a representation that resolution of the identified issues would result in a compliant zoning district. We encourage to town to review its existing zoning carefully to make sure there are no provisions that would affect the proposed overlay 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
Director, Community Services Division

cc: Senator Barry R. Finegold
Representative David Allen Robertson