



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 vgingrich@wilmingtonma.gov

February 7, 2024

Valerie Gingrich
Director of Planning and Conservation
121 Glen Road
Wilmington, MA 01887

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

Dear Ms. Gingrich:

The Executive Office of Housing and Livable Communities (EOHLC) received a pre-adoption review application from the Town of Wilmington submitted electronically on November 9, 2023. The application requested that EOHLC conduct a pre-adoption review for the Town of Wilmington's proposed district called the "MBTA Communities Multi-family 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. 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 the District 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.

Wilmington is designated as a Commuter Rail community with 8,320 existing housing units per the 2020 United States Decennial Census and 538 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 1,248 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. The Mixed Use Location Determination for the Main Street Mixed Use Sub-district was not approved by EOHLC. Due to this determination, the compliance model as submitted does not

demonstrate sufficient unit capacity to meet the minimum requirement. The compliance model shows a unit capacity of 1,074 units, and the minimum requirement is 1,248 units.

2. The compliance model as submitted does not meet the minimum land area requirement of 50 acres, instead showing 41.6 total acres. As the District is expanded to meet this requirement, please stay mindful of the contiguity requirements found in Section 5 of the Guidelines.
3. An economic feasibility analysis will be required to support the requirement of Section 6.11.5.1 that 15% of units be affordable.
4. There are some components of the zoning that need clarification, revisions, or amendments to ensure compliance:
 - a. Due to the requirement in Section 6.2: Floodplain District for a special permit for residential development within the floodplain, the unit capacity of the parcels within the floodplain must be removed from the compliance model. Another option would be revising the zoning to exempt the District from the special permit requirement of the Floodplain District (but retaining the Floodplain District's other substantive requirements).
 - b. EOHLC recommends reviewing Section 6.5: 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 6.5.3 conforms with as of right uses.
 - c. Due to the requirement in Section 6.6: Groundwater Protection District for a special permit for residential development, the unit capacity of the parcels within this district must be removed from the compliance model. Additional alternatives include (a) capping the affected parcels below the square footage/lot coverage requirement of Section 6.6.7.7 for a special permit or (b) revising the zoning to exempt the District from the special permit requirement of the Groundwater Protection District (but retaining the Groundwater Protection District's other substantive requirements). We recognize that the first approach was already undertaken at 335 Main Street.
 - d. Due to the requirement in Section 6.11: Inclusionary Housing for a special permit for developments over 6 units, the unit capacity of parcels in the compliance model must be capped at 5 units. Alternatively, the District could be exempted from the requirement for a special permit.
 - e. In Section 6.12.6, the Burlington Ave and West Street subdistricts require ground floor as-of-right uses to use the minimum parking requirements in Section 6.4.1.1. It appears that multi-family housing is a ground floor as-of-right use, thus the units on the ground floor of a development would need to follow the minimum parking requirements of Section 6.4.1.1, which are greater than the parking requirements described in 6.12.6. Please ensure that the parking requirements are accurately shown in the compliance model.

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 Wilmington. 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 fluid and cursive, with a long horizontal flourish at the end.

Caroline "Chris" Kluchman
Acting Director, Community Services Division

cc: Senator Barry R. Finegold
Representative David Allen Robertson