



**Select Board**

**Meeting Packet**

**August 22, 2023**

# CURRY COLLEGE

[News & Events](#)[Menu ▾](#)

[CURRY COLLEGE - HOME](#) / [ABOUT US](#) / [NEWS AND EVENTS](#) / [NEWS](#) /  
[JAY GONZALEZ APPOINTED AS PRESIDENT OF CURRY COLLEGE](#)

## JAY GONZALEZ APPOINTED AS PRESIDENT OF CURRY COLLEGE



[SHARE THIS STORY](#) [EMAIL](#)

**June 21, 2023 | TOPICS: Academics | Student Success**

Curry College's Board of Trustees announced the appointment of Jay Gonzalez as the College's 15th president. The board's unanimous decision was the culmination of a thoughtful and thorough search process that was

[Curry Students Spend Summer 2023 Gaining Real-World Industry Experience](#)

[Q & A: Dean Catherine McCabe, School of Business and Computer Science](#)

[School of Nursing Students Explore French Healthcare System and Culture During Faculty-Led Trip Abroad](#)

[College Launches New Brain and Cognitive Sciences Program for Fall 2023](#)

[Jay Gonzalez Appointed as President of Curry College](#)

conducted over the past eight months. Gonzalez has a deep breadth of experience in the law, government, education, politics, advocacy, and business leadership.

Board Chair Pat Hughes said, "This is an opportunity for a transformational leader to join Curry and coalesce the community around a forward-thinking agenda. Jay will be deeply dedicated to Curry's mission and through collaboration with our faculty, staff, and students, will define a clear vision and strategic path forward for the College. Jay will be the first Hispanic leader of the College, and he is a person of vision, energy, and experience who will embrace the institution's mission and ethos. He will work with the faculty and staff to create a strategy for sustainable enrollment growth both by reaching new markets and enhancing the Curry student experience. We are thrilled to have this outstanding individual lead our college into a bright and distinguished future."

Gonzalez is currently a partner at Hinckley Allen and earned his bachelor of arts from Dartmouth College and his law degree from Georgetown University. Some career highlights include serving as the President and CEO of CeltiCare Health Plan of Massachusetts and New Hampshire Healthy Families, as the Secretary of Administration and Finance for Governor Deval Patrick, and as an Adjunct Lecturer at Northeastern University School of Law. He was also the Democratic nominee for Massachusetts governor in 2018.

Gonzalez will begin his tenure on July 31, 2023.

"I am thrilled to be joining the caring community of dedicated faculty and staff who inspire and support the students at Curry College," said Gonzalez. "Together, I am confident that we will build on Curry's rich history and strong academic foundation and take the bold steps necessary to adapt to new challenges and opportunities in higher education. As we chart our path forward, we will be guided by Curry's deep commitment to delivering a relevant, inclusive, and impactful college experience to each and every student—an experience where each student can explore their interests; learn more about themselves and the world around them; and obtain the education and support they need to successfully pursue their career and life ambitions."

[More information about President Jay Gonzalez](#)

Find out what "becoming" at Curry is all about

[\*\*MEET AN ADMISSION COUNSELOR\*\*](#)



# CURRY COLLEGE



[CURRY COLLEGE - HOME](#) / [ABOUT US](#) / [ACADEMIC EXCELLENCE](#) / [MISSION AND LEADERSHIP](#) / [MEET THE PRESIDENT](#)

## MEET THE PRESIDENT

### President Jay Gonzalez

[Mission and Leadership](#)



Jay Gonzalez is the president of Curry College. Gonzalez has a deep breadth of experience in the law, government, education, politics, advocacy, and business leadership. He is the 15th president of Curry and is the first Hispanic leader of the College.

[Related News: Jay Gonzalez Appointed as President of Curry College](#)

Most recently, Gonzalez served as a partner at Hinckley Allen, where his primary practice was representing cities, towns, and other governmental entities in financing and developing capital projects and other governmental programs. His work included providing legal and strategic advice to the Massachusetts State College Building Authority in connection with its financing of projects at the state university and community college campuses and to the City of Salem in connection with the development of its port to serve as a terminal for offshore wind development.

Gonzalez began his career as a public finance lawyer and eventually became a partner at Edwards Angell Palmer & Dodge (now Locke Lord). After the election of Massachusetts Governor Deval Patrick, he left the legal profession to work in state government and was appointed to serve as the Secretary of Administration and Finance. In that role, Gonzalez successfully managed a \$32 billion state budget during the Great Recession and oversaw over 3,500 employees in 18 state agencies including the Department of Revenue and agencies responsible for state facilities, human resources, information technology, procurements, and other administrative functions. In this role, he also served on various state boards and commissions.

After his time in state government, Gonzalez served as the president and CEO of CeltiCare Health Plan of Massachusetts and New Hampshire Healthy Families, which provided health insurance coverage to low-income people in state Medicaid programs. Following his time in health care, Gonzalez was a Democratic candidate for Governor of Massachusetts and was elected to be the Democratic nominee for the 2018 general election. From 2020-2022, he was an adjunct lecturer at Northeastern University School of Law. Gonzalez has been actively engaged in a number of public, civic, and charitable causes, including serving on the boards of various nonprofit organizations. In 2021, he served as a co-chair of the committee overseeing Michelle Wu's transition into the office of mayor of Boston.

Gonzalez was born and raised in Cleveland, Ohio. He earned his bachelor in arts from Dartmouth College in 1993 and his law degree from Georgetown University Law Center in 1996. He moved to Boston in 1998. Gonzalez is married to Cyndi Roy Gonzalez, and he has two daughters, Isabel and Abby.

Find out what "becoming" at Curry is all about

[MEET AN ADMISSION COUNSELOR](#)

## Nicholas Milano

---

**From:** Carlucci, Nathan (OCD) [REDACTED]  
**Sent:** Thursday, August 17, 2023 2:49 PM  
**Subject:** Update to Compliance Guidelines for MBTA Communities  
**Attachments:** REVISION to Section 3A Compliance Guidelines (August 17 2023) CLEAN.pdf; REVISION to Section 3A Compliance Guidelines (August 17 2023) REDLINE.pdf; Summary of Changes 8-17-2023.pdf

[External Email- Use Caution]

Dear MBTA Community Stakeholder:

The Executive Office of Housing and Livable Communities is announcing revisions to the Compliance Guidelines for Multi-Family Zoning Districts under Section 3A of the Zoning Act (Guidelines).

We are pleased to announce that MBTA communities may now receive some credit for zoning districts that require a non-residential component on the ground floor of buildings in a mixed-use development district. Several MBTA communities wish to locate new zoning districts in mixed-use, walkable neighborhoods, where residents of future housing can easily access resources, amenities, and transit stations as pedestrians... Today's revision to the Guidelines modifies the "reasonable size" section of the Guidelines and provides flexibility for communities that want to require a non-residential component in housing developments.

Please note that the Guidelines were also revised to include a list of discretionary grant programs that will take MBTA communities' compliance into consideration.

Attached to this email are: a one page summary of the changes, clean and redlined versions of the Guidelines.

Please make other stakeholders such as Planning Boards and/or working groups aware of the revised Guidelines. Here is a link to the revised Guidelines posted on the MBTA Communities website: <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#section-3a-guidelines->

Please stay tuned for additional resources further explaining and implementing these revisions, including an updated compliance model and an eligible location determination application. The additional resources will be on the website, as well as distributed via email. If you have any questions about these changes, please contact program staff at nathan.carlucci@mass.gov and [emma.snellings@mass.gov](mailto:emma.snellings@mass.gov).

\*\*\*If you are receiving this message a second time, it is because your name was listed as both the contact person, and the municipal CEO of an MBTA Community\*\*\*

Sincerely,

**Nathan Carlucci**  
**MBTA Communities Compliance Coordinator** (he - him)  
Executive Office of Housing and Livable Communities  
nathan.carlucci@mass.gov



Commonwealth of Massachusetts  
**EXECUTIVE OFFICE OF HOUSING &  
LIVABLE COMMUNITIES**

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

TO:                   Municipal Officials in MBTA Communities  
FROM:                Secretary Edward M. Augustus, Jr.  
DATE:                August 17, 2023  
RE:                   Revisions to Section 3A Compliance Guidelines

---

On August 10, 2022, EOHL released Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act (the “Guidelines”). One revision was made in October 2022. This is a summary of the second change. In response to feedback from municipal leaders in several MBTA communities, EOHL is revising the Guidelines to offer MBTA communities a path to receive some credit for mixed-use development zoning districts. The revision also specifies how Section 3A compliance may affect certain discretionary grant award decisions. These revisions:

1. Allow an MBTA community to “offset” the minimum multi-family unit capacity requirement in certain multi-family zoning district(s) by up to 25%, based on the unit capacity of a mixed-use zoning district that meets key requirements of Section 3A and the Guidelines, but for requiring a ground floor non-residential component. Such “offset” – only available where existing village-style or downtown development is essential to preserve pedestrian access to amenities – still requires a municipality to demonstrate the same total amount of unit capacity.
2. Protect the financial feasibility of achieving housing goals where mixed-use zoning requires ground-floor non-residential uses by (i) setting forth location criteria for mixed-use development districts and requiring that EOHL has pre-approved the location before the MBTA community’s vote on its zoning changes; (ii) capping the percentage floor area of each development that may be required to be non-residential (ground floor only); (iii) requiring a broad mix of non-residential uses allowed as of right; and (iv) prohibiting minimum parking requirements for non-residential uses.
3. Allow MBTA communities to locate more housing in walkable and transit-oriented neighborhoods without jeopardizing existing non-residential resources and amenities. Many MBTA communities expressed a desire to locate districts in village-style or downtown neighborhoods but feared that allowing multi-family housing as of right in those areas could risk a loss of existing businesses and buildings. Many residents expressed a desire to live in village-style, downtown, and transit-oriented neighborhoods.
4. Add a list of thirteen discretionary grants programs to Section 9 to alert MBTA communities of additional grant programs that will consider compliance with Section 3A in making grant awards.

These revisions to the Guidelines are intended to provide greater flexibility to MBTA communities to adopt new zoning districts in mixed-use neighborhoods, and to promote housing opportunities for residents in such neighborhoods. The revisions do not reduce the total unit capacity required by the Guidelines.



# Commonwealth of Massachusetts EXECUTIVE OFFICE OF HOUSING & LIVABLE COMMUNITIES

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

Issue Date: August 10, 2022

Revised: October 21, 2022

Revised: August 17, 2023

## **Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act**

### **1. Overview of Section 3A of the Zoning Act**

Section 3A of the Zoning Act provides: *An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.*

The purpose of Section 3A is to encourage the production of multi-family housing by requiring MBTA communities to adopt zoning districts where multi-family housing is allowed as of right, and that meet other requirements set forth in the statute.

The Department of Housing and Community DevelopmentExecutive Office of Housing and Livable Communities (EOHLC), in consultation with Executive Office of Economic Development, the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. DHCDEOHL promulgated preliminary guidance on January 29, 2021. DHCDEOHL updated that preliminary guidance on December 15, 2021, and on that same date issued draft guidelines for public comment. These final guidelines supersede all prior guidance and set forth how MBTA communities may achieve compliance with Section 3A.

### **2. Definitions**

“Adjacent community” means an MBTA community that (i) has within its boundaries less than 100 acres of developable station area, and (ii) is not an adjacent small town.

“Adjacent small town” means an MBTA community that (i) has within its boundaries less than 100 acres of developable station area, and (ii) either has a population density of less than 500 persons per square mile, or a population of not more than 7,000 year-round residents as determined in the most recently published United States Decennial Census of Population and Housing.

“Affordable unit” means a multi-family housing unit that is subject to a restriction in its chain of title limiting the sale price or rent, or limiting occupancy to an individual or household of a specified income, or both. Affordable units may be, but are not required to be, eligible for inclusion on DHCDEOHLC’s Subsidized Housing Inventory. Nothing in these Guidelines changes the Subsidized Housing Inventory eligibility criteria, and no affordable unit shall be counted on the Subsidized Housing Inventory unless it satisfies the requirements for inclusion under 760 CMR 56.03(2) or any other regulation or guidance issued by DHCDEOHLC.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring a minimum age for some or all occupants.

“As of right” means development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

“Bus station” means a location with a passenger platform and other fixed infrastructure serving as a point of embarkation for the MBTA Silver Line. Upon the request of an MBTA community, DHCDEOHLC, in consultation with the MBTA, may determine that other locations qualify as a bus station if (i) such location has a sheltered platform or other fixed infrastructure serving a point of embarkation for a high-capacity MBTA bus line, and (ii) the area around such fixed infrastructure is highly suitable for multi-family housing.

“Commuter rail community” means an MBTA community that (i) does not meet the criteria for a rapid transit community, and (ii) has within its borders at least 100 acres of developable station area associated with one or more commuter rail stations.

“Commuter rail station” means any MBTA commuter rail station with year-round, rather than intermittent, seasonal, or event-based, service, including stations under construction and scheduled to be in service before the end of 2023, but not including existing stations at which service will be terminated, or reduced below regular year-round service, before the end of 2023.

“Compliance model” means the model created by DHCDEOHLC to determine compliance with Section 3A’s reasonable size, gross density, and location requirements. The compliance model is described in further detail in Appendix 2.

“Determination of compliance” means a determination made by DHCDEOHLC as to whether an MBTA community has a multi-family zoning district that complies with the requirements of Section 3A. A determination of compliance may be determination of interim compliance or a determination of district compliance, as described in section 9.

“Developable land” means land on which multi-family housing can be permitted and constructed. For purposes of these guidelines, developable land consists of: (i) all privately-owned land except lots or portions of lots that meet the definition of excluded land, and (ii) developable public land.

“Developable public land” means any publicly-owned land that (i) is used by a local housing authority; (ii) has been identified as a site for housing development in a housing production plan

approved by ~~DHCDEOHL~~; or (iii) has been designated by the public owner for disposition and redevelopment. Other publicly-owned land may qualify as developable public land if ~~DHCDEOHL~~ determines, at the request of an MBTA community and after consultation with the public owner, that such land is the location of obsolete structures or uses, or otherwise is suitable for conversion to multi-family housing, and will be converted to or made available for multi-family housing within a reasonable period of time.

“Developable station area” means developable land that is within 0.5 miles of a transit station.

“~~DHCDEOHL~~” means the ~~Department Executive Office Executive Office~~ of Housing and ~~Community Development~~Livable Communities.

“~~EOHEDEOED~~” means the Executive Office of ~~Housing and~~ Economic Development.

“Excluded land” means land areas on which it is not possible or practical to construct multi-family housing. For purposes of these guidelines, excluded land is defined by reference to the ownership, use codes, use restrictions, and hydrological characteristics in MassGIS and consists of the following:

- (i) All publicly-owned land, except for lots or portions of lots determined to be developable public land.
- (ii) All rivers, streams, lakes, ponds and other surface waterbodies.
- (iii) All wetland resource areas, together with a buffer zone around wetlands and waterbodies equivalent to the minimum setback required by title 5 of the state environmental code.
- (iv) Protected open space and recreational land that is legally protected in perpetuity (for example, land owned by a local land trust or subject to a conservation restriction), or that is likely to remain undeveloped due to functional or traditional use (for example, cemeteries).
- (v) All public rights-of-way and private rights-of-way.
- (vi) Privately-owned land on which development is prohibited to protect private or public water supplies, including, but not limited to, Zone I wellhead protection areas and Zone A surface water supply protection areas.
- (vii) Privately-owned land used for educational or institutional uses such as a hospital, prison, electric, water, wastewater or other utility, museum, or private school, college or university.

“Ferry terminal” means the location where passengers embark and disembark from regular, year-round MBTA ferry service.

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no zoning restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“Listed funding sources” means (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; and (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

“Lot” means an area of land with definite boundaries that is used or available for use as the site of a building or buildings.

“MassGIS data” means the comprehensive, statewide database of geospatial information and mapping functions maintained by the Commonwealth's Bureau of Geographic Information, within the Executive Office of Technology Services and Security, including the lot boundaries and use codes provided by municipalities.

“MBTA” means the Massachusetts Bay Transportation Authority.

“MBTA community” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.

“Mixed-use development” means development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

“Mixed-use development zoning district” means a zoning district where multiple residential units are allowed as of right if, but only if, combined with non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.

“Multi-family housing” means a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

“Multi-family unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within a multi-family zoning district, made in accordance with the requirements of section 5.b below.

“Multi-family zoning district” means a zoning district, including a base district or an overlay district, in which multi-family housing is allowed as of right; provided that the district shall be in a fixed location or locations, and shown on a map that is part of the zoning ordinance or by-law.

“One Stop Application” means the single application portal for the Community One Stop for Growth through which (i) the Executive Office of Housing and Economic Development considers requests for funding from the MassWorks infrastructure program; (ii) ~~DHCDEOHLC~~ considers requests for funding from the Housing Choice Initiative, (iii) ~~EOHED EOED~~, ~~DHCDEOHLC~~ and other state agencies consider requests for funding from other discretionary grant programs.

“Private rights-of-way” means land area within which private streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

“Publicly-owned land” means (i) any land owned by the United States or a federal agency or authority; (ii) any land owned by the Commonwealth of Massachusetts or a state agency or authority; and (iii) any land owned by a municipality or municipal board or authority.

“Public rights-of-way” means land area within which public streets, roads and other ways have been laid out and maintained, to the extent such land areas can be reasonably identified by examination of available tax parcel data.

“Rapid transit community” means an MBTA community that has within its borders at least 100 acres of developable station area associated with one or more subway stations, or MBTA Silver Line bus rapid transit stations.

“Residential dwelling unit” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Section 3A” means section 3A of the Zoning Act.

“Sensitive land” means developable land that, due to its soils, slope, hydrology, or other physical characteristics, has significant conservation values that could be impaired, or vulnerabilities that could be exacerbated, by the development of multi-family housing. It also includes locations where multi-family housing would be at increased risk of damage caused by flooding. Sensitive land includes, but is not limited to, wetland buffer zones extending beyond the title 5 setback area; land subject to flooding that is not a wetland resource area; priority habitat for rare or threatened species; DEP-approved wellhead protection areas in which development may be restricted, but is not prohibited (Zone II and interim wellhead protection areas); and land areas with prime agricultural soils that are in active agricultural use.

“Site plan review” means a process established by local ordinance or by-law by which a local board reviews, and potentially imposes conditions on, the appearance and layout of a specific project prior to the issuance of a building permit.

“Subway station” means any of the stops along the MBTA Red Line, Green Line, Orange Line, or Blue Line, including any extensions to such lines now under construction and scheduled to begin service before the end of 2023.

“Transit station” means an MBTA subway station, commuter rail station, ferry terminal or bus station.

“Transit station area” means the land area within 0.5 miles of a transit station.

“Zoning Act” means chapter 40A of the Massachusetts General Laws.

### **3. General Principles of Compliance**

These compliance guidelines describe how an MBTA community can comply with the requirements of Section 3A. The guidelines specifically address:

- What it means to allow multi-family housing “as of right.”
- The metrics that determine if a multi-family zoning district is “of reasonable size.”
- How to determine if a multi-family zoning district has a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code.
- The meaning of Section 3A’s mandate that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.”
- The extent to which MBTA communities have flexibility to choose the location of a multi-family zoning district.

The following general principles have informed the more specific compliance criteria that follow:

- MBTA communities with subway stations, commuter rail stations and other transit stations benefit from having these assets located within their boundaries and should provide opportunity for multi-family housing development around these assets. MBTA communities with no transit stations within their boundaries benefit from proximity to transit stations in nearby communities.
- The multi-family zoning districts required by Section 3A should encourage the development of multi-family housing projects of a scale, density and aesthetic that are compatible with existing surrounding uses, and minimize impacts to sensitive land.
- “Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family zoning district that is “reasonable” in one city or town may not be reasonable in another city or town.
- When possible, multi-family zoning districts should be in areas that have safe, accessible, and convenient access to transit stations for pedestrians and bicyclists.

### **4. Allowing Multi-Family Housing “As of Right”**

To comply with Section 3A, a multi-family zoning district must allow multi-family housing “as of right,” meaning that the construction and occupancy of multi-family housing is allowed in that district without the need for a special permit, variance, zoning amendment, waiver, or other discretionary approval. **DHCD/EOHLC** will determine whether zoning provisions allow for multi-family housing as of right consistent with the following guidelines.

*a. Site plan review*

The Zoning Act does not establish nor recognize site plan review as an independent method of regulating land use. However, the Massachusetts courts have recognized site plan review as a permissible regulatory tool, including for uses that are permitted as of right. The court decisions establish that when site plan review is required for a use permitted as of right, site plan review involves the regulation of a use and not its outright prohibition. The scope of review is therefore limited to imposing reasonable terms and conditions on the proposed use, consistent with applicable case law.<sup>1</sup> These guidelines similarly recognize that site plan review may be required for multi-family housing projects that are allowed as of right, within the parameters established by the applicable case law. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review should not unreasonably delay a project nor impose conditions that make it infeasible or impractical to proceed with a project that is allowed as of right and complies with applicable dimensional regulations.

*b. Affordability requirements*

Section 3A does not include any express requirement or authorization for an MBTA community to require affordable units in a multi-family housing project that is allowed as of right. It is a common practice in many cities and towns to require affordable units in a multi-family project that requires a special permit, or as a condition for building at greater densities than the zoning otherwise would allow. These inclusionary zoning requirements serve the policy goal of increasing affordable housing production. If affordability requirements are excessive, however, they can make it economically infeasible to construct new multi-family housing.

For purposes of making compliance determinations with Section 3A, DHCDEOHLC will consider an affordability requirement to be consistent with as of right zoning as long as the zoning requires not more than 10 percent of the units in a project to be affordable units, and the cap on the income of families or individuals who are eligible to occupy the affordable units is not less than 80 percent of area median income. Notwithstanding the foregoing, DHCDEOHLC may, in its discretion, approve a greater percentage of affordable units, or deeper affordability for some or all of the affordable units, in either of the following circumstances:

- (i) The affordability requirements applicable in the multi-family zoning district are reviewed and approved by DHCDEOHLC as part of a smart growth district under chapter 40R, or under another zoning incentive program administered by DHCDEOHLC; or
- (ii) The affordability requirements applicable in the multi-family zoning district are supported by an economic feasibility analysis, prepared for the municipality by a qualified and independent third party acceptable to DHCDEOHLC, and using a methodology and format acceptable to DHCDEOHLC. The analysis must demonstrate

---

<sup>1</sup> See, e.g., *Y.D. Dugout, Inc. v. Board of Appeals of Canton*, 357 Mass. 25 (1970); *Prudential Insurance Co. of America v. Board of Appeals of Westwood*, 23 Mass. App. Ct. 278 (1986); *Osberg v. Planning Bd. of Sturbridge*, 44 Mass. App. Ct. 56, 59 (1997) (Planning Board “may impose reasonable terms and conditions on the proposed use, but it does not have discretionary power to deny the use”).

that a reasonable variety of multi-family housing types can be feasibly developed at the proposed affordability levels, taking into account the densities allowed as of right in the district, the dimensional requirements applicable within the district, and the minimum number of parking spaces required.

In no case will ~~DHCDEOHL~~C approve alternative affordability requirements that require more than 20 percent of the units in a project to be affordable units, except in a smart growth zoning district under chapter 40R with a 25 percent affordability requirement approved and adopted prior to the issuance of these guidelines, including any such existing district that is expanded or amended to comply with these guidelines.

c. *Other requirements that do not apply uniformly in the multi-family zoning district*

Zoning will not be deemed compliant with Section 3A's requirement that multi-family housing be allowed as of right if the zoning imposes requirements on multi-family housing that are not generally applicable to other uses. The following are examples of requirements that would be deemed to be inconsistent with "as of right" use: (i) a requirement that multi-family housing meet higher energy efficiency standards than other uses; (ii) a requirement that a multi-family use achieve a third party certification that is not required for other uses in the district; and (iii) a requirement that multi-family use must be combined with commercial or other uses on the same lot or as part of a single project. Mixed use projects may be allowed as of right in a multi-family zoning district, as long as multi-family housing is separately allowed as of right.

## 5. Determining "Reasonable Size"

In making determinations of "reasonable size," ~~DHCDEOHL~~C will take into consideration both the land area of the multi-family zoning district, and the multi-family zoning district's multi-family unit capacity.

a. *Minimum land area*

A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. For purposes of compliance with Section 3A, a multi-family zoning district should be a neighborhood-scale district, not a single development site on which the municipality is willing to permit a particular multi-family project.

~~DHCDEOHL~~C will certify compliance with Section 3A only if an MBTA community's multi-family zoning district meets the minimum land area applicable to that MBTA community, if any, as set forth in Appendix 1. The minimum land area for each MBTA community has been determined as follows:

- (i) In rapid transit communities, commuter rail communities, and adjacent communities, the minimum land area of the multi-family zoning district is 50 acres, or 1.5% of the developable land in an MBTA community, whichever is *less*. In certain cases, noted in Appendix 1, a smaller minimum land area applies.
- (ii) In adjacent small towns, there is no minimum land area. In these communities, the multi-family zoning district may comprise as many or as few acres as the community

determines is appropriate, as long as the district meets the applicable minimum multi-family unit capacity and the minimum gross density requirements.

In all cases, at least half of the multi-family zoning district land areas must comprise contiguous lots of land. No portion of the district that is less than 5 contiguous acres land will count toward the minimum size requirement. If the multi-family unit capacity and gross density requirements can be achieved in a district of fewer than 5 acres, then the district must consist entirely of contiguous lots.

b. *Minimum multi-family unit capacity*

A reasonably sized multi-family zoning district must also be able to accommodate a reasonable number of multi-family housing units as of right. For purposes of determinations of compliance with Section 3A, ~~DHCDEOHLC~~ will consider a reasonable multi-family unit capacity for each MBTA community to be a specified percentage of the total number of housing units within the community, with the applicable percentage based on the type of transit service in the community, as shown on Table 1:

Table 1.

<b><u>Category</u></b>	<b><u>Percentage of total housing units</u></b>
Rapid transit community	25%
Commuter rail community	15%
Adjacent community	10%
Adjacent small town	5%

To be deemed in compliance with Section 3A, each MBTA community must have a multi-family zoning district with a multi-family unit capacity equal to or greater than the minimum unit capacity shown for it in Appendix 1. The minimum multi-family unit capacity for each MBTA community has been determined as follows:

- (i) First, by multiplying the number of housing units in that community by 0.25, 0.15, 0.10, or .05 depending on the MBTA community category. For example, a rapid transit community with 7,500 housing units is required to have a multi-family zoning district with a multi-family unit capacity of  $7,500 \times 0.25 = 1,875$  multi-family units. For purposes of these guidelines, the number of total housing units in each MBTA community has been established by reference to the most recently published United States Decennial Census of Population and Housing.
- (ii) Second, when there is a minimum land area applicable to an MBTA community, by multiplying that minimum land area (up to 50 acres) by Section 3A's minimum gross density requirement of 15 units per acre. The product of that multiplication creates a floor on multi-family unit capacity. For example, an MBTA community with a minimum land area of 40 acres must have a district with a multi-family unit capacity of at least 600 ( $40 \times 15$ ) units.
- (iii) The minimum unit capacity applicable to each MBTA community is *the greater of* the numbers resulting from steps (i) and (ii) above, but subject to the following limitation: In no case does the minimum multi-family unit capacity exceed 25% of the total housing

units in that MBTA community.

*Example: The minimum multi-family unit capacity for an adjacent community with 1,000 housing units and a minimum land area of 50 acres is determined as follows: (i) first, by multiplying  $1,000 \times .1 = 100$  units; (ii) second, by multiplying  $50 \times 15 = 750$  units; (iii) by taking the larger number, but adjusting that number down, if necessary, so that unit capacity is no more than 25% of 1,000 = 250 units. In this case, the adjustment in step (iii) results in a minimum unit capacity of 250 units.*

c. Reasonable Size – Consideration Given to Unit Capacity in Mixed-Use Development Districts

In making determinations of whether an MBTA Community has a multi-family zoning district of “reasonable size” under this section, EOHLCL shall also take into consideration the existence and impact of mixed-use development zoning districts, subject to the requirements below.

EOHLCL shall take these mixed-use development districts into consideration as reducing the unit capacity needed for a multi-family zoning district to be “reasonable” (as listed in Appendix I) where:

- (i) the mixed-use development zoning district is in an eligible location where existing village-style or downtown development is essential to preserve pedestrian access to amenities;
- (ii) there are no age restrictions or limits on unit size, number of bedrooms, bedroom size or number of occupants and the residential units permitted are suitable for families with children;
- (iii) mixed-used development in the district is allowed “as of right” as that phrase has been interpreted by EOHLCL (for example, in section 4(c) with respect to affordability requirements);
- (iv) the requirement for non-residential uses is limited to the ground floor of buildings, and in no case represents a requirement that more than thirty-three percent of the floor area of a building, lot, or project must be for non-residential uses;
- (v) the requirement for non-residential uses does not preclude a minimum of three residential dwelling units per lot;
- (vi) the requirement for non-residential uses allows a broad mix of non-residential uses as-of-right in keeping with the nature of the area; and
- (vii) there are no minimum parking requirements associated with the non-residential uses allowed as of right.

An MBTA community asking to reduce the unit capacity requirement for its multi-family zoning district(s) based on the unit capacity for one or more mixed-use development districts shall submit to EOHLCL, on a form to be provided by EOHLCL, a request for a determination that the mixed-use development district is in an eligible location meeting the requirements of subparagraph (i). This request must be submitted at least 90 days prior to the vote of the MBTA community’s legislative body.

An MBTA community also may submit a broader inquiry as to Section 3A compliance in accordance with section 9(b). EOHLIC shall respond prior to the vote of the MBTA community's legislative body if the request is timely submitted.

In any community with both a multi-family zoning district and a mixed-use development district that meets these considerations, the unit capacity requirement for the multi-family zoning district listed in Appendix I shall be reduced by the lesser of

- (i) the unit capacity of residential dwelling units in the mixed-use development district or subdistrict (as calculated by EOHLIC using a methodology similar to that in section 5(d) which takes into account the impact of non-residential uses), or
- (ii) twenty five percent of the unit capacity requirement listed in Appendix I. This consideration shall not affect the minimum land area acreage or contiguity requirements for a multi-family zoning district otherwise required by these Guidelines.

ed. *Methodology for determining a multi-family zoning district's multi-family unit capacity*

MBTA communities seeking a determination of compliance must use the DHCDEOHLIC compliance model to provide an estimate of the number of multi-family housing units that can be developed as of right within the multi-family zoning district. The multi-family unit capacity of an existing or proposed district shall be calculated using the unit capacity worksheet described in Appendix 2. This worksheet produces an estimate of a district's multi-family unit capacity using inputs such as the amount of developable land in the district, the dimensional requirements applicable to lots and buildings (including, for example, height limitations, lot coverage limitations, and maximum floor area ratio), and the parking space requirements applicable to multi-family uses.

Minimum unit capacity is a measure of whether a multi-family zoning district is of a reasonable size, not a requirement to produce housing units. Nothing in Section 3A or these guidelines should be interpreted as a mandate to construct a specified number of housing units, nor as a housing production target. Demonstrating compliance with the minimum multi-family unit capacity requires only that an MBTA community show that the zoning allows multi-family housing as of right and that a sufficient number of multi-family housing units could be added to or replace existing uses and structures over time—even though such additions or replacements may be unlikely to occur soon.

If an MBTA community has two or more zoning districts in which multi-family housing is allowed as of right, then two or more districts may be considered cumulatively to meet the minimum land area and minimum multi-family unit capacity requirements, as long as each district independently complies with Section 3A's other requirements.

ed. *Water and wastewater infrastructure within the multi-family zoning district*

MBTA communities are encouraged to consider the availability of water and wastewater infrastructure when selecting the location of a new multi-family zoning district. But compliance with Section 3A does not require a municipality to install new water or wastewater infrastructure, or add to the capacity of existing infrastructure, to accommodate future multi-family housing production within

the multi-family zoning district. In most cases, multi-family housing can be created using private septic and wastewater treatment systems that meet state environmental standards. Where public systems currently exist, but capacity is limited, private developers may be able to support the cost of necessary water and sewer extensions. While the zoning must allow for gross average density of at least 15 units per acre, there may be other legal or practical limitations, including lack of infrastructure or infrastructure capacity, that result in actual housing production at lower density than the zoning allows.

The multi-family unit capacity analysis does not need to take into consideration limitations on development resulting from existing water or wastewater infrastructure within the multi-family zoning district, or, in areas not served by public sewer, any applicable limitations under title 5 of the state environmental code. For purposes of the unit capacity analysis, it is assumed that housing developers will design projects that work within existing water and wastewater constraints, and that developers, the municipality, or the Commonwealth will provide funding for infrastructure upgrades as needed for individual projects.

## **6. Minimum Gross Density**

Section 3A expressly requires that a multi-family zoning district—not just the individual lots of land within the district—must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

### *a. District-wide gross density*

To meet the district-wide gross density requirement, the dimensional restrictions and parking requirements for the multi-family zoning district must allow for a gross density of 15 units per acre of land within the district. By way of example, to meet that requirement for a 40-acre multi-family zoning district, the zoning must allow for at least 15 multi-family units per acre, or a total of at least 600 multi-family units.

For purposes of determining compliance with Section 3A’s gross density requirement, the ~~DHCDEOHL~~ compliance model will not count in the denominator any excluded land located within the multi-family zoning district, except public rights-of-way, private rights-of-way, and publicly-owned land used for recreational, civic, commercial, and other nonresidential uses. This method of calculating minimum gross density respects the Zoning Act’s definition of gross density—“a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses”—while making it unnecessary to draw patchwork multi-family zoning districts that carve out wetlands and other types of excluded land that are not developed or developable.

### *b. Achieving district-wide gross density by sub-districts*

Zoning ordinances and by-laws typically limit the unit density on individual lots. To comply with Section 3A’s gross density requirement, an MBTA community may establish reasonable sub-

districts within a multi-family zoning district, with different density limits for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre. ~~DHCDEOHL~~ will review sub-districts to ensure that the density allowed as of right in each sub-district is reasonable and not intended to frustrate the purpose of Section 3A by allowing projects of a such high density that they are not likely to be constructed.

c. *Wetland and septic considerations relating to density*

Section 3A provides that a district of reasonable size shall have a minimum gross density of 15 units per acre, “subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A.” This directive means that even though the zoning district must permit 15 units per acre as of right, any multi-family housing produced within the district is subject to, and must comply with, the state wetlands protection act and title 5 of the state environmental code—even if such compliance means a proposed project will be less dense than 15 units per acre.

## 7. **Determining Suitability for Families with Children**

Section 3A states that a compliant multi-family zoning district must allow multi-family housing as of right, and that “such multi-family housing shall be without age restrictions and shall be suitable for families with children.” ~~DHCDEOHL~~ will deem a multi-family zoning district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions, and does not limit or restrict the size of the units, cap the number of bedrooms, the size of bedrooms, or the number of occupants, or impose a minimum age of occupants. Limits, if any, on the size of units or number of bedrooms established by state law or regulation are not relevant to Section 3A or to determinations of compliance made pursuant to these guidelines.

## 8. **Location of Districts**

a. *General rule for determining the applicability of Section 3A’s location requirement*

Section 3A states that a compliant multi-family zoning district shall “be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” When an MBTA community has only a small amount of transit station area within its boundaries, it may not be possible or practical to locate all of the multi-family zoning district within 0.5 miles of a transit station. Transit station area may not be a practical location for a multi-family zoning district if it does not include developable land where multi-family housing can actually be constructed. Therefore, for purposes of determining compliance with Section 3A, ~~DHCDEOHL~~ will consider the statute’s location requirement to be “applicable” to a particular MBTA community only if that community has within its borders at least 100 acres of developable station area. ~~DHCDEOHL~~ will require more or less of the multi-family zoning district to be located within transit station areas depending on how much total developable station area is in that community, as shown on Table 2:

Table 2.

<b><u>Total developable station area within the MBTA community (acres)</u></b>	<b><u>Portion of the multi-family zoning district that must be within a transit station area</u></b>
0-100	0%
101-250	20%
251-400	40%
401-600	50%
601-800	75%
801+	90%

The percentages specified in this table apply to both the minimum land area and the minimum multi-family unit capacity. For example, in an MBTA community that has a total of 500 acres of transit station area within its boundaries, a multi-family zoning district will comply with Section 3A's location requirement if at least 50 percent of the district's minimum land area is located within the transit station area, *and* at least 50 percent of the district's minimum multi-family unit capacity is located within the transit station area.

A community with transit station areas associated with more than one transit station may locate the multi-family zoning district in any of the transit station areas. For example, a rapid transit community with transit station area around a subway station in one part of town, and transit station area around a commuter rail station in another part of town, may locate its multi-family zoning district in either or both transit station areas.

*b. MBTA communities with limited or no transit station area*

When an MBTA community has less than 100 acres of developable station area within its boundaries, the MBTA community may locate the multi-family zoning district anywhere within its boundaries. To encourage transit-oriented multi-family housing consistent with the general intent of Section 3A, MBTA communities are encouraged to consider locating the multi-family zoning district in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that qualifies as an “eligible location” as defined in Chapter 40A—for example, near an existing downtown or village center, near a regional transit authority bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

*c. General guidance on district location applicable to all MBTA communities*

When choosing the location of a new multi-family zoning district, every MBTA community should consider how much of a proposed district is sensitive land on which permitting requirements and other considerations could make it challenging or inadvisable to construct multi-family housing. For example, an MBTA community may want to avoid including in a multi-family zoning district areas that are subject to flooding, or are known habitat for rare or threatened species, or have prime agricultural soils in active agricultural use.

## 9. **Determinations of Compliance**

Section 3A provides that any MBTA community that fails to comply with Section 3A's requirements will be ineligible for funding from any of the listed funding sources. ~~DHCDEOHL~~ will make determinations of compliance with Section 3A in accordance with these guidelines to inform state agency decisions on which MBTA communities are eligible to receive funding from the listed funding sources. ~~Determinations of compliance also may inform funding decisions by EOED, DHCD, the MBTA and other state agencies which consider local housing policies when evaluating applications for discretionary grant programs, or making other discretionary funding decisions. The following discretionary grant programs will take compliance with Section 3A into consideration when making grant award recommendations:~~

- i. [Community Planning Grants, EOHL](#),
- ii. [Massachusetts Downtown Initiative, EOED](#),
- iii. [Urban Agenda, EOED](#),
- iv. [Rural and Small Town Development Fund, EOED](#),
- v. [Brownfields Redevelopment Fund, MassDevelopment](#),
- vi. [Site Readiness Program, MassDevelopment](#),
- vii. [Underutilized Properties Program, MassDevelopment](#),
- viii. [Collaborative Workspace Program, MassDevelopment](#),
- ix. [Real Estate Services Technical Assistance, MassDevelopment](#),
- x. [Commonwealth Places Programs, MassDevelopment](#),
- xi. [Land Use Planning Grants, EOEEA](#),
- xii. [Local Acquisitions for Natural Diversity \(LAND\) Grants, EOEEA, and](#)
- xiii. [Municipal Vulnerability Preparedness \(MVP\) Planning and Project Grants, EOEEA](#)

~~Determinations of compliance also may inform other funding decisions by EOED, EOHL, the MBTA and other state agencies which consider local housing policies when evaluating applications for discretionary grant programs or making other discretionary funding decisions.~~

~~DHCDEOHL~~ interprets Section 3A as allowing every MBTA community a reasonable opportunity to enact zoning amendments as needed to come into compliance. Accordingly, ~~DHCDEOHL~~ will recognize both *interim* compliance, which means an MBTA community is taking active steps to enact a multi-family zoning district that complies with Section 3A, and *district* compliance, which is achieved when ~~DHCDEOHL~~ determines that an MBTA community has a multi-family zoning district that complies with Section 3A. The requirements for interim and district compliance are described in more detail below.

Table 3.

<b>Transit Category (# of municipalities)</b>	<b>Deadline to Submit Action Plan</b>	<b>Deadline to Submit District Compliance Application</b>
Rapid transit community (12)	January 31, 2023	December 31, 2023
Commuter rail community (71)	January 31, 2023	December 31, 2024

Transit Category (# of municipalities)	Deadline to Submit Action Plan	Deadline to Submit District Compliance Application
Adjacent community (58)	January 31, 2023	December 31, 2024
Adjacent small town (34)	January 31, 2023	December 31, 2025

*a. Process to achieve interim compliance*

Many MBTA communities do not currently have a multi-family zoning district of reasonable size that complies with the requirements of Section 3A. Prior to achieving district compliance (but no later than the deadlines set forth in Table 3), these MBTA communities can achieve interim compliance by taking the following affirmative steps towards the creation of a compliant multi-family zoning district.

- i. *Creation and submission of an action plan.* An MBTA community seeking to achieve interim compliance must first submit an action plan on a form to be provided by ~~DHCDEOHL~~. An MBTA community action plan must provide information about current zoning, past planning for multi-family housing, if any, and potential locations for a multi-family zoning district. The action plan also will require the MBTA community to establish a timeline for various actions needed to create a compliant multi-family zoning district.
- ii. *~~DHCDEOHL~~ approval of an action plan.* ~~DHCDEOHL~~ will review each submitted action plan for consistency with these guidelines, including but not limited to the timelines in Table 3. If ~~DHCDEOHL~~ determines that the MBTA community's action plan is reasonable and will lead to district compliance in a timely manner, ~~DHCDEOHL~~ will issue a determination of interim compliance. ~~DHCDEOHL~~ may require modifications to a proposed action plan prior to approval.
- iii. *Implementation of the action plan.* After ~~DHCDEOHL~~ approves an action plan and issues a determination of interim compliance, an MBTA community must diligently implement the action plan. ~~DHCDEOHL~~ may revoke a determination of interim compliance if an MBTA community has not made sufficient progress in implementing an approved action plan. ~~DHCDEOHL~~ and ~~EOHED-EOED~~ will review an MBTA community's progress in implementing its action plan prior to making an award of funds under the Housing Choice Initiative and Massworks infrastructure program.
- iv. *Deadlines for submitting action plans.* To achieve interim compliance for grants made through the 2023 One Stop Application, action plans must be submitted by no later than January 31, 2023. An MBTA community that does not submit an action plan by that date may not receive a ~~DHCDEOHL~~ determination of interim compliance in time to receive an award of funds from the listed funding sources in 2023. An MBTA community that does not achieve interim compliance in time for the 2023 One Stop Application may submit an action plan to become eligible for a subsequent round of the One Stop Application, provided that an action plan must be submitted by no later than January 31 of the year in which the MBTA community seeks to establish grant eligibility; and

provided further that no action plan may be submitted or approved after the applicable district compliance application deadline set forth in Table 3.

b. *Assistance for communities implementing an action plan.*

MBTA communities are encouraged to communicate as needed with ~~DHCDEOHL~~ staff throughout the process of implementing an action plan, ~~and may. DHCDEOHL will endeavor to respond to inquiries inquire~~ about whether a proposed multi-family zoning district complies with Section 3A prior to a vote by the municipal legislative body to create or modify such a district. Such requests shall be made on a form to be provided by ~~DHCDEOHL~~. ~~If a request is and should shall be submitted at least 90 days prior to the vote of the legislative body, EOHL shall respond prior to the vote.~~

c. *Requests for determination of district compliance*

When an MBTA community believes it has a multi-family zoning district that complies with Section 3A, it may request a determination of district compliance from ~~DHCDEOHL~~. Such a request may be made for a multi-family zoning district that was in existence on the date that Section 3A became law, or for a multi-family zoning district that was created or amended after the enactment of Section 3A. In either case, such request shall be made on an application form required by ~~DHCDEOHL~~ and shall include, at a minimum, the following information. Municipalities will need to submit:

- (i) A certified copy of the municipal zoning ordinance or by-law and zoning map, including all provisions that relate to uses and structures in the multi-family zoning district.
- (ii) An estimate of multi-family unit capacity using the compliance model.
- (iii) GIS shapefile for the multi-family zoning district.
- (iv) In the case of a by-law enacted by a town, evidence that the clerk has submitted a copy of the adopted multi-family zoning district to the office of the Attorney General for approval as required by state law, or evidence of the Attorney General's approval.

After receipt of a request for determination of district compliance, ~~DHCDEOHL~~ will notify the requesting MBTA community within 30 days if additional information is required to process the request. Upon reviewing a complete application, ~~DHCDEOHL~~ will provide the MBTA community a written determination either stating that the existing multi-family zoning district complies with Section 3A, or identifying the reasons why the multi-family zoning district fails to comply with Section 3A and the steps that must be taken to achieve compliance. An MBTA community that has achieved interim compliance prior to requesting a determination of district compliance shall remain in interim compliance for the period during which a request for determination of district compliance, with all required information, is pending at ~~DHCDEOHL~~.

## **10. Ongoing Obligations; Rescission of a Determination of Compliance**

After receiving a determination of compliance, an MBTA community must notify ~~DHCDEOHL~~ in writing of any zoning amendment or proposed zoning amendment that affects the compliant multi-family zoning district, or any other by-law, ordinance, rule or regulation that limits the development of multi-family housing in the multi-family zoning district. ~~DHCDEOHL~~ may rescind a

determination of district compliance, or require changes to a multi-family zoning district to remain in compliance, if ~~DHCDEOHL~~ determines that:

- (i) The MBTA community submitted inaccurate information in its application for a determination of compliance;
- (ii) The MBTA community failed to notify ~~DHCDEOHL~~ of a zoning amendment that affects the multi-family zoning district;
- (iii) The MBTA community enacts or amends any by-law or ordinance, or other rule or regulation, that materially alters the minimum land area and/or the multi-family unit capacity in the multi-family zoning district;
- (iv) A board, authority or official in the MBTA community does not issue permits, or otherwise acts or fails to act, to allow construction of a multi-family housing project that is allowed as of right in the multi-family zoning district (or any mixed-use zoning development district taken into account in determining the required multi-family unit capacity in the multi-family zoning district);
- (v) The MBTA community takes other action that causes the multi-family zoning district to no longer comply with Section 3A; or
- (vi) An MBTA community with an approved multi-family zoning district has changed transit category as a result of a newly opened or decommissioned transit station, or the establishment of permanent, regular service at a transit station where there was formerly intermittent or event-based service.

## **11. Changes to MBTA Service**

Section 3A applies to the ~~175-177~~ MBTA communities identified in section 1A of the Zoning Act and section 1 of chapter 161A of the General Laws. When MBTA service changes, the list of MBTA communities and/or the transit category assignments of those MBTA communities in Appendix 1 may change as well.

The transit category assignments identified in Appendix 1 of these guidelines reflect certain MBTA service changes that will result from new infrastructure now under construction in connection with the South Coast Rail and Green Line Extension projects. These service changes include the opening of new Green Line stations and commuter rail stations, as well as the elimination of regular commuter rail service at the Lakeville station. These changes are scheduled to take effect in all cases a year or more before any municipal district compliance deadline. Affected MBTA communities are noted in Appendix 1.

Municipalities that are not now identified as MBTA communities and may be identified as such in the future are not addressed in these guidelines or included in Appendix 1. New MBTA communities will be addressed with revisions to Appendix 1, and separate compliance timelines, in the future.

Future changes to Silver Line routes or stations may change district location requirements when expanded high-capacity service combined with new facilities creates a bus station where there was not one before. Changes to other bus routes, including the addition or elimination of bus stops or reductions or expansions of bus service levels, do not affect the transit categories assigned to MBTA communities and will not affect location requirements for multi-family zoning districts. Any future changes to

MBTA transit service, transit routes and transit service levels are determined by the MBTA Board of Directors consistent with the MBTA's Service Delivery Policy.

**List of Appendices:**

Appendix 1: MBTA Community Categories and Requirements

Appendix 2: Compliance Methodology/Model

## PRESS RELEASE

# AG Campbell Issues Advisory on Requirements of MBTA Communities Zoning Law

Advisory Clarifies Obligations Under State Law Enacted to Address Housing Crisis

FOR IMMEDIATE RELEASE:

3/15/2023

Office of the Attorney General

## MEDIA CONTACT

**Thomas Dalton, Deputy Press Secretary**

**Phone**

(617) 727-2543 (tel:6177272543)

**Online**

[Thomas.F.Dalton@mass.gov](mailto:Thomas.F.Dalton@mass.gov) (mailto:Thomas.F.Dalton@mass.gov)

**BOSTON** — Attorney General Andrea Joy Campbell today issued an [advisory](#) (/doc/advisory-concerning-enforcement-of-the-mbta-communities-zoning-law) to clarify requirements imposed on towns and cities by the 2021 MBTA Communities Zoning Law. To address the Commonwealth's severe housing crisis, the law implemented zoning reforms that require towns and cities to allow reasonable levels of multifamily housing development near MBTA stations. In response to some confusion about the requirements of the law, the AG's advisory explains that all MBTA Communities must comply.

"Compliance with the MBTA Communities Zoning Law is not only mandatory, it is an essential tool for the Commonwealth to address its housing crisis along with our climate and transportation goals," said **AG Campbell**. "While the housing crisis disproportionately affects communities of color and poor, working families, it threatens all of us along with our economy and thus requires all of us do our part including ensuring adequate development of affordable, transit-oriented housing for our residents and families."

The MBTA Communities Zoning Law was enacted to remove barriers to the development of higher-density, transit-oriented housing along the MBTA transportation network to address the Commonwealth's housing crisis, and advance significant climate and transportation goals. Because some local zoning laws sought to limit or prevent the construction of multifamily housing near MBTA stations, the statute explicitly responds by requiring MBTA Communities to have at least one zoning district of reasonable size in which multifamily housing is allowed "as of right." This district must generally be located within half a mile of a transit station and allow for development at a minimum gross density of fifteen units per acre. The law also prevents restrictions within the designated district that would interfere with the construction of housing suitable for families with children.

Today's [advisory](#) (/doc/advisory-concerning-enforcement-of-the-mbta-communities-zoning-law) explains that covered communities must come into compliance with the MBTA Communities Zoning Law. MBTA Communities that do not currently have a compliant multi-family zoning district must take steps outlined in the Department of Housing and Community Development's [guidelines](#) (/info-details/multi-family-zoning-requirement-for-mbta-communities) to demonstrate interim compliance. The advisory clarifies that covered communities cannot opt out of or avoid their obligations by choosing to forego state funding. Failure to comply may result in civil enforcement action or liability under federal and state fair housing laws.

Ensuring access to safe and affordable housing is a top priority within the AG's Office and guides much of the work done by the office across its many divisions. Rental housing was the top issue raised in complaints to the AG's Consumer Advocacy and Response Division (CARD) in 2022, outpacing complaints in all other categories for the first time. Many residents reported unsafe and unsanitary conditions, rent hikes and evictions. These complaints were handled by CARD and the AGO-funded Local Consumer Programs, which helped tenants resolve disputes with landlords, apply for rental assistance and connect with private attorneys.

A variety of resources are available for cities and towns working to achieve compliance with the MBTA Communities Zoning Law, including:

[DHCD Technical Assistance Inquiry](#) (/forms/municipal-technical-assistance-form)

DHCD and its partner agencies are collaborating to provide technical assistance to MBTA communities that need help understanding and implementing the compliance requirements of Section 3A of MGL c. 40A, including the [Community One Stop for Growth](#) (/guides/community-one-stop-for-growth) ([Community Planning](#) (/how-to/community-planning-grant-program), [Rural and Small Town Development Fund](#) (/how-to/rural-and-small-town-development-fund) and [Housing Choice](#) (/how-to/housing-choice-grant-program) Grants), and [Energy and Environmental Affairs Land Use Grants](#) (/info-details/planning-assistance-grants).

[Massachusetts Housing Partnership TA-3A](https://urldefense.com/v3/_https://www.mhp.net/community/complete-neighborhoods-initiative_)

[https://urldefense.com/v3/\\_https://www.mhp.net/community/complete-neighborhoods-initiative\\_](https://urldefense.com/v3/_https://www.mhp.net/community/complete-neighborhoods-initiative_)!!CUhgQOZqV7M!kRFr5JKK84p8jZW20f6hfZdg3-ceK38oWLawKHZI4XhXosw\_OrmHfGGpRD7-sTUEr8PwnAPZqSU5TjmXi14\$

To help MBTA communities comply with the new law, Massachusetts Housing Partnership is providing technical assistance in collaboration with DHCD and the Massachusetts Department of Transportation. Applications are currently being accepted [here](https://www.mhp.net/community/complete-neighborhoods-initiative_) ([https://www.mhp.net/community/complete-neighborhoods-initiative\\_](https://www.mhp.net/community/complete-neighborhoods-initiative_)).

[Community Engagement Technical Assistance for MBTA Communities:](https://urldefense.com/v3/_https://www.chapa.org/housing-news/community-engagement-technical-assistance-for-mbta-communities_)

[https://urldefense.com/v3/\\_https://www.chapa.org/housing-news/community-engagement-technical-assistance-for-mbta-communities\\_](https://urldefense.com/v3/_https://www.chapa.org/housing-news/community-engagement-technical-assistance-for-mbta-communities_)!!CUhgQOZqV7M!kRFr5JKK84p8jZW20f6hfZdg3-ceK38oWLawKHZI4XhXosw\_OrmHfGGpRD7-sTUEr8PwnAPZqSU5TjmXi14\$

The Citizens' Housing and Planning Association (CHAPA) is now providing technical assistance for community engagement to all interested MBTA Communities seeking to comply with the Multi-family Zoning Requirements for MBTA Communities (Section 3A). Municipal staff, elected leaders, and board members are encouraged to apply. Apply [here](#)

[https://urldefense.com/v3/\\_https://www.chapa.org/mbta-zoning-technical-assistance\\_](https://urldefense.com/v3/_https://www.chapa.org/mbta-zoning-technical-assistance_)!!CUhgQOZqV7M!kRFr5JKK84p8jZW20f6hfZdg3-ceK38oWLawKHZI4XhXosw\_OrmHfGGpRD7-sTUEr8PwnAPZqSU5TjmXi14\$

**Statements of Support:**

"Massachusetts is in a housing crisis, and our administration is committed to partnering with cities and towns to ensure everyone is doing their part to tackle it. The MBTA Communities zoning requirements will help us meet our housing needs and achieve our ambitious climate goals by creating capacity for new multi-family housing in areas near public transit." – **Governor Maura Healey**.

"Greater Boston is mired in an affordable housing crisis that harms Commonwealth households of all incomes and backgrounds, but particularly low-income households of color. Municipal compliance with the MBTA Communities Law is critical to begin combatting that crisis. We applaud Attorney General Campbell's important effort to provide legal guidance on the MBTA Communities Law." – **Iván Espinoza-Madrigal, Executive Director of Lawyers for Civil Rights**.

"Implementing this law will put Massachusetts on the path to a bright and vibrant future for all residents of the Commonwealth. Zoning has historically been used to create and perpetuate segregation and housing discrimination. When we limit opportunities for people to live in the communities they choose, it hurts all of us. The MBTA Communities law was passed to remove exclusionary barriers that prevent housing development and put new policies in place that allow for people and our communities to thrive." – **Whitney Demetrius, Director of Fair Housing Engagement at Citizens' Housing and Planning Association (CHAPA)**.

"The Commonwealth is facing a statewide housing shortage that can only be addressed locally. We need more diverse housing, affordable housing, and homes near amenities and services. This is an ambitious undertaking, but the MBTA Communities law will help localities remove significant regulatory barriers to housing development. There's enough flexibility in the guidelines and technical assistance available for municipalities to draft compliant zoning that also enhances neighborhoods. MAPC is eager to work with communities to expand housing access and opportunity throughout the region, and appreciates the State's leadership and support on this effort." – **Karina Oliver-Milchman, Chief of Housing and Neighborhood Development at the Metropolitan Area Planning Council (MAPC)**.

"Massachusetts is experiencing a housing crisis and we need everyone, and every municipality, to do their part in increasing the number of homes that are available and affordable to the residents of our Commonwealth so that we can have healthy and thriving communities. We know that many communities are grappling with the challenges of addressing the vast need for additional housing, including affordable housing, and we are glad that Attorney General Campbell is willing to step up and support those communities that are doing their part, and can hold accountable those who are not." – **Kristina St. Cyr, Director of Policy and Civic Engagement at the MA Association of Community Development Corporations**.

"The Alliance for Business Leadership recognizes that the Commonwealth's economic success depends on access to affordable housing, and that we all must work together to address the current housing crisis. We thank Attorney General Campbell for her leadership in clarifying MBTA communities' obligation to do their part to remove barriers to desperately needed housing development. Business leaders stand ready to work with the Attorney General and our local communities to ensure sustainable growth and opportunity for everyone in Massachusetts." – **JC Morales, Board Chair at the Alliance for Business Leadership and Founder & Managing Partner at Surfside Capital Advisors**.

###

**Media Contact**

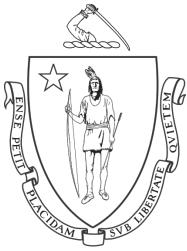
**Thomas Dalton, Deputy Press Secretary**

**Phone**

(617) 727-2543 (<tel:6177272543>)

**Online**

[Thomas.F.Dalton@mass.gov](mailto:Thomas.F.Dalton@mass.gov) (<mailto:Thomas.F.Dalton@mass.gov>)



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
[www.mass.gov/ago](http://www.mass.gov/ago)

**Advisory Concerning Enforcement of the MBTA Communities Zoning Law**

The Office of the Attorney General is issuing this Advisory to assist cities, towns, and residents in understanding the requirements imposed by the MBTA Communities Zoning Law (G.L. c. 40A, § 3A) (the “Law”). The Law was enacted to address the Commonwealth’s acute need for housing by facilitating the development of transit-oriented, multifamily housing. By any measure, Massachusetts is in a housing crisis that is inflicting unacceptable economic, social, and environmental harms across our state – particularly on working families and people of color. The Law directly responds to this crisis by implementing zoning reforms that require MBTA Communities to permit reasonable levels of multifamily housing development near transit stations.<sup>1</sup>

Massachusetts cities and towns have broad authority to enact local zoning ordinances and by-laws to promote the public welfare, so long as they are not inconsistent with constitutional or statutory requirements.<sup>2</sup> The MBTA Communities Zoning Law provides one such statutory requirement: that MBTA Communities must allow at least one zoning district of reasonable size in which multifamily housing is permitted “as of right.”<sup>3</sup> The district must generally be located within half a mile of a transit station and allow for development at a minimum gross density of fifteen units per acre.<sup>4</sup> MBTA Communities cannot impose age-based occupancy limitations or other restrictions that interfere with the construction of units suitable for families with children within the zoning district.<sup>5</sup> For example, the zoning district cannot have limits on the size of units or caps on the number of bedrooms or occupants. The required zoning district must also allow for the construction of multifamily units without special permits, variances, waivers or other discretionary approvals.<sup>6</sup> These measures can prevent, delay, or significantly increase the costs of construction. As directed by the Legislature, the Department of Housing and Community Development has promulgated guidelines regarding compliance.<sup>7</sup> These guidelines provide

---

<sup>1</sup> An MBTA Community is a town or city which hosts MBTA service; which abuts a town or city that hosts service; or which has been added to the Transit Authority pursuant to a special law. *See* G.L. c. 40A, § 3A(a)(1); G.L. c. 40A, § 1. Currently, there are 177 MBTA Communities in Massachusetts. A list of these MBTA Communities, and other information related to the Law, can be found [here](#).

<sup>2</sup> *See generally* Mass. Const. Amend. Art. 89 (amending Mass. Const. Amend. Art. 2); G.L. c. 40A, § 1 et seq. (the “Zoning Act”).

<sup>3</sup> G.L. c. 40A, § 3A(a)(1) (requiring that MBTA Communities “shall have” a compliant zoning district).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> G.L. c. 40A, § 1A.

<sup>7</sup> G.L. c. 40A, § 3A(c) (“The [D]epartment . . . shall promulgate guidelines”); Department of Housing and Community Development, *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act* (revised October 21, 2022).

additional information and benchmarks to be utilized in determining whether MBTA Communities are complying with the Law.

All MBTA Communities must comply with the Law. Communities that do not currently have a compliant multi-family zoning district must take steps outlined in the DHCD guidelines to demonstrate interim compliance. Communities that fail to comply with the Law may be subject to civil enforcement action.<sup>8</sup> Non-compliant MBTA Communities are also subject to the administrative consequence of being rendered ineligible to receive certain forms of state funding.<sup>9</sup> Importantly, MBTA Communities cannot avoid their obligations under the Law by foregoing this funding. The Law requires that MBTA Communities “shall have” a compliant zoning district and does not provide any mechanism by which a town or city may opt out of this requirement.<sup>10</sup>

MBTA Communities that fail to comply with the Law’s requirements also risk liability under federal and state fair housing laws. The Massachusetts Antidiscrimination Law<sup>11</sup> and federal Fair Housing Act<sup>12</sup> prohibit towns and cities from using their zoning power for a discriminatory purpose or with discriminatory effect.<sup>13</sup> An MBTA Community may violate these laws if, for example, its zoning restrictions have the effect of unfairly limiting housing opportunities for families with children, individuals who receive housing subsidies, people of color, people with disabilities, or other protected groups.

---

<sup>8</sup> See, e.g., G.L. c. 12, § 10 (the Attorney General shall take notice of “all violations of law” and bring “such...civil proceedings before the appropriate state and federal courts...as [s]he may deem to be for the public interest”); G.L. c. 231A, § 2 et seq. (authorizing declaratory judgment actions to “secure determinations of right, duty, status, or other legal relations under...statute[s]”).

<sup>9</sup> G.L. c. 40A, § 3A(b).

<sup>10</sup> G.L. c. 40A, § 3A(a)(1).

<sup>11</sup> G.L. c. 151B § 1 et seq.

<sup>12</sup> 42 U.S.C. § 3601 et seq.

<sup>13</sup> See, e.g., G.L. c. 151B, § 4(4A) (prohibiting activities that interfere with the exercise or enjoyment of fair housing rights); 804 C.M.R. § 2.01(2)(f)-(h) (Antidiscrimination Law applies to “persons who...interfere with another person in the exercise or enjoyment of any right under M.G.L. c. 151, § 4...persons who directly or indirectly prevent or attempt to prevent the construction, purchase, sale or rental of any dwelling or land covered by M.G.L. c 151B, § 4...[and] persons who aid or abet in doing any illegal acts...”); 804 C.M.R. § 2.01(5)(f) (“Examples of unlawful housing practices include...to pass an ordinance that unlawfully denies a dwelling, commercial space or land to a person or group of persons because of their protected status.”).



*Commonwealth of Massachusetts*  
**EXECUTIVE OFFICE OF**  
**HOUSING & ECONOMIC DEVELOPMENT**  
ONE ASHBURTON PLACE, ROOM 2101  
BOSTON, MA 02108  
[www.mass.gov/eohed](http://www.mass.gov/eohed)

CHARLES D. BAKER  
GOVERNOR

KARYN E. POLITO  
LIEUTENANT GOVERNOR

MIKE KENNEALY  
SECRETARY

TELEPHONE  
(617) 788-3610

FACSIMILE  
(617) 788-3605

**GUIDANCE FOR LOCAL OFFICIALS ON  
DETERMINING VOTING THRESHOLDS FOR  
ZONING ORDINANCES AND BYLAWS**

Chapter 358 of the Acts of 2020 (sometimes referred to as the economic development legislation of 2020) made several amendments to Chapter 40A of the General Laws, commonly known as the Zoning Act. Among these amendments are (1) changes to section 5 of the Zoning Act, which reduce the number of votes required to enact certain kinds of zoning ordinances and bylaws from a  $\frac{2}{3}$  supermajority to a simple majority; and (2) changes to section 9 of the Zoning Act, making similar changes to the voting thresholds for the issuance of certain kinds of special permits.

Section 100 of said chapter 358 directs “[t]he executive office of housing and economic development [to] issue guidance to assist local officials in determining the voting thresholds for various zoning amendments. Such guidance shall be assembled in consultation with the department of housing and community development, the Massachusetts attorney general's municipal law unit, and Massachusetts Housing Partnership.” This guidance is intended to comply with that directive.

This guidance was initially posted on February 26, 2021 and was updated on March 15, 2021, April 8, 2021 and May 20, 2021. On May 20, the guidance was restructured to include topic headings and reordered certain questions under the relevant headings. The date listed with each question and answer below indicates when posted, and, if relevant, any subsequent updates.

**GENERAL OVERVIEW**

**Q: Where does the Zoning Act apply?**

**A;** The Zoning Act applies to all cities and towns in Massachusetts except the City of Boston, which has its own zoning enabling act. (February 26, 2021)

**Q: What kinds of zoning ordinance or bylaw can be enacted with a simple majority vote?**

A: Under the newly amended section 5 of the Zoning Act, a zoning ordinance or bylaw can be enacted by a simple majority vote, rather than the  $\frac{2}{3}$  supermajority that applies to other zoning amendments, if that ordinance or bylaw does any of the following:

1. Allows for multi-family housing or mixed-use developments “as of right” in an eligible location.
2. Allows for open space residential development as of right.
3. Allows accessory dwelling units, either within the principal dwelling or within a detached structure on the same lot, as-of-right.
4. Allows by special permit accessory dwelling units in a detached structure on the same lot.
5. Reduces the parking requirements for residential or mixed-use development under a special permit.
6. Permits an increase in the permissible density of population or intensity of a particular use in a proposed multi-family or mixed-use development that requires a special permit.
7. Changes dimensional standards such as lot coverage or floor area ratio, height, setbacks, minimum open space coverage, parking, building coverage to allow for the construction of additional residential units on a particular parcel or parcels of land.
8. Provides for the transfer of development rights or natural resource protection zoning in instances where the adoption of such zoning promotes concentration of development in areas that the municipality deems most appropriate for such development, but will not result in a diminution in the maximum number of housing units that could be developed within the municipality.
9. Adopts a smart growth or starter home districts in accordance with section 3 of Chapter 40R of the General Laws.

Key terms such as “multi-family housing,” “mixed-use development,” “accessory dwelling unit,” “transfer of development rights,” “natural resource protection zoning,” and “eligible location” are now defined in section 1A of the Zoning Act. (February 26, 2021)

**Q: Who decides which voting threshold applies to a particular zoning proposal?**

A: Section 5 does not specify who determines whether a proposed zoning ordinance or bylaw is the kind that can be approved by a simple majority vote. The proponent of a zoning ordinance or bylaw that allows or facilitates the development of new housing should include in the petition a statement explaining if it meets any of the criteria for being approved by a simple majority vote. The Zoning Act provides that no vote on a zoning petition may occur until after the planning board

in a city or town, and the city council (or a committee designated or appointed by the council) each has held a public hearing on the proposal. Additionally, no vote to adopt a zoning ordinance or bylaw may be taken until the planning board has submitted a report and recommendations to the town meeting or city council, or 21 days have elapsed after the hearing without submission of such report. It is recommended that the planning board include in this report a determination of which voting threshold applies to the zoning proposal. It is further recommended that the legislative body affirm the voting threshold in its vote on the subject zoning amendments. In the case of a zoning bylaw amendment being considered at town meeting, the Town Moderator has authority to “preside and regulate the proceedings, and decide all questions of order”—potentially including the required quantum of vote—pursuant to G.L. c. 39, § 15.

Under section 32 of chapter 40 of the General Laws, all zoning bylaws adopted by a town must be submitted to the Attorney General for review and approval. A request for approval must include adequate proof that the town has complied with all of the procedural requirements for the adoption of the bylaw. If the Attorney General finds an inconsistency between the proposed bylaw and state law, the bylaw or portions of it may be disapproved. (*February 26, 2021; updated May 20, 2021*)

**Q: What happens if a proposed zoning ordinance or bylaw includes some changes that can be adopted with simple majority vote, and other changes that require a  $\frac{2}{3}$  supermajority?**

A: Section 5 as amended provides that “any amendment that requires a simple majority vote shall not be combined with amendments that require a two-thirds majority vote.” A proposed zoning amendment cannot be adopted by a simple majority vote if it is combined with an amendment that requires a  $\frac{2}{3}$  supermajority. Drafters of new zoning proposals should take care not to combine provisions that require different voting thresholds, so that proposals that will encourage new housing production will get the benefit of the simple majority threshold. If a municipality desires to combine proposals with different voting thresholds, the municipality should first confer with municipal counsel, and review the guidance issued by EOHED. If the town meeting approves the amendment, will be subject to the review and approval of the Attorney General pursuant to G.L. c. 40, § 32. (*March 15, 2021; updated April 9 and May 20, 2021*)

**Q: Should a city or town in the process of updating its zoning code make changes to conform to the statutory changes?**

A: A city or town may decide to review its zoning ordinances or by-laws and consider making changes to be consistent with the statute, but such conforming changes are not required for the new thresholds to apply. (*March 15, 2021*)

## **TRANSITION TO THE NEW LAW**

**Q: My board is considering a zoning amendment that would qualify for the majority threshold set forth in amended section 5 and was filed and had a public hearing before the effective date of the recent changes to Chapter 40A. Does the new threshold apply to zoning proposals that were initiated before the Zoning Act was amended?**

A: Yes. The amendments to section 5 of Chapter 40A became effective immediately on the date the Governor signed chapter 358 of the Acts of 2020 (January 14, 2021). The new voting thresholds apply to any zoning amendment that comes before a city council or town meeting for a vote after that date, regardless of when the petition was filed or when the public hearing was opened. (*March 15, 2021*)

**Q: Does the new voting threshold for certain special permits likewise apply to projects that filed a special permit application prior to January 14, 2021? What if the initial hearing was opened prior to January 14, 2021, but a vote has not yet been taken?**

A: Yes. If a project qualifies for a special permit by majority vote, that threshold applies to any vote by a special permit granting authority taken after January 14, 2021, regardless of when the application was filed or the hearing opened. (*March 15, 2021*)

**Q: Does a municipality need to change its zoning ordinances or by-laws in order for the new voting threshold to apply?**

A: No. A town or city does not have to take any action for the amendments to Chapter 40A to take effect. There is no “opt in” provision. The changes apply automatically to all cities and towns except Boston, which has its own zoning statute. (*March 15, 2021*)

**Q: My town is planning a comprehensive update of our zoning bylaws to eliminate inconsistencies and make the bylaws easier to use (for example, by consolidating all definition in a new section). Can this be done by a vote on a single article that amends and restates the entire zoning code, as originally planned? Or should we delay the vote so that the existing provisions that qualify for a simple majority vote can be presented as separate articles?**

A: You may proceed with a vote as planned, consistent with the following guidance. Section 5 of the Zoning Act now provides that “any amendment that requires a simple majority vote shall not be combined with amendments that require a two-thirds majority vote.” The intent of this language is to ensure that certain zoning changes that make it easier to build new housing will have the benefit of the simple majority threshold. If a city or town is considering an existing proposal to amend and restate its entire zoning code with a single vote, and there is not enough time to separate amendments that have different voting thresholds, it may proceed as planned rather than starting over or delaying the vote. Although the statute does not say so expressly, in the view of EOHE, the combined article may be approved by a  $\frac{2}{3}$  vote. The Attorney General has not yet taken a position on this question. The city or town alternatively may elect to delay the vote and separate out the zoning provisions that have different approval thresholds. Going forward it is the recommendation of EOHE that proposals to amend and restate an entire zoning code should be drafted so that housing-friendly provisions that qualify for approval by a simple majority approval are considered separately, if possible. In all cases, the municipality should consult with municipal counsel regarding the appropriate quantum of vote. In the case of a zoning bylaw amendment being considered at town meeting, the Town Moderator has authority to “preside and regulate the proceedings, and decide all questions of order”—potentially including the required quantum of vote—pursuant to G.L. c. 39, § 15. If the town meeting approves the amendment, will be subject to the review and approval of the Attorney General pursuant to G.L. c. 40, § 32. (*April 9, 2021*)

## **MIXED-USE DEVELOPMENT**

**Q: My town is considering a zoning change that would allow a mixed-use project in a particular zoning district. Does the amendment qualify for the majority threshold if the zoning amendment will permit projects that are primarily commercial rather than residential?**

**A:** The Zoning Act was amended to define “mixed-use development” as “development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.” There is no requirement that the mix of uses be in any particular ratio or configuration. A zoning amendment will qualify for the majority threshold as long as it permits mixed-use development, as defined in the Zoning Act, either as-of-right or by special permit, in an eligible location. (March 15, 2021; updated May 20, 2021)

**Q: My town is considering a new overlay district in which a mixture of retail, hospitality, recreational, entertainment, commercial and other uses will be allowed by right. Multifamily and mixed-use developments are among many types of uses that will be allowed in the new zone, along with things like retail, hotels, commercial recreational facilities, and entertainment uses. The new overlay district does not require a proposed project to include a residential component. Does this overlay district qualify for the simple majority?**

**A:** Section 5 of the Zoning Act now provides that “any amendment that requires a simple majority vote shall not be combined with amendments that require a two-thirds majority vote.” The intent of this language is to ensure that certain zoning changes that make it easier to build new housing will have the benefit of the simple majority threshold. It also is intended to ensure that zoning proposals that otherwise would require a  $\frac{2}{3}$  vote are not approved by a simple majority simply because a multifamily use or other residential use has been added to the mix of allowed uses. This overlay district appears to conflict with the statute’s prohibition on combined articles, since it combines uses that require a  $\frac{2}{3}$  vote with uses that may potentially qualify for a simple majority vote. In all cases, the municipality should consult with municipal counsel regarding the appropriate quantum of vote. In the case of a zoning bylaw amendment being considered at town meeting, the Town Moderator has authority to “preside and regulate the proceedings, and decide all questions of order”—potentially including the required quantum of vote—pursuant to G.L. c. 39, § 15. If the town meeting approves the amendment, will be subject to the review and approval of the Attorney General pursuant to G.L. c. 40, § 32. (April 9, 2021)

**Q: Section 5 says that a zoning amendment requiring a simple majority vote shall not be combined with amendments that require a  $\frac{2}{3}$  majority vote. But it also says that a simple majority is sufficient to approve mixed-use development in an eligible location. When a zoning amendment permits housing and other uses, how do I know which threshold applies?**

**A.** You must determine if the zoning amendment permits “mixed-use development” as defined in the Zoning Act: “development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, industrial or other uses.” If a zoning amendment is drafted to permit a mixture of uses in a new zone, and also *requires* that all future uses in that zone include a residential component, then the amendment allows “mixed-use development” as defined in the statute, and qualifies for the simple majority, as long as the affected

land area is an “eligible location.” Municipalities that want to approve a mixed-use overlay district by simple majority should take care to draft the article so that individual projects must include a residential use. (May 20, 2021)

## **ELIGIBLE LOCATIONS**

### **Q: How do I know if a particular land area qualifies as an eligible location?**

A: Section 1A of the Zoning Act defines “eligible locations” as areas that by virtue of their infrastructure, transportation access, existing underutilized facilities or location make highly suitable locations for residential or mixed use smart growth zoning districts or starter home zoning districts, including without limitation: (i) areas near transit stations, including rapid transit, commuter rail and bus and ferry terminals; or (ii) areas of concentrated development, including town and city centers, other existing commercial districts in cities and towns and existing rural village districts.

Section 5 does not specify who determines whether the land area subject to a proposed zoning ordinance or bylaw is an eligible location. The proponent of a zoning ordinance or bylaw that allows or facilitates the development of new housing should include in the petition explaining if the land area affected meets any of the criteria for an eligible location. As noted above, no vote to adopt a zoning ordinance or bylaw may be taken until the proposal has received a public hearing and the planning board has submitted a report with recommendations to the town meeting or city council, or 21 days have elapsed after the hearing without submission of such report. It is recommended that the planning board include in this report a determination of whether the affected land area is an eligible location, when such a determination is relevant to the voting threshold. (February 26, 2021)

### **Q: Is there any additional guidance for determining eligible locations?**

A: The same definition of “eligible location” that appears in section 1A of Chapter 40A also appears in section 2 of Chapter 40R. The regulations implementing Chapter 40R (760 CMR 59) set forth detailed criteria that the Department of Housing and Community Development (DHCD) applies when it determines if a land area is an eligible location under that statute. Although 760 CMR 59 does not apply to Chapter 40A, municipalities may reasonably look to those regulations for additional guidance on what areas are should be deemed eligible locations under Chapter 40A.

Under the statutory definition, a land area qualifies as an eligible location if it is located “near” a transit station, including rapid transit, commuter rail or bus or ferry terminals. Any parcel that is at least partially within 0.5 miles of the kind of transit station listed should be deemed to be an eligible location. In addition, the statute includes within the definition of “eligible location” parcels that are within “an area of concentrated development, including a town or city enter, or other existing commercial districts, or existing rural village district.” All other land areas may be determined to be “eligible locations” if, in the judgment of the planning board, the land area is a highly suitable location for residential or mixed-use development based on its infrastructure, transportation access, or existing underutilized facilities.

If there is uncertainty about whether a zoning proposal affects an eligible location, the municipality may request an advisory determination from the Executive Office of Housing and Economic Development. Such a request must be made by the mayor, city council, board of aldermen, or planning board (when the zoning amendment is proposed in a city); or by the select board or planning board (when the zoning amendment is proposed in a town). A request may not be made by an individual member of the council or board. Communities are encouraged to submit their request for an Advisory Opinion as early as possible in the zoning amendment process. The request should be made by completing the application at the following website: [mass.gov/forms/request-an-advisory-opinion-on-ch40A-eligible-locations](https://mass.gov/forms/request-an-advisory-opinion-on-ch40A-eligible-locations). EOHD will endeavor to provide a written advisory determination within 30 days of receipt of a complete request. (February 26, 2021)

## **ACCESSORY DWELLING UNITS**

**Q: My town will be voting on a zoning amendment to permit accessory dwelling units, up to 1,200 square feet, as of right in the residential A zoning district. Does this amendment qualify for the simple majority threshold?**

**A:** No. A zoning amendment to permit “accessory dwelling units” by right only qualifies for the simple majority vote if the proposal is consistent with the Zoning Act’s definition of accessory dwelling unit. The statutory definition limits the size of the unit to “not larger in floor area than  $\frac{1}{2}$  the floor area of the principal dwelling or 900 square feet, whichever is smaller.” Communities may add size or other restrictions, but the zoning amendment does not qualify for simple majority if it permits accessory dwelling units larger than specified in the statute. (May 20, 2021)

## **SPECIAL PERMITS**

**Q: What is a special permit and what are the required thresholds for special permit votes?**

**A:** Section 9 of the Zoning Act provides that zoning ordinances or bylaws can provide for specific types of uses which shall only be permitted in specified districts upon the issuance of a special permit. Zoning ordinances or bylaws may also provide for special permits authorizing increases in density or intensity of a particular use in a proposed development if the petitioner or applicant agrees to conditions that serve the public interest. Special permits may also issue for other purposes set forth in section 9.

A special permit can be granted a  $\frac{2}{3}$  vote of boards with more than 5 members, a vote of at least 4 members of a 5-member board, and a unanimous vote of a 3-member board. But, the recent amendments to section 9 provide that a special permit may be issued by a simple majority vote if the special permit does any of the following:

- Permits multi-family housing that is located within  $\frac{1}{2}$  mile of a commuter rail station, subway station, ferry terminal or bus station; provided that not less than 10% of the housing is affordable to and occupied by households whose annual income is less than 80% of the area median income and affordability is assured for a period of not less than

30 years through the use of an affordable housing restriction.

- Permits mixed-use development in centers of commercial activity within a municipality, including town and city centers, other commercial districts in cities and towns and rural village districts; provided, that not less than 10% of the housing meets the same standard of affordability as noted above.
- Permits a reduced parking space to residential unit ratio requirement, provided such reduction in the parking requirement will result in the production of additional housing units.

*(February 26, 2021)*

## **ADDITIONAL GUIDANCE**

**Q: Where can I find additional guidance about the voting thresholds for zoning ordinances and bylaws?**

A: Periodic updates to this guidance will be posted at [www.mass.gov/info-details/housing-choice-and-mbta-communities-legislation](http://www.mass.gov/info-details/housing-choice-and-mbta-communities-legislation). Questions about zoning thresholds that are not answered in the guidance can be directed to the Executive Office of Housing and Economic Development at housingchoice@mass.gov. *(February 26, 2021, updated May 20, 2021)*

## Menu



Search Mass.gov

SEARCH

[\(i\)](#) > [Housing Choice Initiative](#) (/orgs/housing-choice-initiative) > [Housing Choice Legislation](#) (/info-details/housing-choice-legislation)

# Request an Advisory Opinion on Ch.40A Eligible Locations

Form for a municipality to request an advisory opinion about whether a zoning proposal affects an eligible location.

If there is uncertainty about whether a zoning proposal affects an eligible location, a municipality may request an advisory opinion from EOHLC. Such a request must be made by the mayor, city council, board of aldermen, or planning board (when the zoning amendment is proposed in a city); or by the select board or planning board (when the zoning amendment is proposed in a town). A request may not be made by an individual member of the council or board. EOHLC will endeavor to provide a written advisory opinion within 30 days of receipt of a complete request.

**ALL FIELDS BELOW ARE REQUIRED.**

Municipality \*

A dropdown menu showing "Abington" as the selected option.

Requestor \*

- Mayor
- City Council
- Board of Aldermen
- Board of Selectmen
- Planning Board
- Town Council

Date of Council/Board meeting to request Advisory Opinion (not applicable for Mayor request) \*

  Three dropdown menus for selecting the month, day, and year of the meeting.

*You do not need to submit documentation of a vote, just the date*

Contact Name \*

 Two text input fields for "First Name" and "Last Name".

*First Name*

*Last Name*

Contact Email \*

Contact Phone \*

City Solicitor/Town Counsel Name \*

First Name

Last Name

City Solicitor/Town Counsel Email \*

City Solicitor/Town Counsel Phone \*

Eligible Location Category \*

Eligible location due to its access to transportation or proximity to t ▼

Summary of Request \*

Date of Planning Board Vote \*

1. Upload of location map and other relevant materials \*

No File Chosen

File uploads may not work on some mobile devices.

2. Existing land use(s) and improvements within the Subject Area (include aerial maps, photos, GIS map with parcel boundaries, acreage info, gross developable acreage) \*

No File Chosen

File uploads may not work on some mobile devices.

## 3. Existing zoning – provide zoning bylaw and map (or link to page)\*

No File Chosen

*File uploads may not work on some mobile devices.*

## 4. Existing infrastructure serving the Subject Area (town water/sewer, septic, wells, DEP limitations, MWRA)\*

*If using the optional upload below, please type See Upload in this required box.*

## Optional Upload for #4 (optional)

No File Chosen

*File uploads may not work on some mobile devices.*

## 5. Planned infrastructure upgrades, if any, with schedule/timing \*

*If using the optional upload below, please type See Upload in this required box.*

## Optional Upload for #5 (optional)

No File Chosen

*File uploads may not work on some mobile devices.*

## 6. Existing public transportation routes serving the Subject Area, including maps and schedule \*

*File uploads may not work on some mobile devices.*

## 7. Existing/proposed pedestrian access within and serving the Subject Area, including access to recreational land, parks, schools, libraries and other municipal services \*

*If using the optional upload below, please type See Upload in this required box.*

## Optional Upload for #7 (optional)

No File Chosen

*File uploads may not work on some mobile devices.*

## 8. Proximity of the Subject Area to any other areas of concentrated development \*

*If using the optional upload below, please type See Upload in this required box.*

## Optional Upload for #8 (optional)

No File Chosen

*File uploads may not work on some mobile devices.*

## 9. Any vacant buildings or other structures or disturbed land areas, including parking lots, within the Subject Area that would be considered existing underutilized facilities \*

*If using the optional upload below, please type See Upload in this required box.*

## Optional Upload for #9 (optional)

No File Chosen

*File uploads may not work on some mobile devices.*

## 10. Statement explaining why the area to be rezoned is/is not an eligible location \*

*File uploads may not work on some mobile devices.*

## Other Key Information (optional)

*For example, key/relevant dates and other deadlines*

Optional upload A for supplemental information (optional)

No File Chosen

*File uploads may not work on some mobile devices.*

Optional upload B for supplemental information (optional)

No File Chosen

*File uploads may not work on some mobile devices.*

EOHED may request additional information, and an advisory opinion will be provided in a reasonable amount of time after all necessary details are received.

**SUBMIT FORM**



*(l)*

All Topics [\(/topics/massachusetts-topics\)](/topics/massachusetts-topics) Site Policies [\(/massgov-site-policies\)](/massgov-site-policies) Public Records Requests [\(/topics/public-records-requests\)](/topics/public-records-requests)

© 2023 Commonwealth of Massachusetts.

Mass.gov® is a registered service mark of the Commonwealth of Massachusetts. [Mass.gov Privacy Policy](#) [\(/privacypolicy\)](#)

# MEMO

TO: Select Board

FROM: Nicholas Milano, Town Administrator

RE: MBTA Communities – Action Plan

DATE: August 22, 2023



---

This Memo is intended to provide an overview of the current status and outstanding decision points for Milton's efforts to comply with the MBTA Communities Act. It is intended to help collect feedback from the Select Board for the Planning Department and Planning Board.

## **I. Work to Date**

The Planning Department has been working with its consultants Utile & the Metropolitan Area Planning Council (MAPC) to help design districts that comply with the guidelines and are in the best interest of the Town of Milton. The Planning Department has hosted more than a half-dozen public forums on this work. MBTA Communities has also been a regular agenda item for the Planning Board. The Select Board has also had several presentations and discussions on the efforts to date.

Over the course of 2023, the Town's consultants have revised and tweaked different iterations of compliant zoning that reflect feedback received from residents and the Planning Board. In order to help draft a zoning bylaw in accordance with the state's model bylaw, we are seeking further guidance on districts, densities, and other factors to continue moving towards compliance.

In addition to meeting with the Select Board, the Planning Department will meet with the Planning Board on Thursday, August 24, 2023 with Utile to review and discuss the latest paths for compliance.

The Town has submitted correspondence to the MBTA Board of Directors seeking written correspondence on why the Mattapan High Speed Line is classified as rapid transit. The Town has contracted with RKG to perform a cost impact analysis of proposed MBTA Communities compliant zoning. Consultants from RKG will also be present to discuss their methodology at the Planning Board on Thursday, August 24, 2023.

## **II. Recent Changes to Executive Office of Housing and Livable Communities (EOHLC) Guidelines**

On Thursday, August 17, 2023, EOHLC [released revised guidelines](#) that included the following two changes:

- Allows for mixed-use districts (e.g., districts where ground floor commercial use is required) to account for up to 25% of the required total units.

- Expands the number of grant programs for which compliance with MBTA Communities Act will be taken into consideration when grant awards are made.

### **III. Feedback to the Planning Department and the Planning Board regarding Density and Districts**

The Town's consultant Utile has put together two revised options that provide compliance. Planning Director Tim Czerwinski will review these two options with the Select Board on Tuesday, August 22. Utile will be attending the Planning Board on Thursday, August 24.

Option 1: Compliance including East Milton Square

- Subdistricts included: Granite Ave, Mattapan Station, Milton Station, East Milton Square, Transit Area Triplex
  - Overall Data:
    - Acreage: 133.7
    - Unit Capacity: 2,508
    - Unit/Acre: 19.3

Option 2: Compliance *not including* East Milton Square

- Subdistricts included: Granite Ave, Mattapan Station, Milton Station, Transit Triplex Area, Randolph Ave & Access Road, and Randolph Ave South.
  - Overall Data:
    - Acreage: 132.2
    - Unit Capacity: 2,474
    - Unit/Acre: 19.5

### **Affordable Housing**

The Compliance Guidelines state that EOHLC will consider an affordability requirement to be consistent with as of right zoning as long as the zoning requires *not more than 10 percent* of the units in a project to be affordable units, and the cap on the income of families or individuals who are eligible to occupy the affordable units is *not less than 80 percent of area median income*.

EOHLC will consider a greater percentage of affordable units (more than 10%), or deeper affordability for some or all of the affordable units (less than 80% of area median income), if:

the affordability requirements applicable in the multi-family zoning district are supported by an economic feasibility analysis, prepared for the municipality by a qualified and independent third party acceptable to EOHLC, and using a methodology and format acceptable to EOHLC. The analysis must demonstrate that a reasonable variety of multi-family housing types can be feasibly developed at the proposed affordability levels, taking into account the densities allowed as of right in the district, the dimensional requirements applicable within the district, and the minimum number of parking spaces required.

Key Questions in order to provide feedback to the Planning Department and the Planning Board:

- Does the Select Board have a preference on Option 1 or Option 2?
- Are there other subdistricts the Select Board would prefer to see included?
- Are there subdistricts where the Select Board would prefer lower or greater density levels?
- What additional information does the Select Board need to provide feedback?
- Does the Select Board support requiring mixed-use in one or more of the subdistricts?
  - Note: requiring mixed use may have an impact on the vote threshold required at Town Meeting (simple majority or two-thirds)
- Does the Select Board wish to contract with a consultant to prepare an economic feasibility analysis to determine if the affordability restrictions could be greater than 10% units/80% AMI?
  - Note: This work should take place after districts/densities are identified in order to provide the consultant with the necessary information to review for economic feasibility

#### **IV. Discussion/Approval - Request to the Executive Office of Housing and Livable Communities for an Advisory Opinion on Chapter 40A Eligible Locations**

In 2020, the Legislature approved changes to M.G.L. Chapter 40A which reduces the number of votes required to enact certain kinds of zoning ordinances and bylaws from a 2/3 supermajority to a simple majority. Broadly, changes to zoning to allow the development of multifamily housing in an *eligible location* are now subject to a simple majority, rather than a 2/3 supermajority.

Eligible locations are defined in [M.G.L. Chapter 40A, Section 1A](#):

areas that by virtue of their infrastructure, transportation access, existing underutilized facilities or location make highly suitable locations for residential or mixed use smart growth zoning districts or starter home zoning districts, including without limitation: (i) areas near transit stations, including rapid transit, commuter rail and bus and ferry terminals; or (ii) areas of concentrated development, including town and city centers, other existing commercial districts in cities and towns and existing rural village districts.

If requested, EOHLC will provide advisory opinions on whether a location in a city/town is within an “eligible location” and thus subject to a simple majority rather than 2/3 supermajority vote at Town Meeting.

While most of the proposed subdistricts will be located near transit stations and therefore within an eligible location, portions of the Granite Ave subdistrict, the Randolph Ave/Access Road subdistrict, and the Randolph Ave South subdistrict are located outside of the transit area.

However, each of these subdistricts could be considered suitable locations for growth because of their infrastructure and transportation access.

Key Question:

- Does the Select Board authorize submitting a request to EOHLC for an advisory opinion regarding whether the following subdistricts qualify as eligible locations: Granite Ave, Randolph Ave/Access Road subdistrict, and Randolph Ave South?

# MBTA Communities Compliance

*Mass Housing Partnership Technical Assistance*  
August Update | Town of Milton

# Agenda

## 1. Background

- a. What is the MBTA Communities Act?
- b. Milton Criteria for Compliance

## 2. Subdistricts Considered

- a. Townwide Summary
- b. Individual Subdistricts Aerial Zoom-Ins

## 3. Pathways to Compliance

- a. Option 1: Compliance with East Milton Square
- b. Option 2: Compliance without East Milton Square

## 4. Appendix

- a. Transit Area Evolution

# Background

What is the MBTA Communities Act?  
Milton Criteria for Compliance

# What is the MBTA Communities Act?

## High-Level Overview

- Also known as “Section 3A” (Mass. General Laws c.40A §3A)
- Requires communities with MBTA rail access (or adjacent to MBTA rail access) to have at least one zoning district which permits **multi-family** development **as of right**
  - **3+ units**
  - **“development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval”**
- **No required ground floor commercial**
- **No restrictions on**
  - **Age**
  - **Number or size of bedrooms**
  - **Number of occupants**

# What is the MBTA Communities Act?

## The Role of Site Plan Review

Site Plan Review and Approval is allowed, within reason.

For an as-of-right project that complies with applicable dimensional regulations:

Site Plan Review can regulate:

- Vehicular access and circulation on a site,
- Architectural design of a building, and
- Screening of adjacent properties.

Site Plan Review cannot:

- **Unreasonably delay a project**
- **Impose conditions that make it infeasible or impractical to proceed with a project**

Source: <https://www.mass.gov/info-details/section-3a-guidelines>

# Town Obligations Under State Law

## Attorney General's Advisory and Loss of Funds

*“Compliance with the MBTA Communities Zoning Law is not only mandatory, it is an essential tool for the Commonwealth to address its housing crisis along with our climate and transportation goals,” said AG Campbell.*

Failure to comply with the Housing Choice Law may result in:

- Civil enforcement action or liability under Federal and State fair housing laws, as well as State antidiscrimination law
- Loss of funds from the following programs:
  - Housing Choice Initiative
  - Local Capital Project Fund
  - MassWorks Infrastructure Program
  - 13 discretionary grant programs which will consider Section 3A compliance when making grant award recommendations

### Discretionary grant programs impacted:

- Community Planning Grants, EOHLG
- Massachusetts Downtown Initiative, EOED
- Urban Agenda, EOED
- Rural and Small Town Development Fund, EOED
- Brownfields Redevelopment Fund, MassDevelopment
- Site Readiness Program, MassDevelopment
- Underutilized Properties Program, MassDevelopment
- Collaborative Workspace Program, MassDevelopment
- Real Estate Services Technical Assistance, MassDevelopment
- Commonwealth Places Programs, MassDevelopment
- Land Use Planning Grants, EOEEA
- Local Acquisitions for Natural Diversity (LAND) Grants, EOEEA
- Municipal Vulnerability Preparedness (MVP) Planning and Project Grants, EOEEA

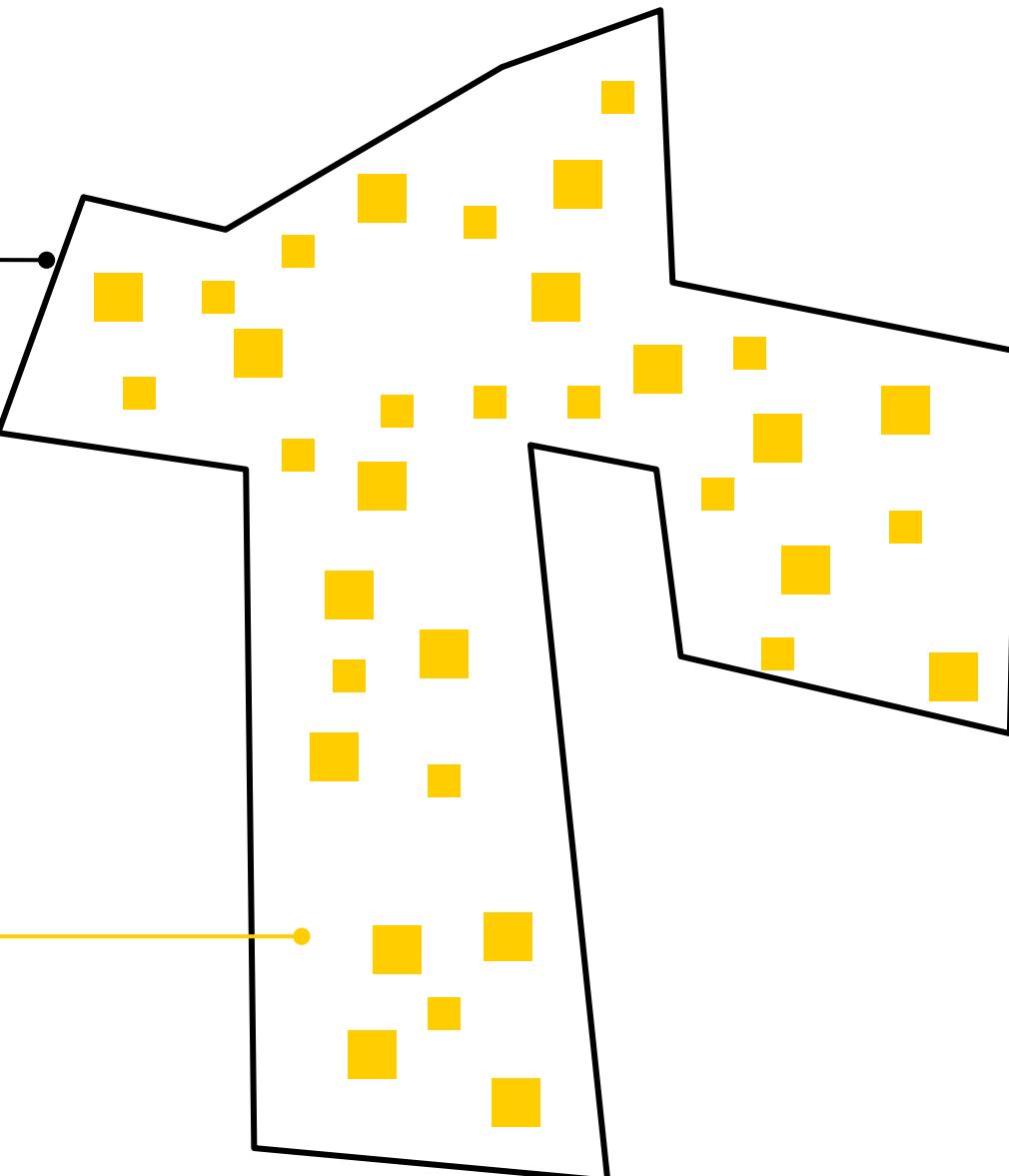
# What does this mean for Milton?

## District Size & Location

**≥ 50 acres** (can be split across multiple subdistricts)

At least 50% of district area must be:

- *in one contiguous area*
- *within ½ mile of rapid transit stations*



## District Density & Unit Capacity

**≥ 15 units per acre** (average across all subdistricts)

At least 50% of modeled unit capacity must be:

- *within ½ mile of rapid transit stations*

For more information on Section 3A requirements, including key definitions, see:

- <https://www.mass.gov/doc/compliance-guidelines-for-multi-family-zoning-districts-under-section-3a-of-the-zoning-act/download>
- <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>
- <https://www.mass.gov/doc/advisory-concerning-enforcement-of-the-mbta-communities-zoning-law/download>

# Milton Criteria for Compliance

## 1A. District Size, Location & Density

- Contiguity standards: one contiguous subdistrict area must contain **≥ 50%** of total district land area
- Transit-oriented standards: **≥ 50%** of the land area and modeled multifamily unit capacity included must be within a half-mile of rapid transit stations
- Minimum total district(s) area: **50 acres**
- Gross density requirement: **15 units/acre**  
*Some individual subdistricts may be less dense than 15 units/acre as long as all subdistricts calculated together are at least 15 units/acre.*

## 1B. Zoning Standards

Allowable zoning parameters include (for example):

- Setbacks
- Stories & height limits
- Parking requirements
- Units per parcel
- Units per acre
- Minimum/Maximum lot size
- Required mixed-use ([with limitations](#))

For more information on Section 3A requirements, including key definitions, see:

- <https://www.mass.gov/doc/compliance-guidelines-for-multi-family-zoning-districts-under-section-3a-of-the-zoning-act/download>
- <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>
- <https://www.mass.gov/doc/advisory-concerning-enforcement-of-the-mbta-communities-zoning-law/download>

## 1A. District Size, Location & Density

- Contiguity standards: one contiguous subdistrict area must contain **≥ 50%** of total district land area
- Transit-oriented standards: **≥ 50%** of the land area and modeled multifamily unit capacity included must be within a half-mile of rapid transit stations
- Minimum total district(s) area: **50 acres**
- Gross density requirement: **15 units/acre**  
*Some individual subdistricts may be less dense than 15 units/acre as long as all subdistricts calculated together are at least 15 units/acre.*

## 1B. Zoning Standards

Allowable zoning parameters include (for example):

- Setbacks
- Stories & height limits
- Parking requirements
- Units per parcel
- Units per acre
- Minimum/Maximum lot size
- Required mixed-use ([with limitations](#))

## 1A. District Size, Location & Density

- Contiguity standards: one contiguous subdistrict area must contain **≥ 50%** of total district land area
- Transit-oriented standards: **≥ 50%** of the land area and modeled multifamily unit capacity included must be within a half-mile of rapid transit stations
- Minimum total district(s) area: **50 acres**
- Gross density requirement: **15 units/acre**  
*Some individual subdistricts may be less dense than 15 units/acre as long as all subdistricts calculated together are at least 15 units/acre.*

## 1B. Zoning Standards

Allowable zoning parameters include (for example):

- Setbacks
- Stories & height limits
- Parking requirements
- Units per parcel
- Units per acre
- Minimum/Maximum lot size
- Required mixed-use ([with limitations](#))

## 2. Multi-Family Unit Capacity

**2,461 units**

*NOTE: this is a theoretical zoned capacity using the State calculation method. This is not a requirement to build a certain number of units, and has no relationship to existing units.*

# Subdistricts Studied

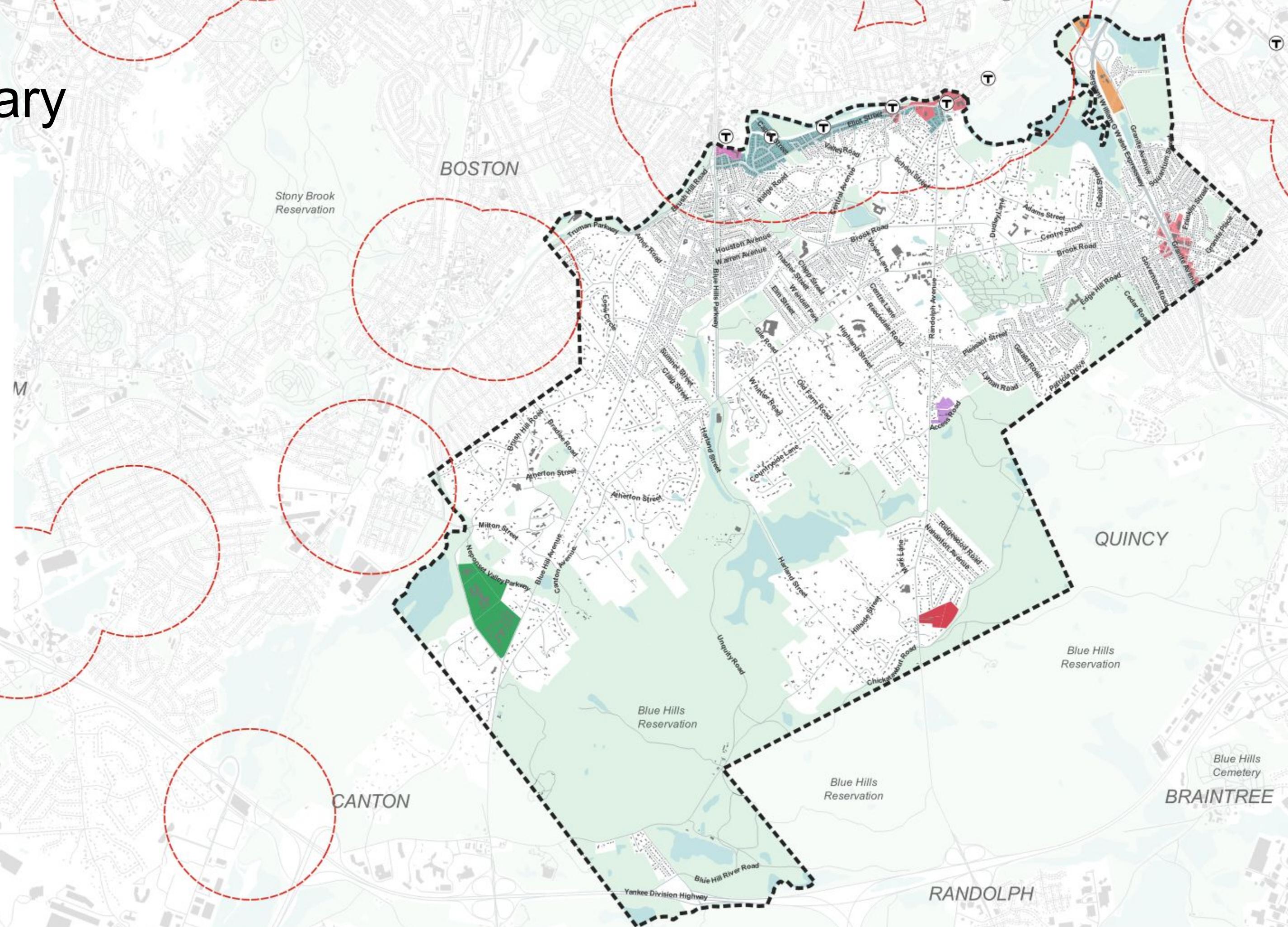
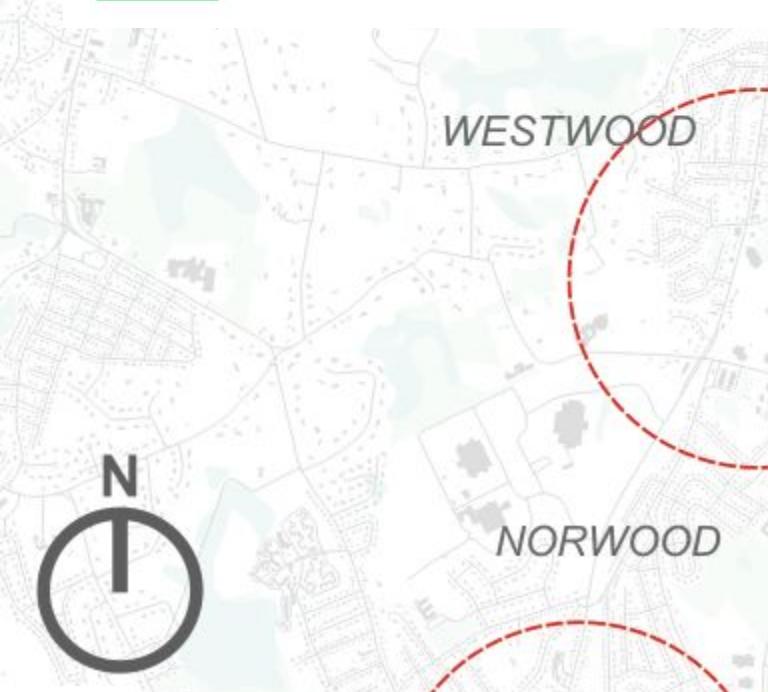
Townwide Summary

Individual Subdistricts Aerial Zoom-Ins

# Townwide Summary

## Milton Subdistricts Considered

- Transit Area Triplex
- Granite Ave
- Milton Station
- Mattapan Station
- East Milton Square
- Randolph Ave & Access Rd
- Randolph Ave South
- Brush Hill Rd



# Granite Ave



# Milton Station



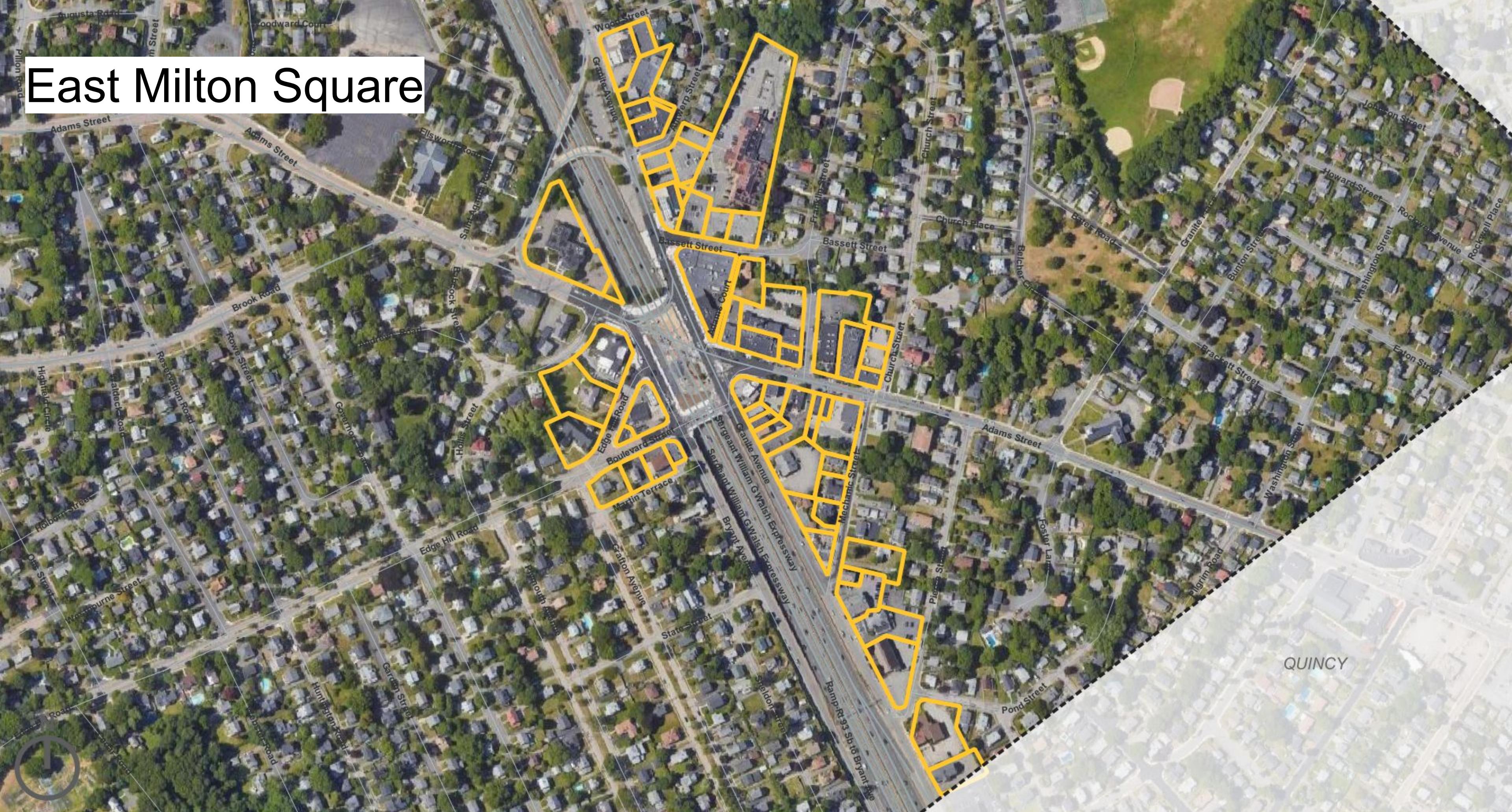
# Mattapan Station



# Transit Area Triplex



# East Milton Square



# Randolph Ave & Access Rd



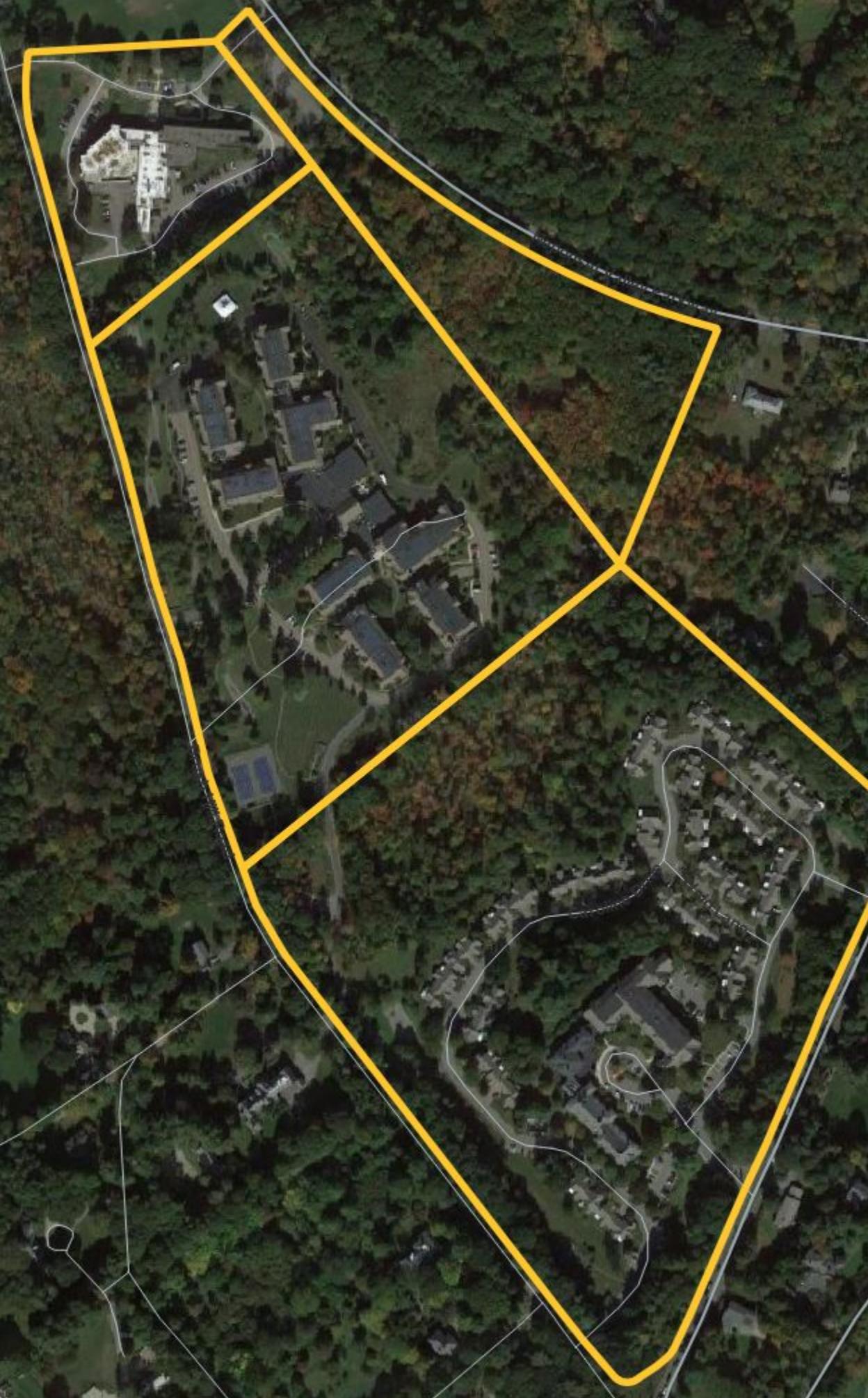
# Randolph Ave South



# Brush Hill Rd

BOSTON

CANTON



Canton Ave

# Pathways to Compliance

Option 1: Compliance with East Milton Square

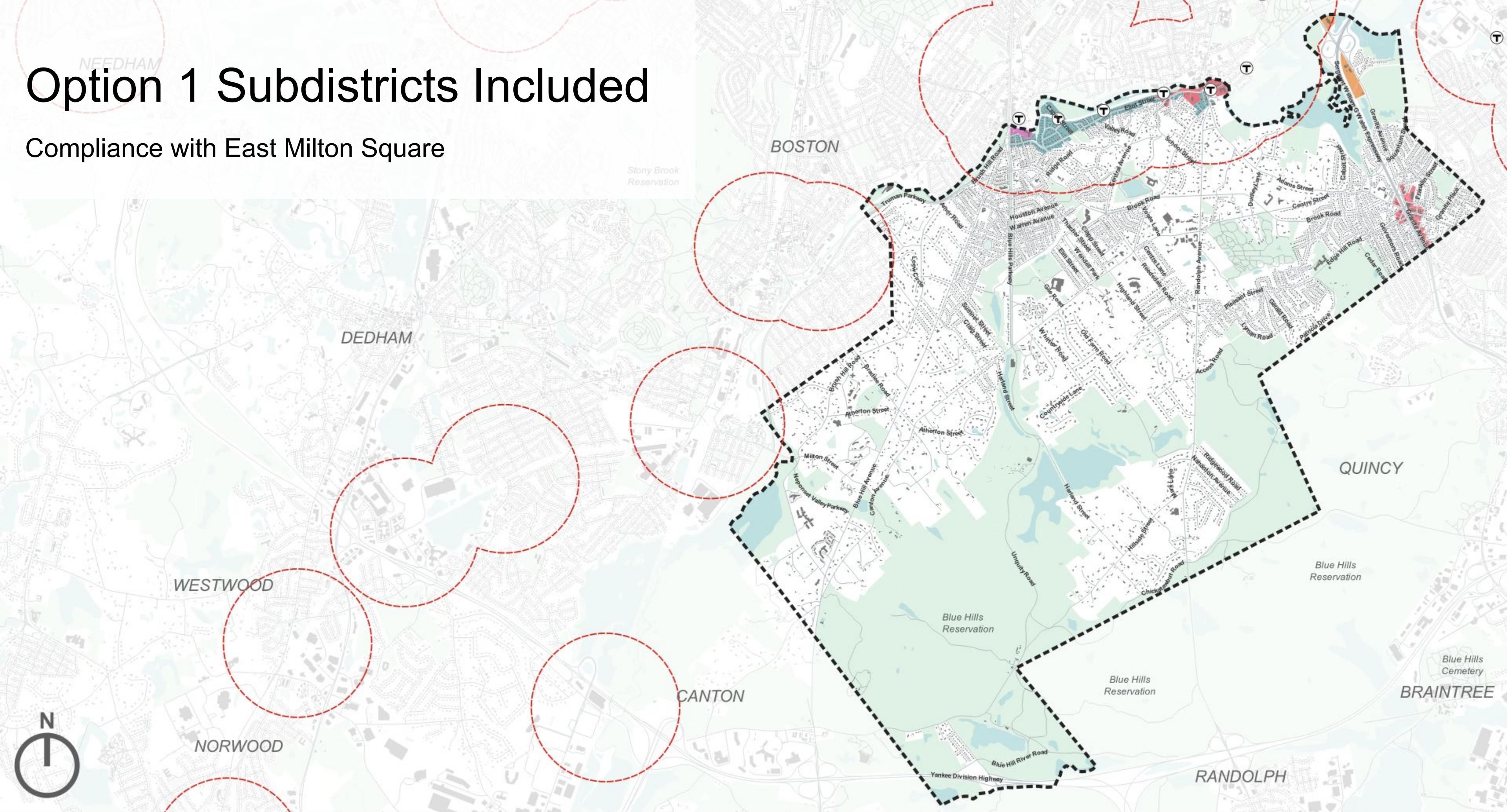
Option 2: Compliance without East Milton Square

# Option 1

Compliance with East Milton Square

# Option 1 Subdistricts Included

# Compliance with East Milton Square



# Option 1 Compliance Model Summary

## Compliance with East Milton Square

**NOTE:** Red text indicates a parameter we are fine-tuning to reach a more ideal balance of density and design outcomes while retaining overall compliance. East Milton Square and Milton Station Subdistricts have undergone minor revisions since these numbers were run.

Subdistrict	Model Inputs					Model Outputs						
	Max. units/acre	Max. unit/lot	Min. Lot Size	Min. Parking Spaces per Unit	Max. Bldg Height (stories)	Unit Capacity	Acreage	Modeled Density	% Land in Transit Area	% Units in Transit Area	% Units in Mixed Use Subdistrict	
Granite Ave	40	n/a	n/a	1	5							
Mattapan Station	40	n/a	n/a	1	3.5							
Milton Station*	40	n/a	n/a	1	3.5				to be added			
East Milton Square	30	n/a	n/a	1	4							
Transit Area Triplex	n/a	3	5,500 sf	1	3							
<b>TOTAL</b>						2,508	134.5 acres	<b>19.2 units/acre</b>	76%	64%	17%	
<b>COMPLIANCE TARGET</b>						2,461	50 acres	<b>15 units/acre</b>	50%	50%	25% (max)	

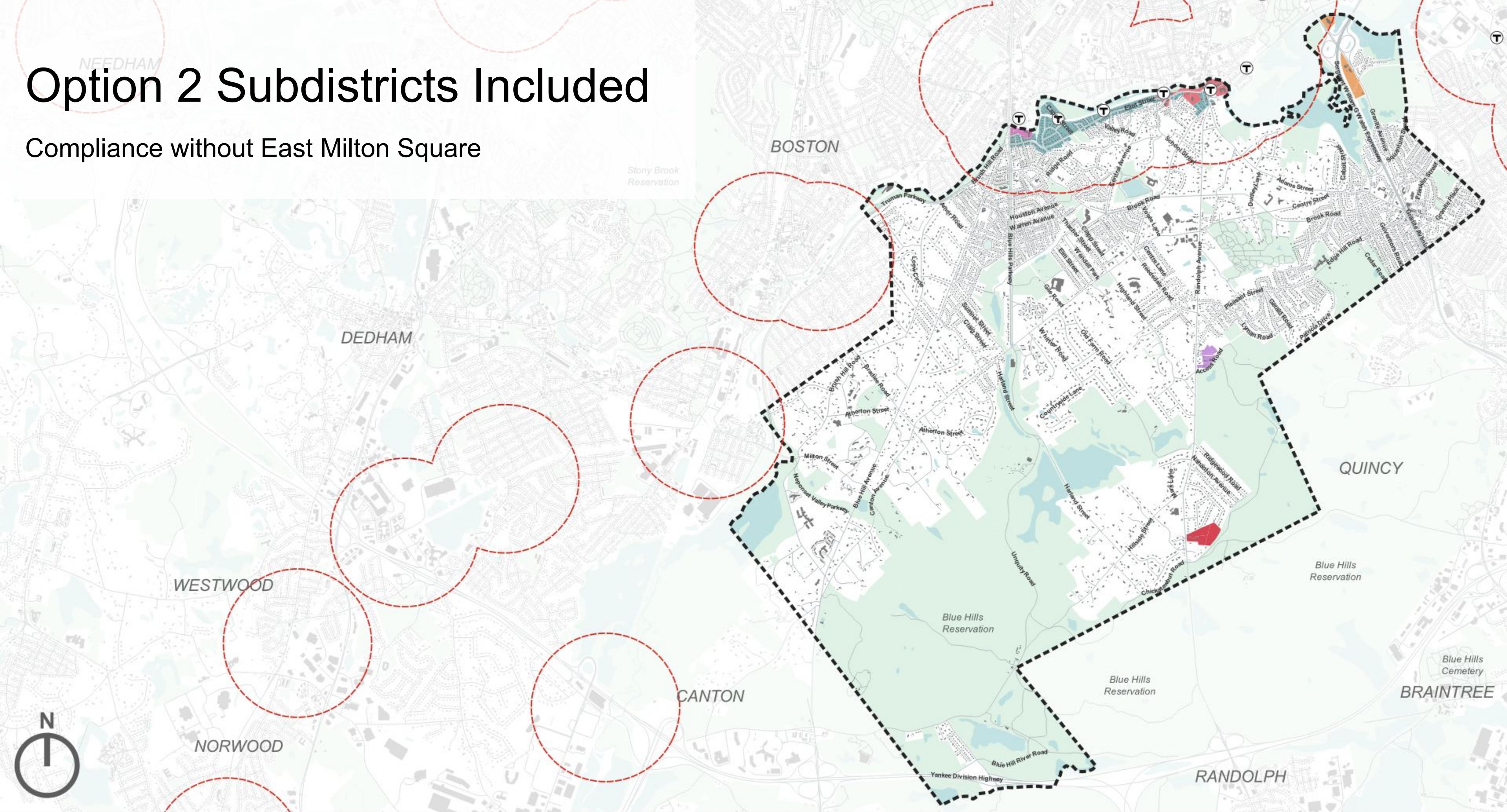
\* In this option, we are assuming the **Milton Station Subdistrict** will make use of the new mixed-use provision as described in [the most recent guidance from the State, issued on 8/17/2023](#).

# Option 2

Compliance without East Milton Square

# Option 2 Subdistricts Included

Compliance without East Milton Square



# Option 2 Compliance Model Summary

Compliance without East Milton Square

**NOTE:** Red text indicates a parameter we are fine-tuning to reach a more ideal balance of density and design outcomes while retaining overall compliance. East Milton Square and Milton Station Subdistricts have undergone minor revisions since these numbers were run.

Subdistrict	Model Inputs					Model Outputs						
	Max. units/acre	Max. unit/lot	Min. Lot Size	Min. Parking Spaces per Unit	Max. Bldg Height (stories)	Unit Capacity	Acreage	Modeled Density	% Land in Transit Area	% Units in Transit Area	% Units in Mixed Use Subdistrict	
Granite Ave	35	n/a	n/a	1	5	545						
Mattapan Station	35	n/a	n/a	1	3.5	169						
Milton Station	35	n/a	n/a	1	3.5	543						
Randolph Ave & Access Rd	27	n/a	n/a	1	3.5	193						
Randolph Ave South	25	n/a	n/a	1	3.5	349						
Transit Area Triplex	n/a	3	5,500 sf	1	3	669						
<b>TOTAL</b>						<b>2,468</b>	133 acres	<b>19.3 units/acre</b>	<b>77%</b>	<b>61%</b>	<b>n/a</b>	
<b>COMPLIANCE TARGET</b>						<b>2,461</b>	50 acres	<b>15 units/acre</b>	<b>50%</b>	<b>50%</b>	<b>25% (max)</b>	

*to be added*

# Compliance Model Output Comparison

**NOTE:** East Milton Square and Milton Station Subdistricts have undergone minor revisions since these numbers were run.

## Compliance with and without East Milton Square

Option	Model Outputs					
	Unit Capacity	Acreage	Modeled Density	% Land in Transit Area	% Units in Transit Area	% Units in Mixed Use Subdistrict
<b>Option 1</b> <i>(With East Milton Square)</i> <ul style="list-style-type: none"> <li>• Granite Ave</li> <li>• Mattapan Station</li> <li>• Milton Station*</li> <li>• East Milton Square</li> <li>• Transit Area Triplex</li> </ul>	2,508	134.5 acres	19.2 units/acre	76%	64%	17%
<b>Option 2</b> <i>(Without East Milton Square)</i> <ul style="list-style-type: none"> <li>• Granite Ave</li> <li>• Mattapan Station</li> <li>• Milton Station</li> <li>• Randolph Ave &amp; Access Rd</li> <li>• Randolph Ave South</li> <li>• Transit Area Triplex</li> </ul>	2,468	133 acres	19.3 units/acre	77%	61%	n/a
<b>COMPLIANCE TARGET</b>	2,461	50 acres	15 units/acre	50%	50%	25% (max)

\* In this option, we are assuming the **Milton Station Subdistrict** will make use of the new mixed-use provision as described in [the most recent guidance from the State, issued on 8/17/2023](#).

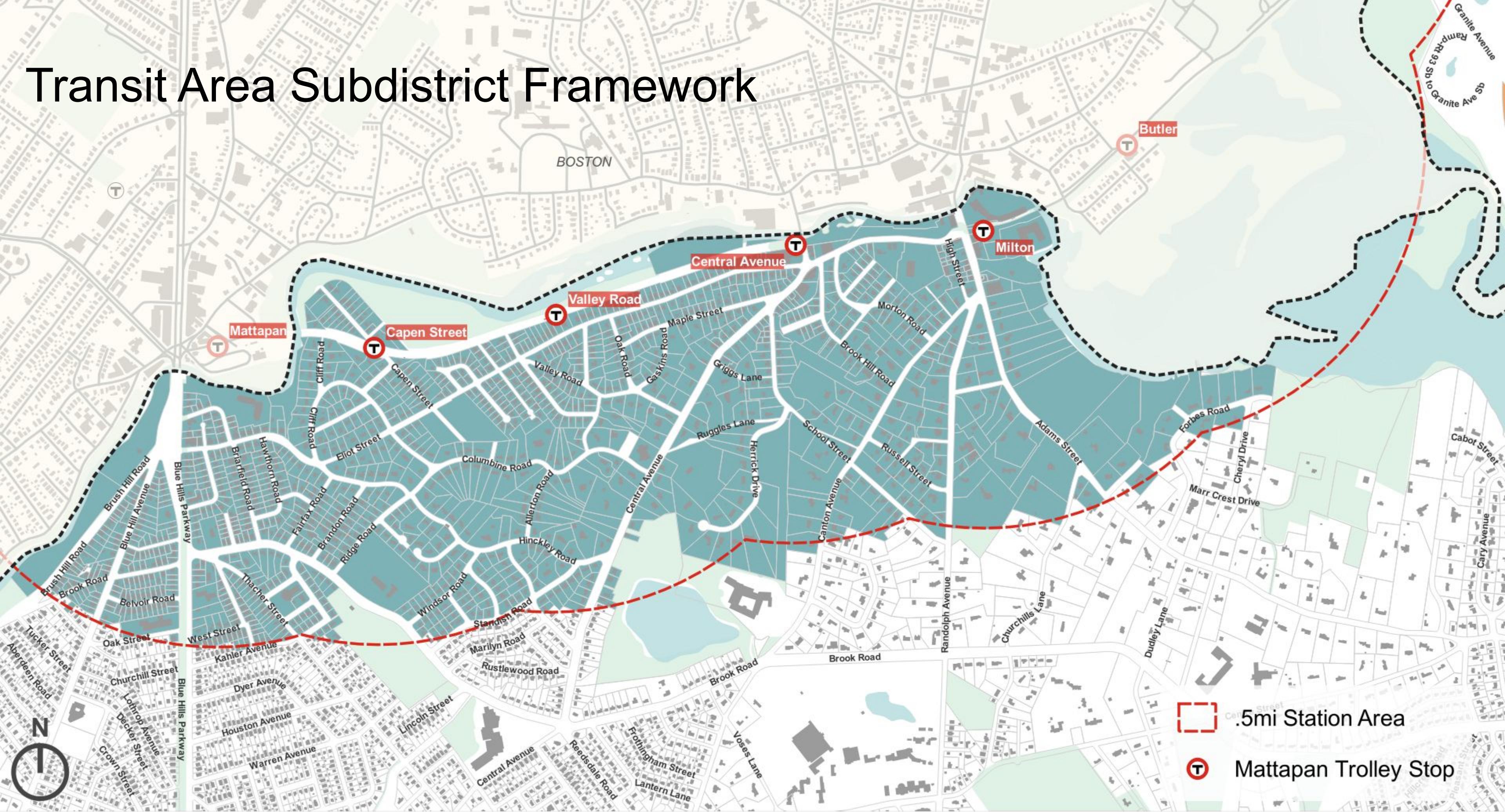
# Thank You!



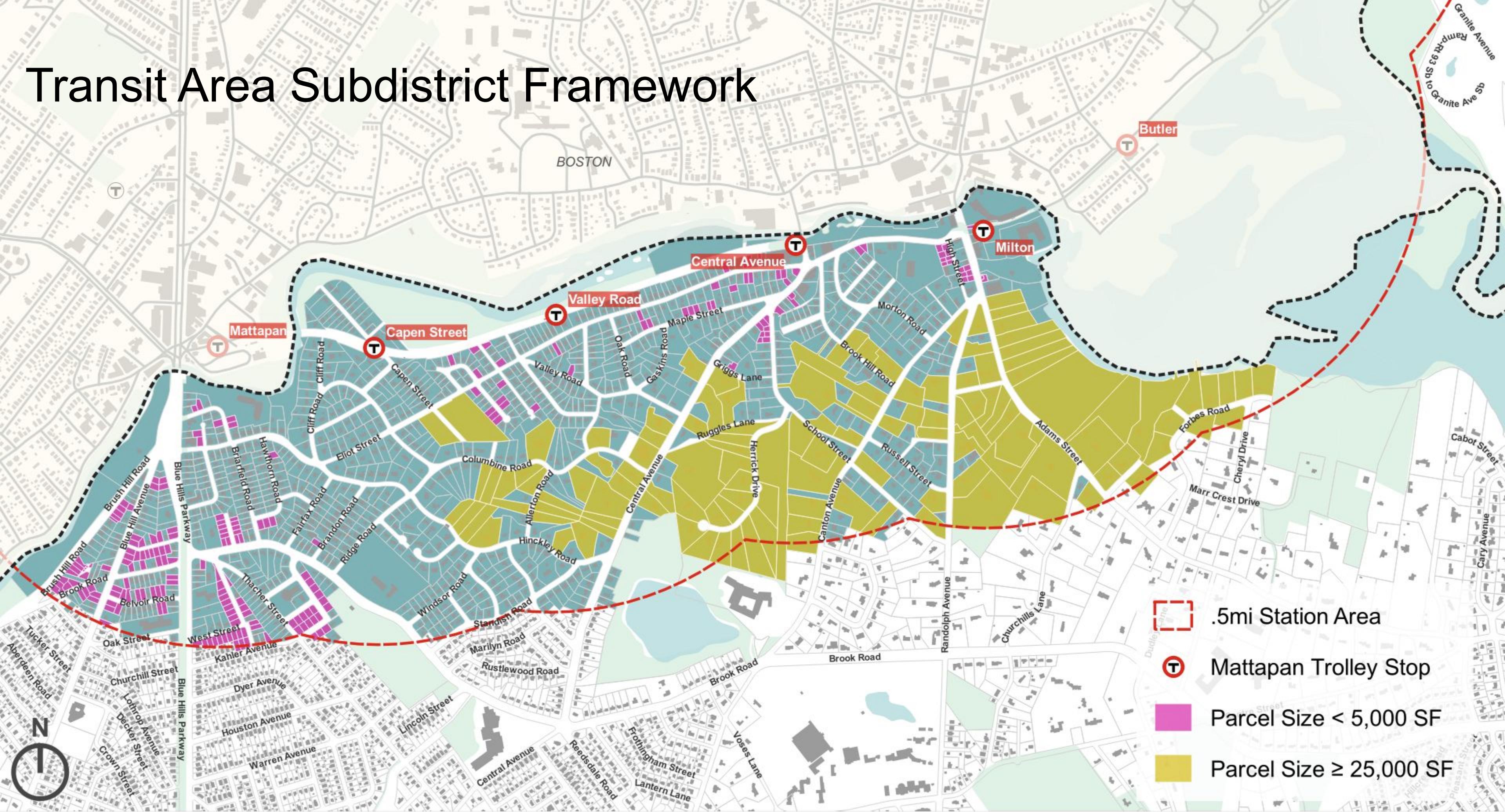
# Transit Area Evolution

Mapping Principles

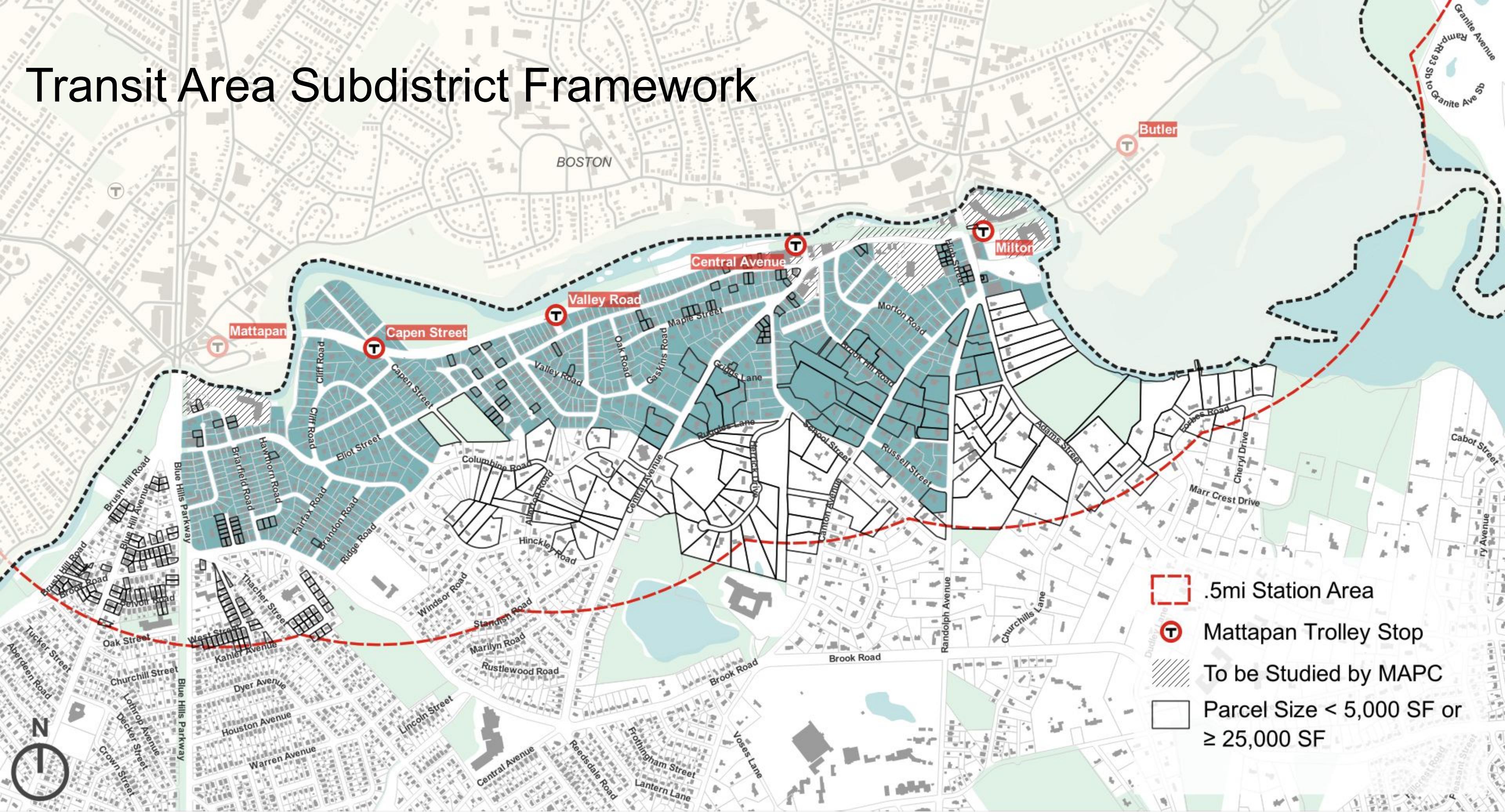
# Transit Area Subdistrict Framework



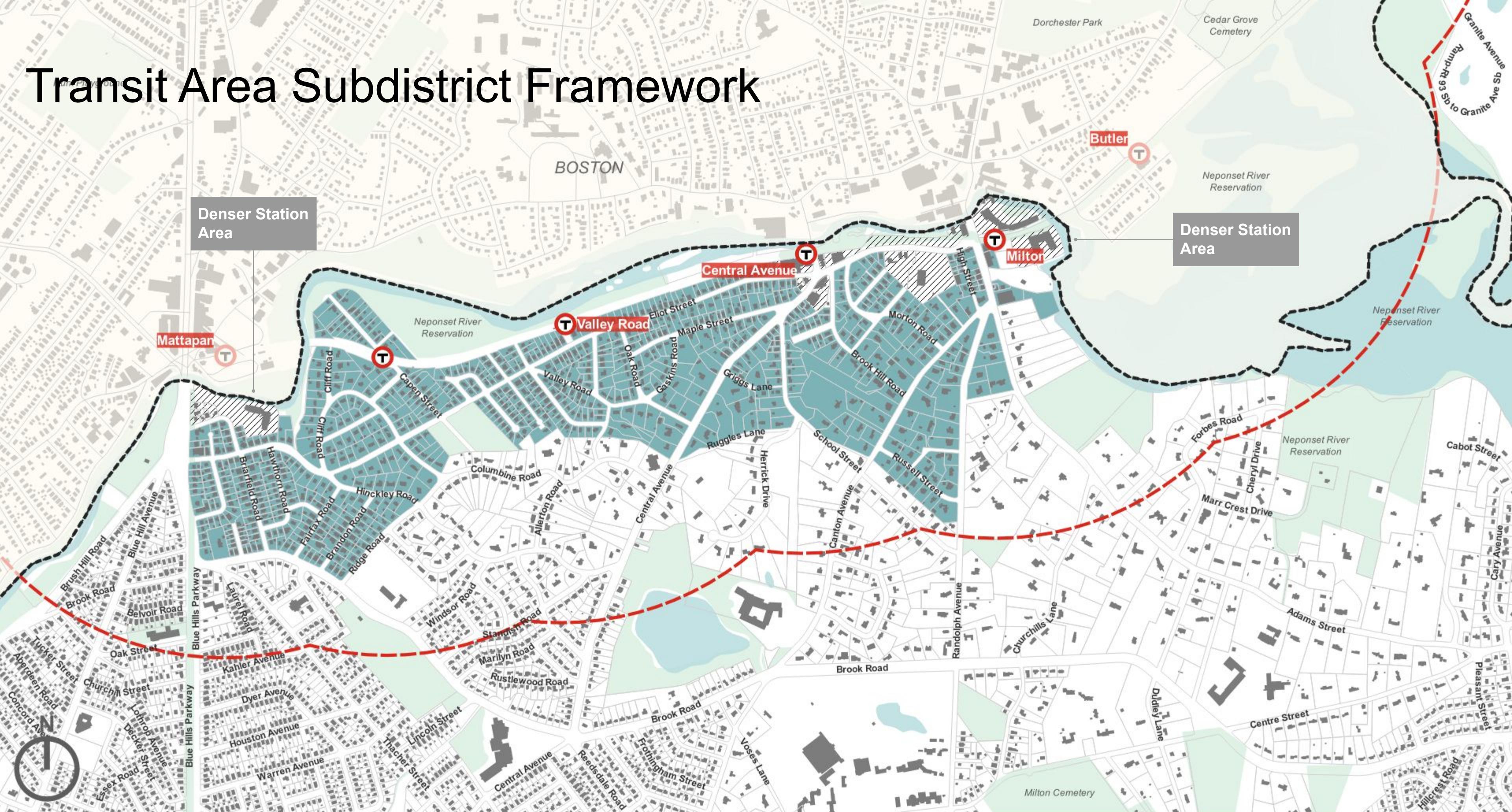
# Transit Area Subdistrict Framework



# Transit Area Subdistrict Framework



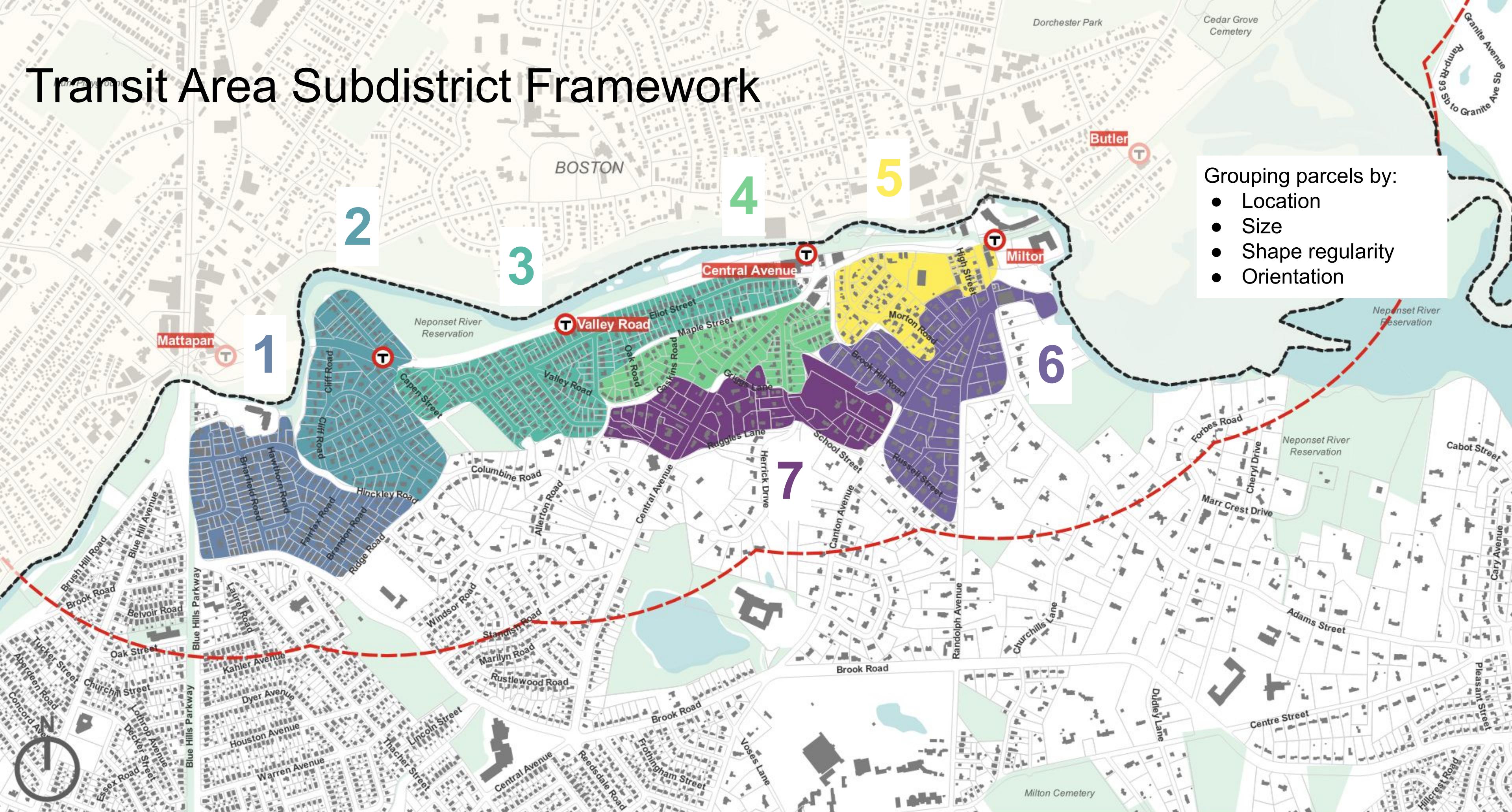
# Transit Area Subdistrict Framework



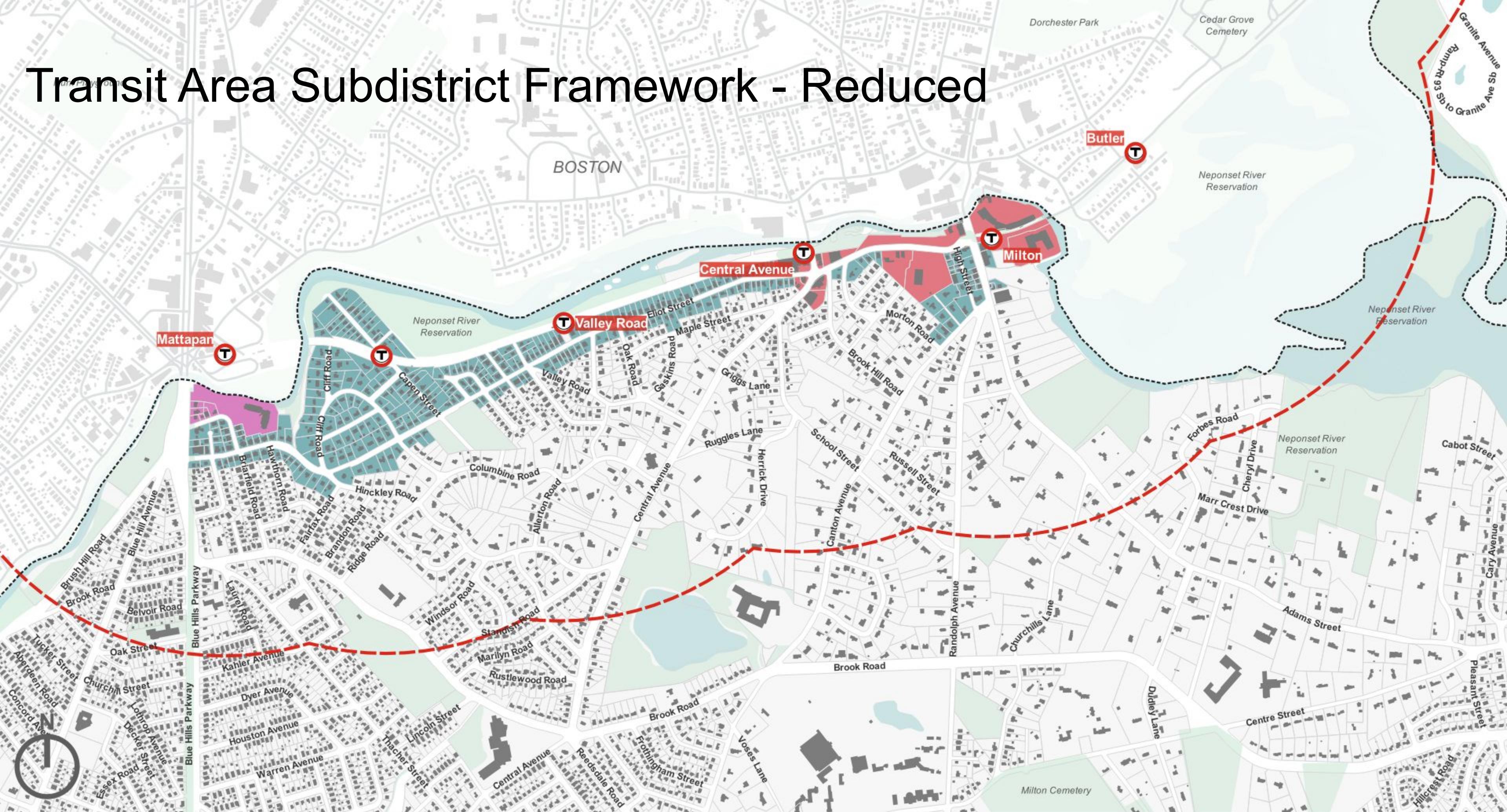
# Transit Area Subdistrict Framework

## Grouping parcels by:

- Location
- Size
- Shape regularity
- Orientation



# Transit Area Subdistrict Framework - Reduced



# Requirements Overview

## Key Compliance Requirements for Milton

- Minimum Zoned Multifamily Unit Capacity: **2,461 units**
- Minimum Zoning District(s) Area: **50 acres**
- % of Zoning District(s) to be Located in Transit Area: **50%**
  - *50% of the land area included in compliant districts must be within a half-mile of rapid transit stations*
- Minimum Zoned Density: **15 units/acre**
  - *All districts submitted for compliance must be zoned for a density of at least 15 units/acre. Some individual districts may be less dense than 15 units/acre as long as all districts calculated together are at least 15 units/acre.*
- *For more information on Section 3A requirements, including key definitions, see:*
  - <https://www.mass.gov/doc/compliance-guidelines-for-multi-family-zoning-districts-under-section-3a-of-the-zoning-act/download>
  - <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>
  - <https://www.mass.gov/doc/advisory-concerning-enforcement-of-the-mbta-communities-zoning-law/download>

# MBTA Communities Zoning Requirements

Public Forum  
August 15, 2023



---

Milton Department of Planning and Community Development



# Meeting Recording

Please note that tonight's meeting will be recorded and posted on the Milton Access Television YouTube channel and Town website.



**MILTON**  
MASSACHUSETTS



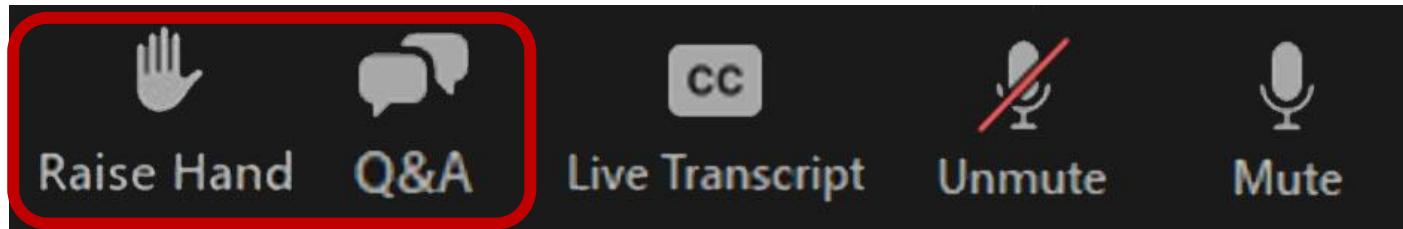
# Meeting Agenda

- 1) Introduction
- 2) Recap of MBTA Communities zoning requirements
- 3) Discussion of survey results
- 4) Update on technical assistance
- 5) Follow-up on survey results, public comments
- 6) Question and Comment period
- 7) Next steps



# Meeting Format

- This meeting is being held using the Zoom webinar product. Presenters and speakers are on screen, while those watching the meeting are off-screen as “attendees.”
- If you’d like to make a comment or ask a question during the Question and Comment period, there are two options:
  - use the “Q&A” button
  - Use the “Raise Hand” button
  - For attendees on the phone, you can raise your hand by pressing \*9, and mute and unmute yourself by pressing \*6.



# Meeting Format

- Once the presentation is over and the Question and Comment period begins, the host will invite people to speak in the order they have raised their hands or have asked questions through Q&A.
- Q&A questions can be submitted throughout the presentation, and will be answered in the order submitted
- In order to give as many attendees an opportunity to speak as possible, comments will be limited to three minutes.



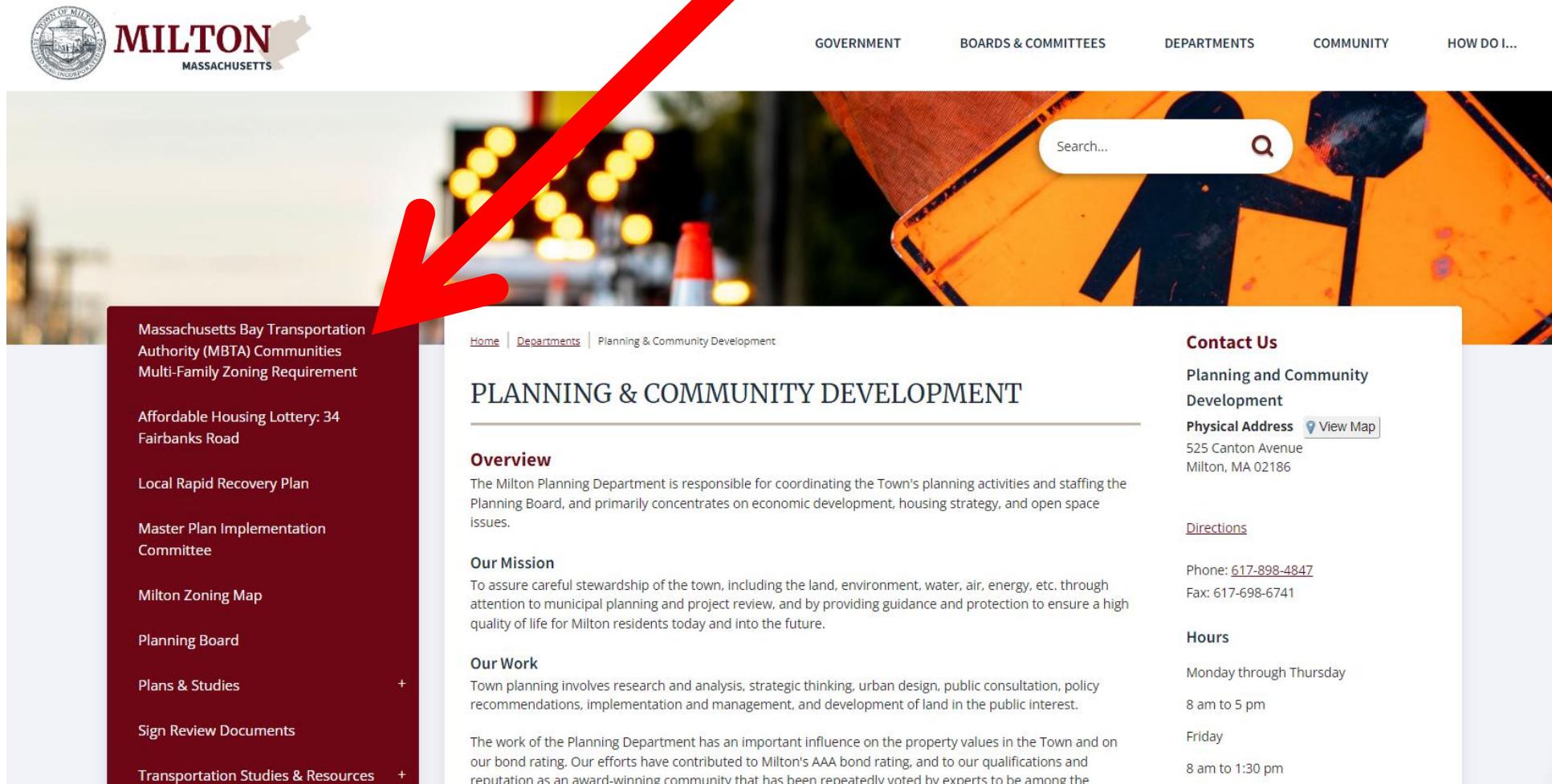
# Zoom Poll

1. Have you been to our previous public forums?
  - Yes, I have
  - No, this is my first one
  
2. How often do you ride the Mattapan Trolley?
  - Daily
  - A couple of times a month
  - Rarely
  - I don't ride the trolley
  
3. Which is better: waffles or pancakes?
  - Waffles are better!
  - Pancakes are better!



# Resources

[townofmilton.org/MiltonMBTA](http://townofmilton.org/MiltonMBTA)



**MILTON MASSACHUSETTS**

GOVERNMENT BOARDS & COMMITTEES DEPARTMENTS COMMUNITY HOW DO I...

Massachusetts Bay Transportation Authority (MBTA) Communities Multi-Family Zoning Requirement

Affordable Housing Lottery: 34 Fairbanks Road

Local Rapid Recovery Plan

Master Plan Implementation Committee

Milton Zoning Map

Planning Board

Plans & Studies +

Sign Review Documents

Transportation Studies & Resources +

[Home](#) | [Departments](#) | [Planning & Community Development](#)

## PLANNING & COMMUNITY DEVELOPMENT

### Overview

The Milton Planning Department is responsible for coordinating the Town's planning activities and staffing the Planning Board, and primarily concentrates on economic development, housing strategy, and open space issues.

### Our Mission

To assure careful stewardship of the town, including the land, environment, water, air, energy, etc. through attention to municipal planning and project review, and by providing guidance and protection to ensure a high quality of life for Milton residents today and into the future.

### Our Work

Town planning involves research and analysis, strategic thinking, urban design, public consultation, policy recommendations, implementation and management, and development of land in the public interest.

The work of the Planning Department has an important influence on the property values in the Town and on our bond rating. Our efforts have contributed to Milton's AAA bond rating, and to our qualifications and reputation as an award-winning community that has been repeatedly voted by experts to be among the

### Contact Us

Planning and Community Development

**Physical Address** [View Map](#)  
525 Canton Avenue  
Milton, MA 02186

[Directions](#)

Phone: [617-898-4847](tel:617-898-4847)  
Fax: 617-698-6741

**Hours**

Monday through Thursday  
8 am to 5 pm

Friday  
8 am to 1:30 pm

# What is the MBTA Communities law?

Enacted as part of the economic development bill in January 2021, new Section 3A of M.G.L. c. 40A (the Zoning Act) requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing (three or more units) is permitted as of right and meets other criteria set forth in the statute:

- Minimum gross density of 15 units per acre
- Not more than  $\frac{1}{2}$  miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.
- No age restrictions
- Suitable for families with children.

Towns that do not comply with the new requirements will be ineligible for **MassWorks, Housing Choice, and Local Capital Projects** funds.



# What are HLC's guidelines?

The zoning district we create must satisfy several variables:

- At least 50 acres
- Zoned capacity of at least 2,461 units
- At least 50% of the unit capacity within transit area

With the help of our technical assistance providers, we have tested several options for subdistricts with the state's Compliance Model, a software tool designed to evaluate proposed zoning districts for compliance with all the requirements of the law and the HLC guidelines.

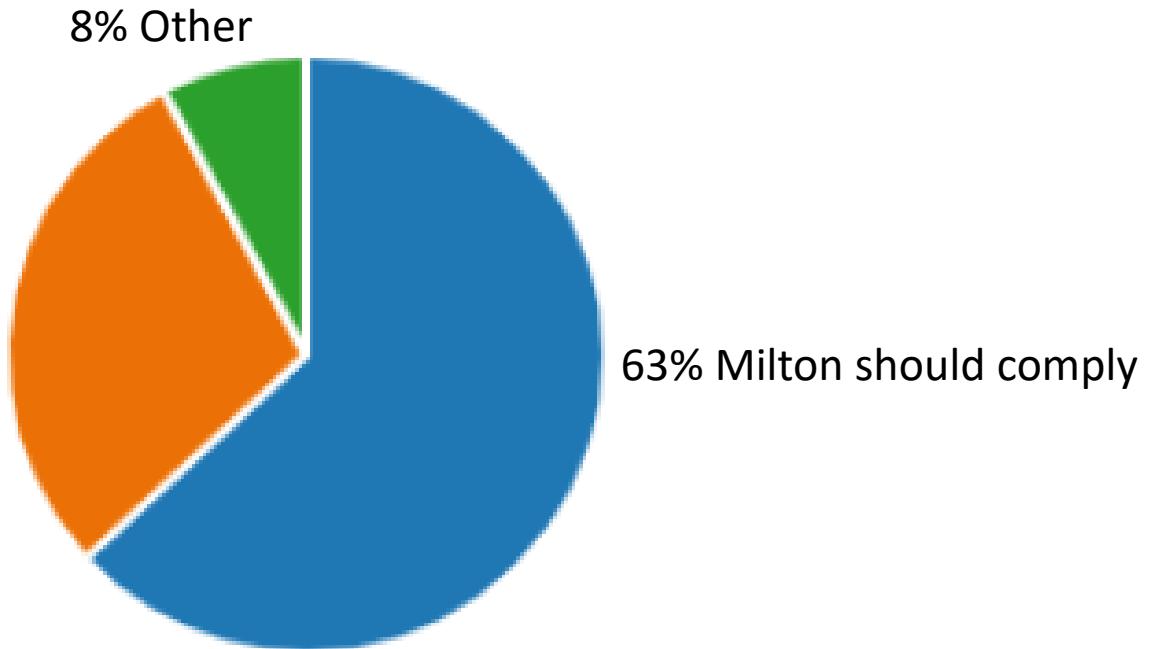


# Options for Compliance

Town Meeting is the venue at which compliance will ultimately be decided.

Our job is to collaboratively prepare the best possible version of what complying with the law looks like and have that be presented to Town Meeting

29% Milton should not comply



# Options for Compliance

## Location

- The location and of districts within a ½ mile of transit is determined by how much Developable Area exists in that area. Milton’s Developable Area is reduced by the fact that the Mattapan Trolley hugs the Neponset River and the border with Boston; a significant fraction of the ½ mile radius is either on state property or not in Milton.
  - The DHCD guidelines allow Milton to locate as much as 50 percent of our compliant zoning districts outside of the ½ mile transit radius

## Subdistricts

- The Town can create multiple subdistricts in different areas, with the following restrictions
  - At least half of the district needs to be contiguous
  - Subdistricts need to be a minimum of five acres



# Options for Compliance

- Towns with existing compliant districts could potentially count that zoned capacity toward their requirements. Compliance means multi-family by right at a density of 15 units per acre with no age restrictions.
- Does Milton have any existing compliant districts?
  - No.
  - The overwhelming majority of land in Milton is zoned for a single housing unit per parcel.
  - Where townhouse and multifamily development is allowed, it is by special permit, not by right.
  - Much of our multifamily development is age restricted.



# Options for Compliance

## Dimensional Requirements

- Dimensional requirements like height, setbacks, and density do not need to be uniform across subdistricts, as long as the average of all the subdistricts meet the law's minimum requirements for density, reasonable size, and by-right permitting.
  - Example: One subdistrict comprising half the total district can have a density of five units per acre, and another district comprising the second half of the total district can have a density of twenty-five units per acre.

The flexibility in HLC's guidelines can help the Town craft districts that minimize change to the physical character of residential neighborhoods.



# Effect of Noncompliance

- If at any point HLC determines that an MBTA community is not in compliance with Section 3A, that MBTA community will not be eligible for funds from the following grant programs:
  - Housing Choice Initiative
  - Local Capital Projects Fund
  - MassWorks

HLC and other states agencies may, in its discretion, **take noncompliance into consideration** when making other discretionary grant awards.





THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
[www.mass.gov/ago](http://www.mass.gov/ago)

**Advisory Concerning Enforcement of the MBTA Communities Zoning Law**

All MBTA Communities must comply with the Law. Communities that do not currently have a compliant multi-family zoning district must take steps outlined in the DHCD guidelines to demonstrate interim compliance. Communities that fail to comply with the Law may be subject to civil enforcement action.<sup>8</sup> Non-compliant MBTA Communities are also subject to the administrative consequence of being rendered ineligible to receive certain forms of state funding.<sup>9</sup> Importantly, MBTA Communities cannot avoid their obligations under the Law by foregoing this funding. The Law requires that MBTA Communities “shall have” a compliant zoning district and does not provide any mechanism by which a town or city may opt out of this requirement.<sup>10</sup>

MBTA Communities that fail to comply with the Law’s requirements also risk liability under federal and state fair housing laws. The Massachusetts Antidiscrimination Law<sup>11</sup> and federal Fair Housing Act<sup>12</sup> prohibit towns and cities from using their zoning power for a discriminatory purpose or with discriminatory effect.<sup>13</sup> An MBTA Community may violate these laws if, for example, its zoning restrictions have the effect of unfairly limiting housing opportunities for families with children, individuals who receive housing subsidies, people of color, people with disabilities, or other protected groups.



# Effect of Noncompliance

It is still unknown what other consequences for noncompliance there may be, but both Governor Healey and Attorney General Campbell have indicated that housing is a priority for their offices.

Earlier this month, the Town of Holden was the first community to be subject to a lawsuit, by the group Lawyers for Civil Rights, for refusing to comply with the law



Matt Stout   
@MattPStout

@maura\_healey reacts to @andrewnbrinker story on Middleborough resisting state's new multifamily housing law. "Opting out is not an option," Healey said. "We've got to do this across the state. This administration . . . is really going to lean in here."



Tim Logan  
@bytimlogan

"Shall means shall." After Central Mass. town of Holden snubs ambitious new MBTA housing law, advocates file a lawsuit to force the issue...



bostonglobe.com

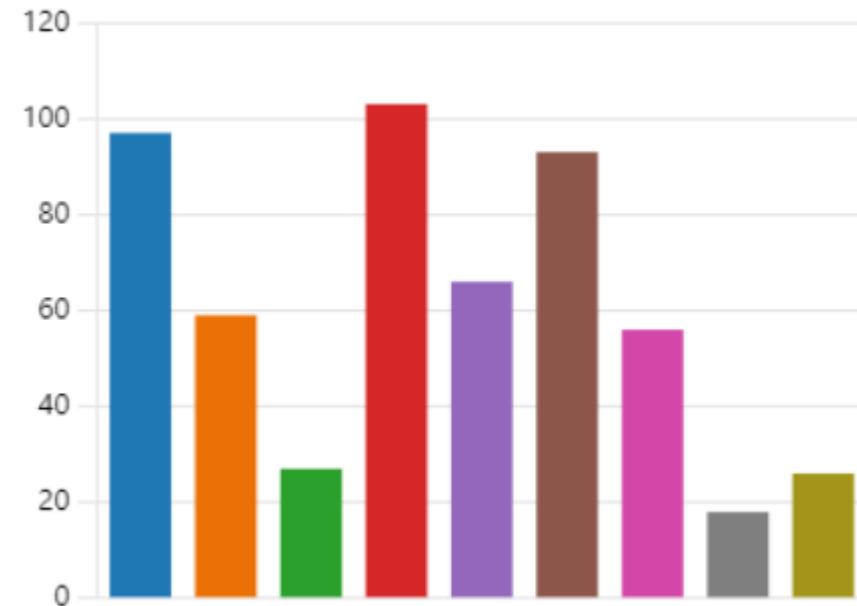
First lawsuit over new Mass. housing law targets town of Holden - The Boston...  
A Central Massachusetts housing group filed a lawsuit that could tee up a court battle over the state's new multifamily housing law.



# MBTA Communities Survey

- Survey has been out in the community for six months
- [Tinyurl.com/MiltonMBTAsurvey](http://tinyurl.com/MiltonMBTAsurvey)
- Available in English, Spanish, French, and Simplified Chinese
- We received almost 100 new responses since our last forum, up to 283 responses
- Please keep telling your friends and neighbors about this effort - word of mouth has been critical for our survey

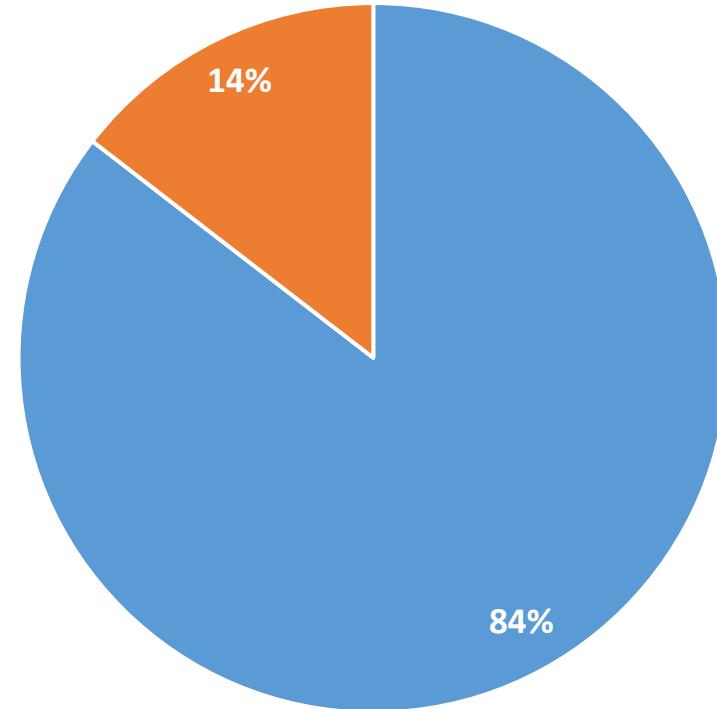
From a Public Meeting	97
The Planning Department's MBT...	59
The MA Department of Housing...	27
The Milton Times	103
Other Newspapers	66
Word of mouth	93
Social media	56
I haven't learned about them	18
Other	26



# What are we learning?

Current property owners do not have much interest in redeveloping their property if it was rezoned for multifamily use

This indicates that actual development coming out of this zoning change would likely be less than the total potential



- No, I would not be interested in redeveloping my property
- Yes, I would be interested in redeveloping my property



# What are we learning?

- In our May update, we asked additional questions about municipal services and community benefits
- Affordable housing, commercial space, and open space have all cycled through the top spot for prioritization, with open space currently receiving the most overall interest, but affordable housing is the number 1 priority for the most respondents



# Update Since Last Forum

## Granite Avenue Subdistrict Reduced

- Based on feedback from the state, the proposed Granite Avenue subdistrict has been refined to exclude a large parcel of state-owned marshland. This has implications for our ability to create a contiguous district that represents at least 50% of the total land area of our zoning district.

## Refining Subdistrict Density

- The Planning Board has provided additional feedback on proposed density and other dimensional parameters for the proposed subdistricts.



# Update Since Last Forum

## **East Milton Under Consideration**

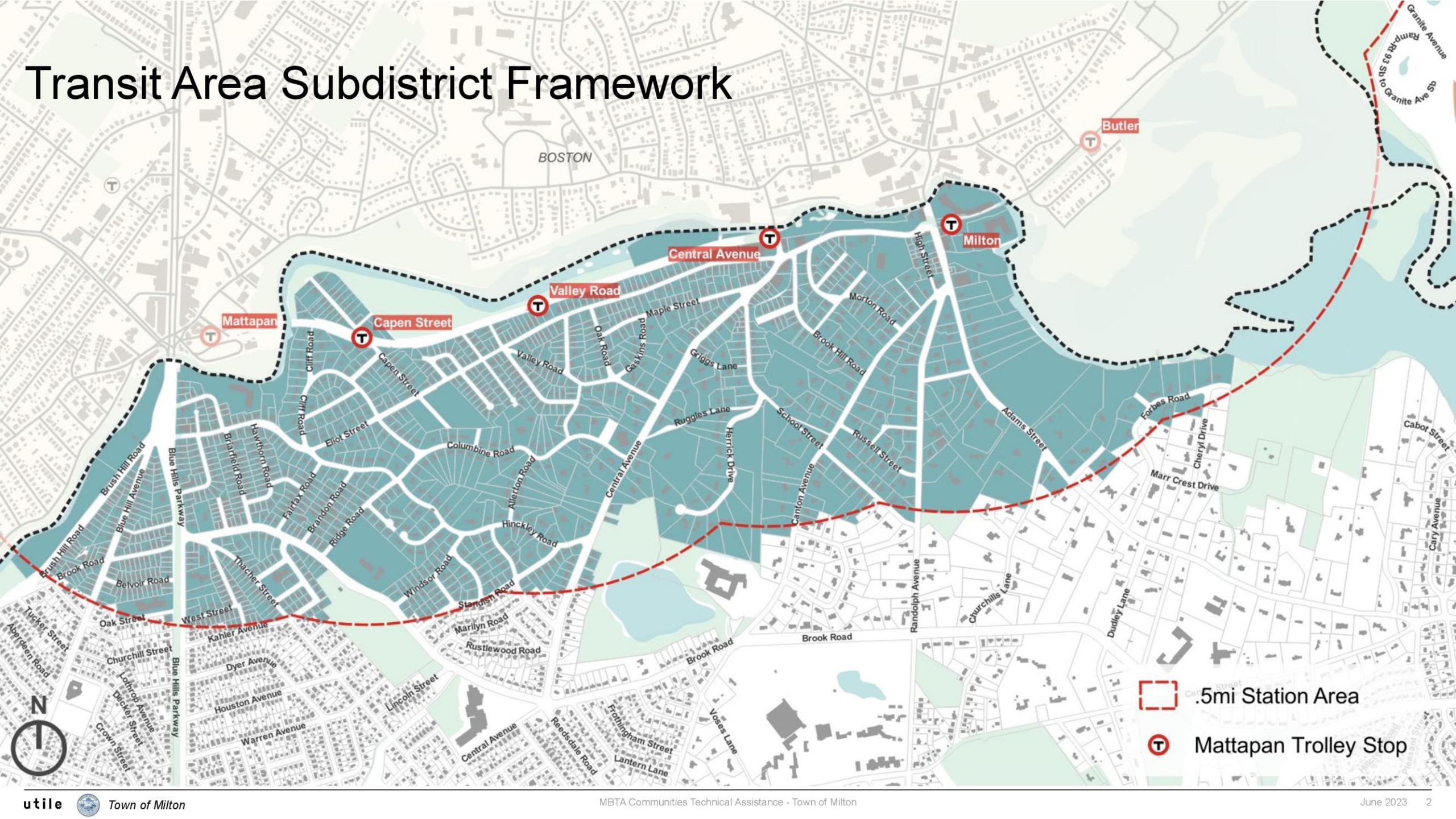
- We are evaluating whether including East Milton, which is subject to a separate mixed-use rezoning process, can help contribute to achieving our compliance targets

## **Additional Randolph Avenue Subdistrict**

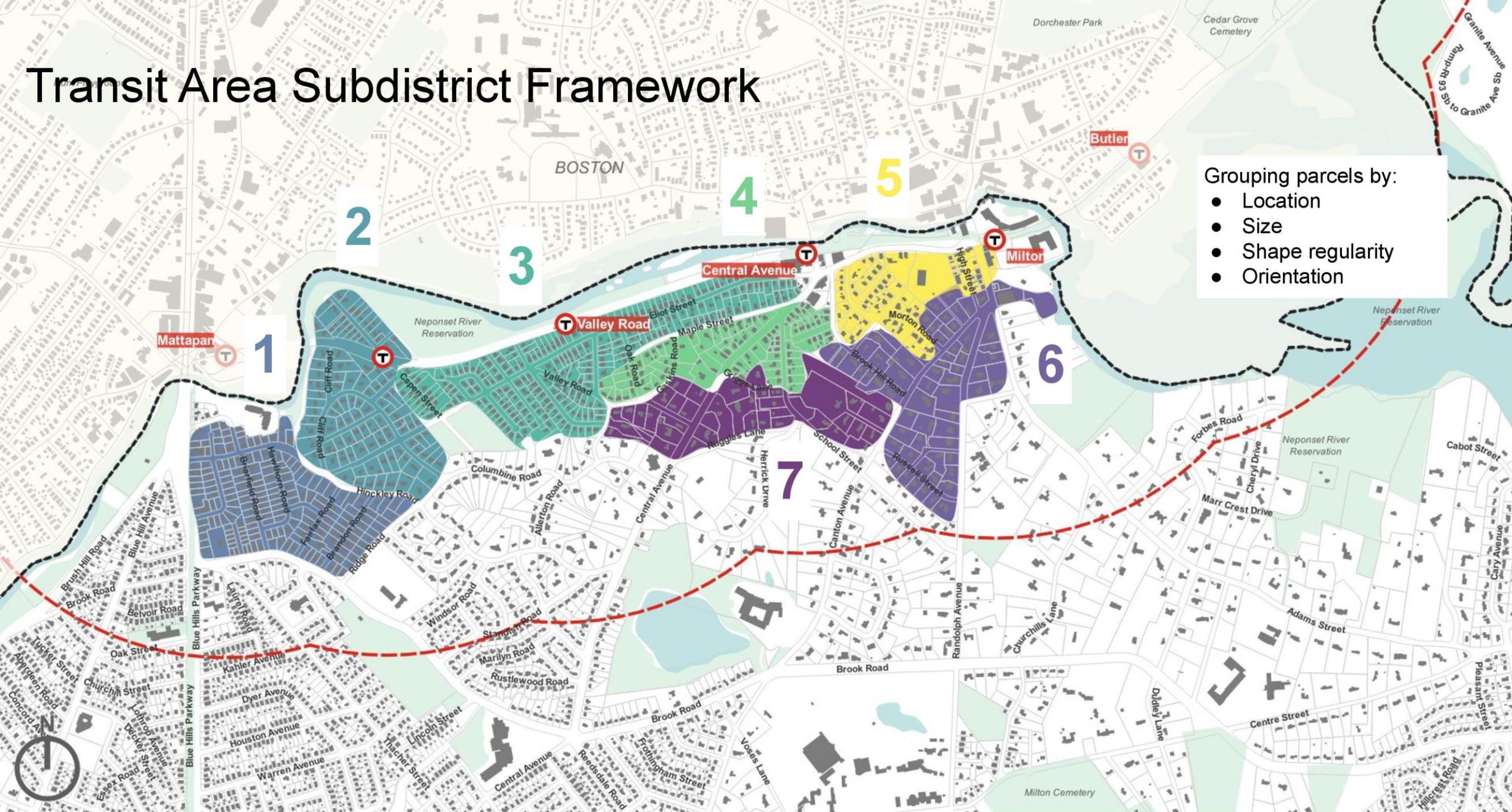
- We have asked Utile, our technical assistance provider, to test an additional Randolph Avenue subdistrict in the compliance model.



# Transit Area Subdistrict Framework

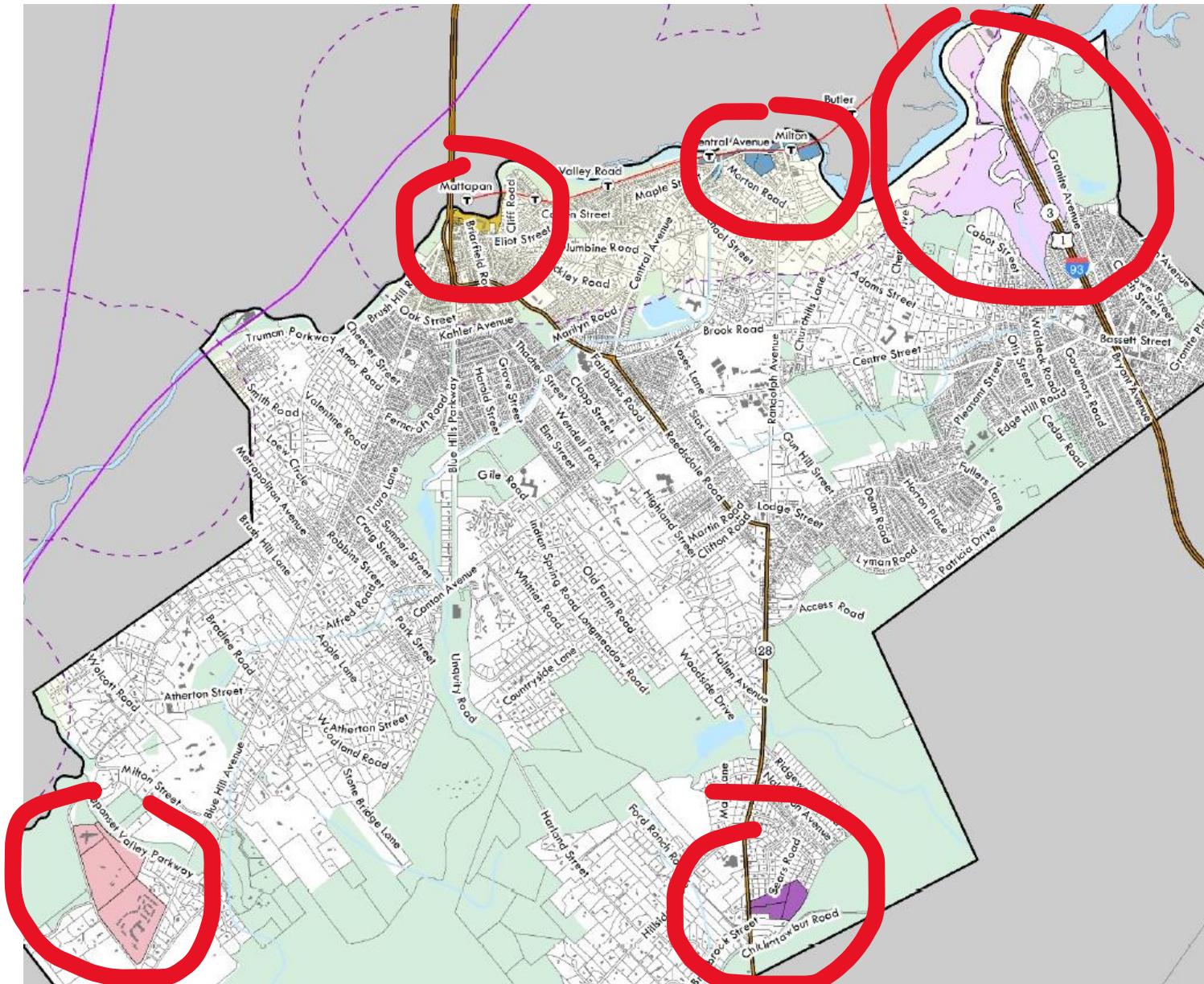


# Transit Area Subdistrict Framework

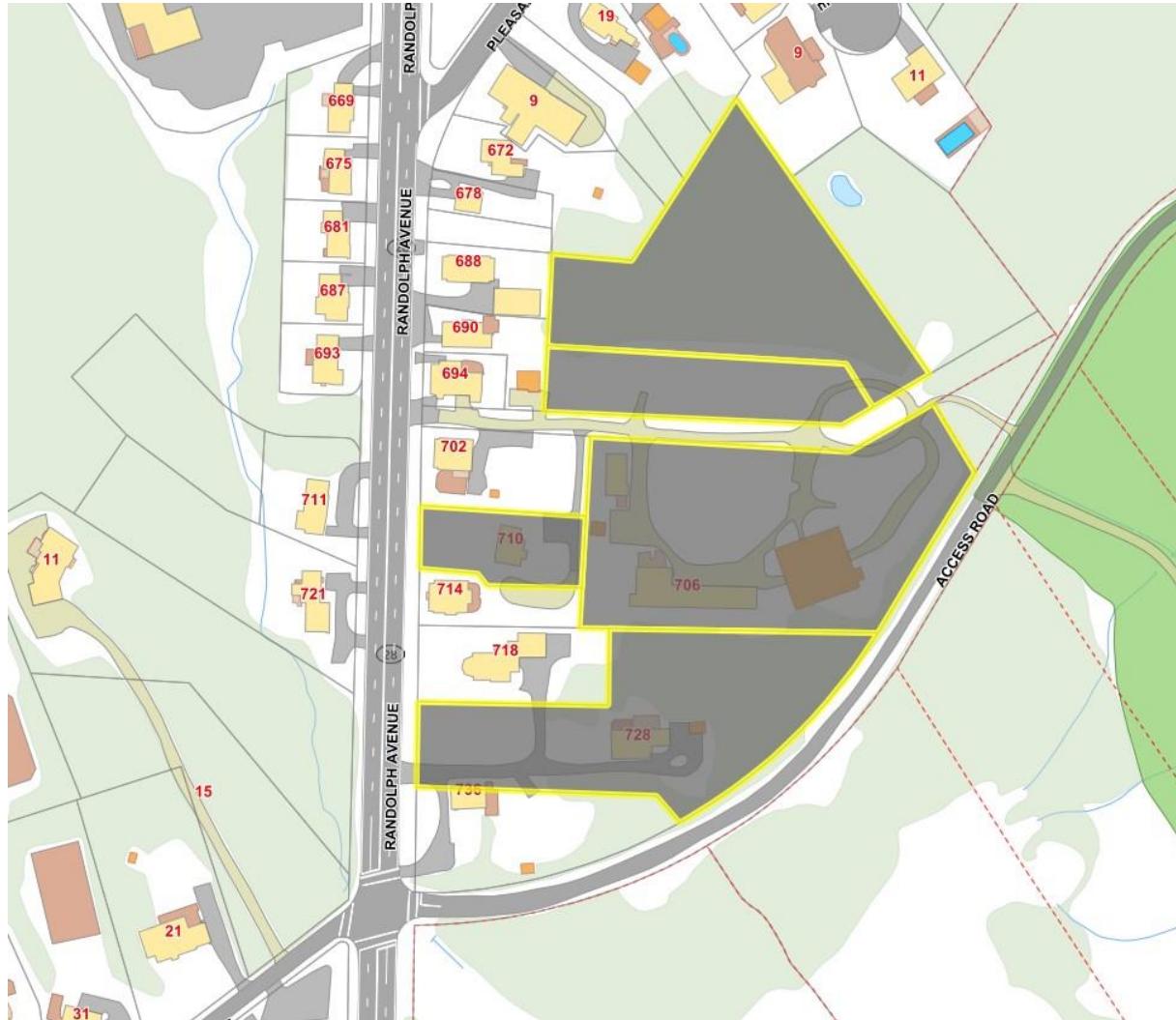


## Grouping parcels by:

- Location
- Size
- Shape regularity
- Orientation



# New Randolph Subdistrict



A new proposed subdistrict that includes the 728 Randolph Avenue 40B site and the land zoned for Assisted Living Residential Development

Initial zoning parameters:

- 25 units per acre
- 1.5 acre minimum lot size
- 3.5 story height limit

# Subdistrict Options

## All Subdistricts Option

- Large Parcel subdistricts, plus Transit Area subdistricts
- Unit capacity figures have been adjusted since initial tests, but may need further modification

District	Unit Capacity	Density Denominator	DU/AC	District Acreage
Granite Ave	701	12.4	56.53	13.7
Eliot	385	16.3	23.62	18.1
Curtis	198	4.1	48.29	4.9
Randolph	280	13.2	21.21	13.9
Brush Hill	663	61.8	10.73	66.2
East Milton	336	22.8	14.74	22.8
Transit Area 1-5	406	165	2.46	165.8
Transit Area 6-7	214	55.8	3.84	56.5
	3183	351.4	9.06	361.9

This option achieves compliance on unit capacity and overall size metrics, but is significantly lacking in overall density (target = 15 DU/AC)



# Subdistrict Options

## Large Parcels + East Milton option

- East Milton geography is roughly consistent with the business district
- Density in East Milton set at less than 1/3 of recently approved 440 Granite project

District	Unit Capacity	Density Denominator	DU/AC	District Acreage
Granite Ave	701	12.4	56.53	13.7
Eliot	385	16.3	23.62	18.1
Curtis	198	4.1	48.29	4.9
Randolph	280	13.2	21.21	13.9
Brush Hill	663	61.8	10.73	66.2
East Milton	336	22.8	14.74	22.8
	2563	130.6	<b>19.62</b>	139.6

This option achieves compliance on unit capacity, overall density, and overall size, but does not include a subdistrict representing 50% of the size of the overall district and does not put half of our unit capacity within a half mile of transit.



# Subdistrict Options

## Original Large Parcels option

- This option includes only the large parcels that we originally tested.

District	Unit Capacity	Density Denominator	DU/AC	District Acreage
Granite Ave	701	12.4	56.53	13.7
Eliot	385	16.3	23.62	18.1
Curtis	198	4.1	48.29	4.9
Randolph	280	13.2	21.21	13.9
Brush Hill	663	61.8	10.73	66.2
	2227	107.8	<b>20.66</b>	116.8

This option achieves compliance on overall density and overall district size but falls just short on unit capacity and does not put half of our unit capacity within a half mile of transit.



# What Does It All Mean?

Recall that the statute and the HLC guidelines impose a number of thresholds that a compliant zoning districts must meet.

- Overall density of 15 dwelling units per acre
- Overall district size of at least 50 acres
- Unit capacity of at least 2,461 units
- At least 50% of the unit capacity within  $\frac{1}{2}$  mile of transit
- At least one subdistrict representing 50% of the overall area of the entire zoning district



# What Does It All Mean?

Recall that the statute and the HLC guidelines impose a number of thresholds that a compliant zoning districts must meet.

- Overall density of 15 dwelling units per acre
- Overall district size of at least 50 acres
- Unit capacity of at least 2,461 units
- **At least 50% of the unit capacity within  $\frac{1}{2}$  mile of transit**
- At least one subdistrict representing 50% of the overall area of the entire zoning district

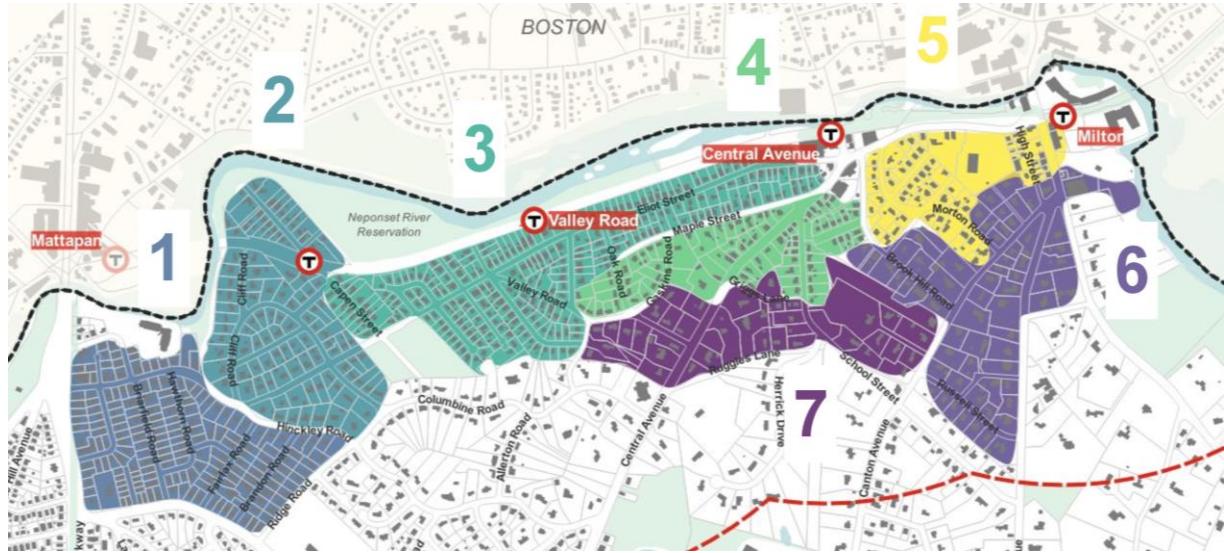
Getting half of our unit capacity within  $\frac{1}{2}$  mile of transit is nearly impossible without zoning some portion of the Transit Area



# What Does It All Mean?

Some combination of the following tactics will be necessary:

- Reducing overall size of Transit Area (possibly eliminating 1, 6, and 7)
- Adjusting dimensional parameters in the Transit Area (returning to 5,000 sf minimum lot size, other possible changes)
- Remove Brush Hill Road subdistrict (density is a drag on the overall figure)
- Slightly adjust unit capacity of other subdistricts



District	Unit Capacity	Density Denominator	DU/AC	District Acreage
Granite Ave	701	12.4	56.53	13.7
Eliot	385	16.3	23.62	18.1
Curtis	198	4.1	48.29	4.9
Randolph	280	13.2	21.21	13.9
Brush Hill	663	61.8	10.73	66.2
East Milton	336	22.8	14.74	22.8
Transit Area 1-5	406	165	2.46	165.8
Transit Area 6-7	214	55.8	3.84	56.5
	3183	351.4	<b>9.06</b>	361.9



# Next Steps

We will continue to work with our planning consultant, Utile, to develop a final set of subdistrict options for consideration.

Our fiscal impact analysis consultant, RKG Associates, will appear at next week's Planning Board meeting (August 24).

We are working with Town Counsel and seeking outside consultant assistance to amend the state's Model Bylaw to suit Milton's needs.

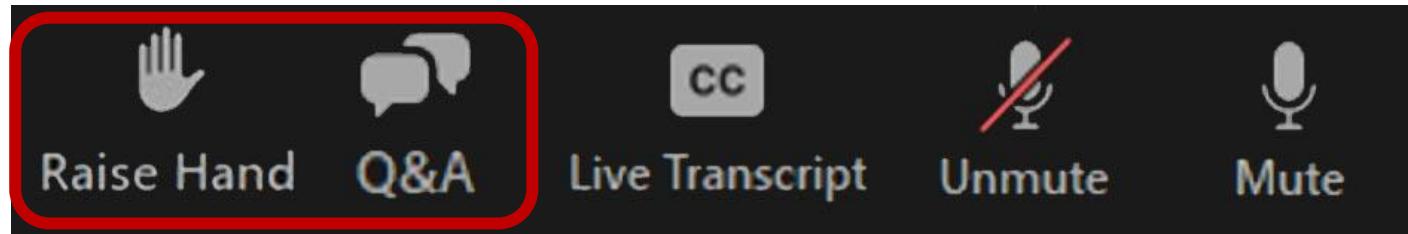
A mailer will be going out to residents with information on the law and our efforts.

MBTA Communities is the subject of monthly public forums and is a standing item on the Planning Board agenda.



# Question and Comment

- If you'd like to make a comment or ask a question during the Question and Comment period, there are two options:
  - use the “Q&A” button
  - Use the “Raise Hand” button
  - For attendees on the phone, you can raise your hand by pressing \*9, and mute and unmute yourself by pressing \*6.



A black and white aerial photograph of a residential neighborhood. The area is densely packed with houses, mostly single-family homes with lawns. There are several streets and a few larger buildings, possibly schools or community centers. The terrain is relatively flat with some minor hills or ridges visible in the background.

Thank you!



## QUITCLAIM DEED

The **TOWN OF MILTON**, a Massachusetts Municipal Corporation, acting by and through its Select Board with an address of 525 Canton Avenue, Milton, Massachusetts 02186 pursuant to the authority conferred by the vote of the 2023 Milton Spring Annual Town Meeting under Article 27, an attested copy of which is recorded herewith,

in full consideration of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) paid, the receipt and sufficiency of which is hereby acknowledged,

grants to, Discovery Schoolhouse, Inc., a Massachusetts nonprofit corporation with an address of 10 Blue Hills Parkway, Milton, Massachusetts 02186, ***with Quitclaim Covenants***,

the following described property:

A certain parcel of land with the buildings thereon situated in said Milton, being lots marked seven (7) Eight (8) and nine (9) on Plan of Austin Triangle, Mattapan, April 1893, Charles E.C. Breck, C.E., recorded with the Norfolk Deeds, lib. 175, fol. 640. Said lots are together bounded according to said plan, Easterly by Mattapan Street one hundred fifty (150) feet; Southerly by lot ten (10) as shown on said plan one hundred eighty 40/100 (180.40) feet; Northwesterly by land of unknown owners one hundred and fifty-six 97/100 (156.97) feet; Northerly by lot six (6) as shown on said plan, one hundred and thirty-four 13/100 (134.13) feet. Excepting, however, from the above-described premises, so much thereof as may have been taken by the Metropolitan Park Commissioners for the widening of Blue Hills Parkway.

Conveyed together with the following Right of First Offer and Right of First Refusal in favor of the Grantor:

The Town of Milton retains a Right of First Offer (ROFO) and a Right of First Refusal (ROFR) as follows:

1. Discovery Schoolhouse, Inc. shall not offer all or any portion of this property for sale without first delivering a written offer with specified terms to the Town of Milton (the "ROFO Notice"), after which the Town of Milton shall have sixty (60) days from the date the offer is made to accept the offer to purchase the property on those terms, and sixty (60) days from the date the Town of Milton accepts the offer to negotiate in good faith and execute a mutually agreeable purchase and sale agreement. The terms and conditions of the purchase and sale agreement shall then supersede the terms and conditions hereof.

If the Town of Milton does not accept the terms and conditions set forth in the offer from Discovery Schoolhouse, Inc., Discovery Schoolhouse, Inc. may offer the premises for sale to third parties on substantially the same terms and or for a price not less than ninety-five percent (95%) of the price offered to the Town of Milton. If the sale is consummated

within one hundred eighty (180) days following delivery of the ROFO refusal from the Town of Milton, then this ROFO and ROFR condition shall be void and of no further effect.

2. If the Town of Milton does not complete the ROFO transaction as described in the previous paragraph, and Discovery Schoolhouse, Inc. does not consummate a sale to a third party within the time limit in the previous paragraph, Discovery Schoolhouse, Inc. hereby agrees that it shall not sell, convey or otherwise transfer all or any portion of the premises to any third party unless Discovery Schoolhouse, Inc. shall first offer the Town of Milton a Right of First Refusal in accordance with the following terms: Discovery Schoolhouse, Inc. shall not accept a bona fide offer to sell all or a portion of the premises from a third party without first offering the property, on the same terms as the offer it has received, to the Town of Milton by delivering a copy of the written offer it has received to the Town of Milton. The Town of Milton shall have thirty (30) days from the date the offer is delivered to the Town of Milton to accept the offer and one hundred and twenty (120) days from the date the offer is accepted to pay the purchase price and accept the delivery of the deed from Discovery Schoolhouse, Inc.

If the Town of Milton declines the offer, subsequent offers on substantially the same terms, including for the same or a greater purchase price or no less than 95% of the purchase price in the preceding offer, may be accepted by Discovery Schoolhouse, Inc.

Acceptance of an offer on terms less favorable to the Town of Milton shall again require that the offer first be made to the Town of Milton in accordance with this paragraph.

This right of first offer and right of first refusal shall remain in effect so long as Discovery Schoolhouse, Inc. owns the property.

For Grantor's title, see Deed of Kidder House Association dated July 13, 1928 recorded with the Norfolk County Registry of Deeds in Book 1817, Page 632.

The Grantor being a Town of the Commonwealth of Massachusetts, no deed excise stamps are required pursuant to Chapter 64D, Section 1 of the Massachusetts General Laws.

*Remainder of page left intentionally blank*  
*Signatures appear on following page*

Witness our hands and seal this \_\_\_\_\_ day of August 2023.

**TOWN OF MILTON,  
by its Board of Selectmen**

---

Michael F. Zullas, Chair

---

Erin G. Bradley, Vice Chair

---

Roxanne Musto, Secretary

---

Richard G. Wells, Jr.

---

Benjamin Zoll

COMMONWEALTH OF MASSACHUSETTS  
Norfolk, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared, Michael F. Zullas, who proved to me through satisfactory evidence of identification, which was that he is known to me personally to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

---

Notary Public  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS  
Norfolk, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared Erin G. Bradley, who proved to me through satisfactory evidence of identification, which was that she is known to me personally to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

---

Notary Public  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS  
Norfolk, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared, Roxanne Musto, who proved to me through satisfactory evidence of identification, which was that he is known to me personally to be the person whose name is signed on the preceding or attached document, and acknowledge to me that he signed it voluntarily for its stated purpose.

---

Notary Public  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS  
Norfolk, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared, Richard G. Wells, Jr., who proved to me through satisfactory evidence of identification, which was that she is known to me personally to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

---

Notary Public  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS  
Norfolk, ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared Benjamin Zoll who proved to me through satisfactory evidence of identification, which was that he is known to me personally to be the person whose name is signed on the preceding or attached document, and acknowledge to me that he signed it voluntarily for its stated purpose.

---

Notary Public  
My Commission Expires:

## Nicholas Milano

---

**From:** [REDACTED]  
**Sent:** Monday, July 24, 2023 1:43 PM  
**To:** Michael Zullas  
**Cc:** John Kiernan; Nicholas Milano  
**Subject:** Fw: Milton Land Off Granite Avenue: Request for Town Meeting Article  
**Attachments:** Milton - Granite Ave to Neponset.pdf

[External Email- Use Caution]

Hello Mike. I hope you have had a chance to catch some of the summer for yourself and your family.

I'm writing on behalf of the ConCom regarding a request for an upcoming Town Meeting Article.

The Conservation Commission continues to identify parcels deeded to the town such as the one attached, which is "...for the promotion and development of natural resources and for the preservation of open space..." but have not been conveyed to the Conservation Commission.

Would it be possible to have this as a Select Board agenda item for that purpose?

We thank you for your consideration of this request. Please let us know of any questions or if additional information may be needed about this parcel.

With best regards,

Arthur

4298

NOT  
AN  
OFFICIAL  
COPY

NOT  
AN  
OFFICIAL  
COPY

643

COMMONWEALTH OF MASSACHUSETTS

Norfolk, Mass.

TOWN OF MILTON

ORDER OF TAKING

October 7, 1965

In the Board of Selectmen:

WHEREAS this Board was duly authorized by a two-thirds vote passed at Town Meeting held by adjournment on March 13, 1965 under Article 67 of the warrant for said town meeting to purchase or take by eminent domain for the promotion and development of natural resources and for the preservation of open spaces the area of land hereinafter described, and said two-thirds vote appropriated the sum of three thousand eight hundred dollars (\$3,800.00) for the purpose of acquiring the same:

IT IS NOW ORDERED that there be and hereby is taken by eminent domain under the provisions of Chapter 40, Section 14 and Chapter 79 of the General Laws and of any and every other power and authority us hereto enabling in behalf of the said Town of Milton in fee simple for the promotion and development of natural resources and for the preservation of open spaces an area of land located in said Milton between Granite Avenue and the Milton-Quincy Town line in the vicinity of Thistle Avenue and Riverside Avenue bounded and described as follows:

Beginning at a point at the intersection of the east sideline of Granite Avenue and the south sideline of Thistle Avenue;

Thence running northeasterly and easterly on a curve having a radius of 933.12 feet, 889.17 feet in part by the south sideline of Thistle Avenue, and by land now or formerly of Daniel J. and Genevieve M. Byron, Fred P. Carlson, Bernadette A. Chippendale, Allen C. and Alice E. Devine, Jr., the south end of Whitman Road, Joseph and Elizabeth L. Masseaso,

NOTE

4298 NOTE

A.N. A.N.  
OFFICIAL OFFICIAL  
644 COPY COPY

Daniel and Anne M. McDonald, Dominick J. and Catherine J. Kavanay, and Austin J. and Mary P. Corrigan;

Thence turning and running westerly 737.12 feet in part by land now or formerly of said Corrigan, Nicholas R. and Isolatta G. Petella, William C. and Wilma G. Bayer, Ethel Hayden Blankhorn, and Michael J. and Joseph N. Varruchi and Ross N. Cooper, Trustees, to the Milton-Quincy Town line;

Thence turning and running southerly 49.51 feet by the Milton-Quincy Town line;

Thence turning and running westerly 738.40 feet by land of the Wollaston Golf Club;

Thence turning and running westerly and southwesterly on a curve having a radius of 883.62 feet, 873.86 feet by land of said Golf Club;

Thence turning and running northwesterly 62.67 feet by the westerly sideline of Granite Avenue to the point of beginning.

Containing 1.825 1/2 acres as shown on a plan of land entitled "Plan of Land -- Milton, Massachusetts -- October 1964 -- Scale 1 in. = 80 feet, A. Herbert Bruce, Town Engineer" to be filed herewith.

Trees upon the land taken and all structures affixed to the land are included in the taking.

The owner of all of said land is believed to be THEODORE C. GARDINER, FREDERICK T. GARDINER AND KENNETH D. GARDINER, TRUSTEES OF THE GARDINER TRUST UNDER A WRITTEN DECLARATION OF TRUST DATED JANUARY 21, 1954 and filed in Norfolk Registry District of the Land Court as Document No. 160093, and it is believed that no other persons have any interest in said land but the right, title and interest of every person in said land is included in this taking.

The Board of Selectmen does hereby assess and award as the damages sustained by said Gardner Trust the sum of \$3,000.00.

IN WITNESS WHEREOF we the Board of Selectmen of the Town of Milton, acting in the name and behalf of the Town, hereunto set our hands this seventh day of October, 1965.

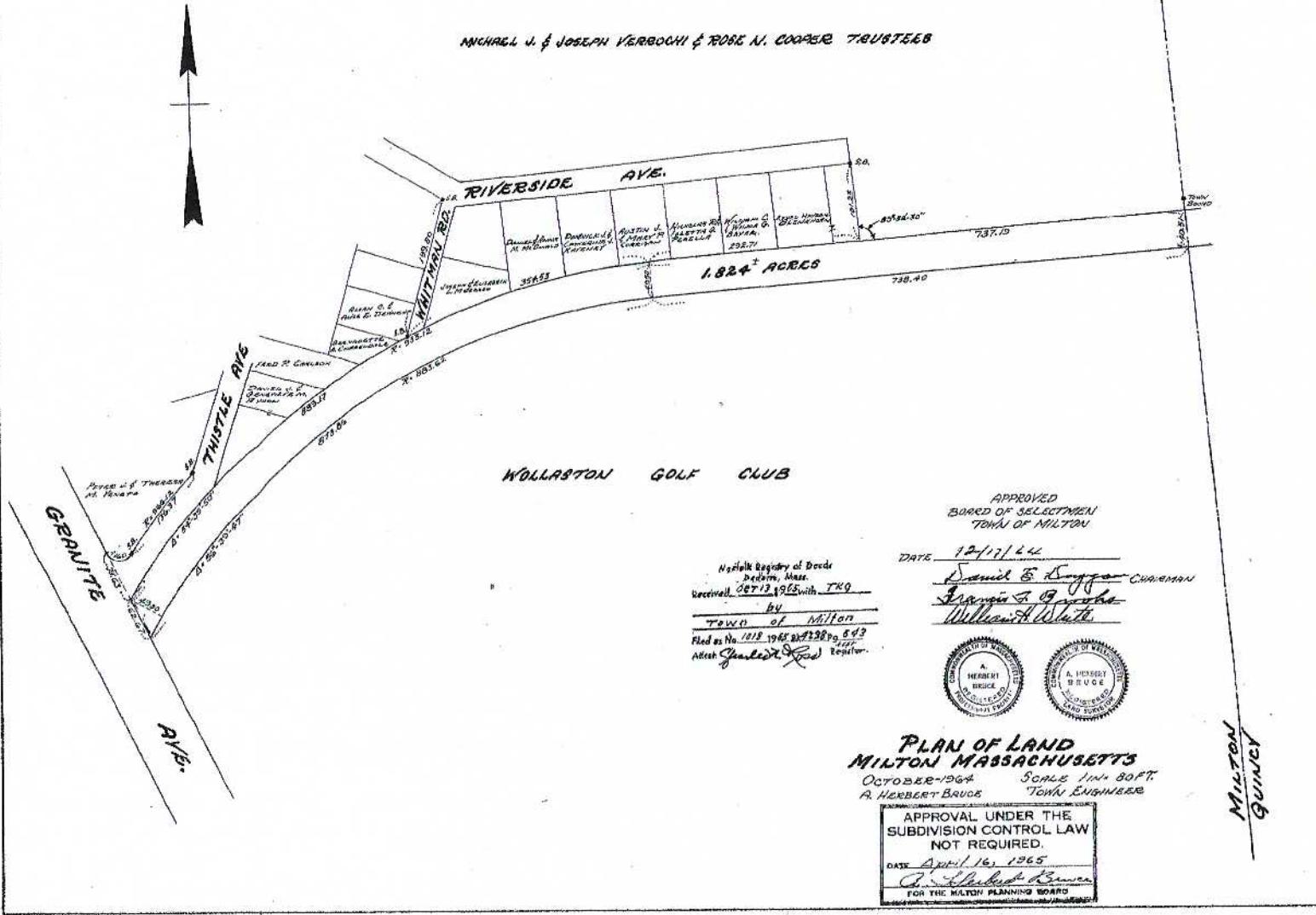
Francis J. Burke  
William H. White, a MAJORITY OF  
BOARD OF SELECTMEN OF THE TOWN OF  
MILTON

Recorded Oct. 13, 1965 at 3h.45m.P.M.

OFFICE OF THE ATTORNEY GENERAL

# OFFICE OF ECONOMIC PLANNING

MICHAEL J. & JOSEPH VERBOCHI & ROSE N. COOPER TRUSTEES



# NAONI TAL

OFFICE OF THE NATIONAL ARCHIVES

RINGS

~~BOSTON~~

NEPONSET

25.934<sup>+</sup> ACRES

TOWN OF MILTON

THE BIRDS OF HAWAII

EMERGENCY S

PLANE  
LINEAR

卷之三

500.00

214

7000

1000

GUINEA

Norfolk Registry of Deeds  
Dedham, Mass.  
Received Nov 3 1965 with Ttg.  
By  
Tolson of Milton  
Filed as No. 1136, 1965 Bk. 4705 Pg. 12  
Arrest: Charles R. Reed 125  
125

APPROVED  
BOARD OF SELECTMEN  
TOWN OF MILTON

DATE 12/17/1969  
Doris E. Suggs CHARMAN  
Frances F. B. Cooks  
William H. White



PLAN OF LAND  
MILTON MASSACHUSETTS  
OCTOBER-1964      SCALE 1IN.=100FT.  
TOMI ENGINEERS

OCTOBER-1964  
A. HERBERT BRUCE  
SCALE 1IN=100F  
TOWN ENGINEER

APPROVAL UNDER THE  
SUBDIVISION CONTROL LAW  
NOT REQUIRED.

DATE October 22, 1965  
P. Schubert

## MARCH MEETING

abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.;" and to act on anything relating thereto.

**Voted:** That the Town do NOT so vote.

**ARTICLE 65.** To see if the Town will vote to amend Chapter 10 of the General Bylaws of the Town (having to do with zoning) by striking out Section XII in its entirety and inserting in place thereof the following new Section:

### "SECTION XII. AMENDMENTS.

The Planning Board, upon petition of not less than ten citizens of the Town, or upon its own initiative, shall from time to time hold public hearings for the consideration of proposed amendments to the Zoning Map or to this bylaw and report to a regular or special Town Meeting its recommendations as to what action should be taken. Notice of the time and place of such public hearings and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the Town in each of two successive weeks, the first publication being not less than fourteen days before the day of such hearing."

and to act on anything relating thereto.

**Voted:** That the Town so vote.

### Unanimous Vote

Boston, Massachusetts, June 10, 1965

The foregoing amendment to zoning bylaws is hereby approved.

EDWARD W. BROOKE, Attorney General

Advertised in Milton Record Transcript June 25, July 2 and 9, 1965.

**SECTION 66.** To see if the Town will vote to amend the Bylaws, Chapter 6, Police Regulations, by adding Section 30 to read as follows:

"SECTION 30. Whoever, owners or others, having the charge or custody of any horse or grazing beast, swine or fowl, allows them to run at large in the Town, or to feed in any public or private way, either with or without a keeper, and whoever shall drive any such animal upon any sidewalk, or permits them to enter or remain on, or pass over, any orchard, lawn or garden of the land of another individual, shall be liable for damages levied by the courts."

and to act on anything relating thereto

**Voted:** That the Town do NOT so vote.

**ARTICLE 67.** To see if the Town will vote to authorize the Board of Selectmen to purchase or take by eminent domain for the promotion and development of natural resources and for the preservation of open space, a certain parcel of land between Granite Avenue and the Milton-Quincy Town line in the vicinity of Thistle Avenue and Riverside Avenue, bounded and described as follows:

## MARCH MEETING

Beginning at a point at the intersection of the east sideline of Granite Avenue and the south sideline of Thistle Avenue;

Thence running northeasterly and easterly on a curve having a radius of 933.12 feet, 889.17 feet in part by the south sideline of Thistle Avenue, and by land now or formerly of Daniel J. and Genevieve M. Byron, Fred P. Carlson, Bernadette A. Chippendale, Allen C. and Alice E. Devine, Jr., the south end of Whitman Road, Joseph and Elizabeth L. Mosesso, Daniel and Anna M. McDonald, Dominick J. and Catherine J. Kaveney, and Austin J. and Mary P. Corrigan.

Thence turning and running easterly 737.19 feet in part by land now or formerly of said Corrigan, Nicholas R. and Joletta G. Perella, William C. and Wilma G. Bayer, Ethel Hayden Blenkhorn, and Michael J. and Joseph N. Verrochi and Rose N. Cooper, Trustees, to the Milton-Quincy Town line;

Thence turning and running southerly 49.51 feet by the Milton-Quincy Town line;

Thence turning and running westerly 738.40 feet by land of the Wollaston Golf Club;

Thence turning and running westerly and southwesterly on a curve having a radius of 883.62 feet, 873.86 feet by land of said Golf Club;

Thence turning and running northwesterly 62.67 feet by the easterly sideline of Granite Avenue to the point of beginning.

Containing 1.824  $\pm$  acres as shown on a plan of land entitled "Plan of land — Milton, Massachusetts — October 1964 — Scale 1 in. = 80 feet, A. Herbert Bruce, Town Engineer" and on file in the office of the Town Engineer;

to appropriate money to acquire the same; and to act on anything relating thereto.

**Voted:** That the Town so vote and that the sum of \$3,800.00 be appropriated.

### Unanimous Vote

**ARTICLE 68.** To see if the Town will vote to authorize the Board of Selectmen to purchase or take by eminent domain for the promotion and development of natural resources and for the preservation of open space, a certain parcel of land on the southerly side of the Neponset River in the vicinity of Riverside Avenue and the Milton-Quincy Town Line, and bounded and described as follows:

Beginning at a point on the Milton-Quincy Town Line, said point being on the northerly side of land now or formerly of Theodore C., Frederick T. and Kenneth D. Gardiner, Trustees, and said point being 21.0  $\pm$  feet southerly from a Town Line bound;

Thence running westerly 444.48 feet by land of said Gardiners;

Thence turning and running northerly 136.23 feet by land now or formerly of Ethel H. Blenkhorn and by east end of Riverside Avenue;

Thence turning and running westerly 363.89 feet by the northerly sideline of Riverside Avenue;

## MARCH MEETING

Thence turning and running northwesterly 361.55 feet by land now or formerly of John J. and Sally A. Sullivan, Anna V. Keith, and Dorothea C. Smith to a stone bound;

Thence turning and running southwesterly in two courses, a total distance of 125.75 feet by land now or formerly of said Smith and by the northerly end of Thistle Avenue;

Thence turning and running northwesterly, northeasterly, northerly, and northwesterly 398.92 feet by land now or formerly of Edward F. and Barbara T. Cook, Francis C. and Margaret M. McGerity, Michael E. and Gladys M. Ruest, Oscar T. and Ena W. Tunberg, Francis E. and Esther D. Donnelly, and Alan and Anne Linehan;

Thence turning and running northerly 277.00 feet by land of the Town of Milton;

Thence turning and running easterly 75.00 feet by land of said Town;

Thence turning and running southerly 161.0  $\pm$  feet by Mount Hope Canal;

Thence turning and running easterly 72.0  $\pm$  feet by said Canal;

Thence turning and running northerly in two courses a total distance of 568.0  $\pm$  feet by said Canal;

Thence turning and running easterly 500.0  $\pm$  feet by the Neponset River;

Thence turning and running in a general southerly, westerly, southerly, westerly, and northwesterly direction in two courses a total distance of 850.0  $\pm$  feet by said river;

Thence turning and running in a general southeasterly, southerly, and southwesterly direction 200.0  $\pm$  feet by said river;

Thence turning and running in a general southeasterly direction in two courses a total distance of 500.0  $\pm$  feet by said river;

Thence turning and running in a general easterly direction 40.0  $\pm$  feet by said river;

Thence turning and running in a general northwesterly, northerly, easterly, and northeasterly direction in three courses a total distance of 1100.0  $\pm$  feet by said river to the Milton-Quincy Line;

Thence turning and running southerly 1264.0  $\pm$  feet by the Milton-Quincy Town Line to the point of beginning.

Containing 25,934  $\pm$  acres as shown on a plan of land entitled "Plan of Land — Milton, Massachusetts — October 1964 — Scale 1 inch = 100 feet; A. Herbert Bruce, Town Engineer" and on file in the office of the Town Engineer;

to appropriate money to acquire the same; and to act on anything relating thereto.  
**Voted:** That the Town so vote and that the sum of \$17,500.00 be appropriated.

Unanimous Vote

**Deborah Milbauer – Revised July 24, 2023**

**Insuring Government Transparency:**

**A proposal to require elected boards/committees to video record and publicly post proceedings**

**Justification**

COVID changed the way the State of Massachusetts, and in turn the Town of Milton, conducts public government meetings. State Open Meeting laws that allowed remote meetings has been extended through March 2025. The legal, political, and social landscape for holding and recording government meetings has changed dramatically since March 2020. The use of zoom and similar platforms is now ubiquitous. Meetings that are not recorded and conducted only in-person seem antiquated given the dramatic change in how the world now operates. To date, elected bodies in Milton have the choice to post recordings, or not. Some do and some don't. Inability to access proceedings equitably across all elected bodies is problematic. Compelling *all* elected officials to video record and post their proceedings is a fair and equitable way to ensure that all elected boards/committees do so. It is not appropriate that elected officials be in the position to decide if their own meetings will be recorded or not.

Claims of limited technological capacity or inconvenience should not dictate transparency. Although not recording a meeting of elected Milton officials is not in violation of the *letter* of the MA Open Meeting laws, it seems to be a violation of the *spirit* of the law. When one navigates to Milton Access TV's home page seeking posted recordings of meetings, the link to watch is titled "Insuring Government Transparency". It describes the importance of recording and posting meetings: "Protecting government transparency: Government accountability requires people to pay attention. With our cameras and microphones broadcasting and recording meetings of local officials, residents are able to keep tabs on what their government is doing, even while they go about living their busy personal lives".

Many Milton residents rely on recordings of School Committee, Select Board, and Planning Board to catch up on current events, find out critical information that impacts their families, and inform their future voting decisions. Now that technology and social norms have evolved, the time has come for all of Milton's government proceedings involving elected officials to be recorded and posted for all voters to see. As the Washington Post aptly says "Democracy dies in darkness".

**Proposed By-Law (draft) (legal language pending):**

- All elected boards/committees are required to video record and publicly post the video recordings of Town of Milton government proceedings. Proceedings that qualify are meetings that must comply with the State of MA open meeting law and whose members are elected officials. The video recording must be posted on-line in a publicly accessible platform that the Town uses for posting town government meetings (ie: MATV).

- *State law guidance: A Legislative Analyst from the Mass Municipal Association in an email communication wrote that they do not think any state laws would be violated should posted recordings be required. This informal feedback is not confirmed. Legal advice from Town Council and/or experts in municipal law is required.*

### **Current Scope to Date of Posted Recordings:**

- There are 10\* elected boards/committees
  - Currently, 4 are recorded and posted; 3 on Milton Access TV and 1 on a different platform.
  - Of the 6 bodies who do not record and post, 3 meet in-person, 2 meet by zoom, and one meets in person that would be exempt from this by-law.
- The following currently elected boards/committees are included in the requirement to post recordings of proceedings except where noted. Elected positions created in the future will be included in this requirement.
  1. **Blue Hills Regional Vocational School Committee (currently recorded and posted by Randolph and Canton 'Video on Demand' channels)**
  2. Board of Assessors (zoom) (not posted)
  3. Board of Health (zoom) (not posted)
  4. Board of Park Commissioners (in-person) (not posted)
  5. **\*\*Housing Authority (Exempt: not under the authority of Milton Town Government. See email at the end of this document. Meets in person.)**
  6. Library Board of Trustees (in person only) (not posted)
  7. **Planning Board (currently posted by MATV)**
  8. **School Committee (currently posted by MATV)**
  9. Trustees of the Cemetery (in-person only) (not posted)
  10. **Select Board (currently posted by MATV)**

\*Town Moderator: no meetings associated with this elected position

### **Operational Notes**

- Subcommittee's are not included in this by-law
- Milton Access TV (MATV) is not required to video record meetings that are not negotiated within the contract between The Town of Milton and Milton Access TV. The director of MATV, Shane Brandenburg, told me that MATV posts recordings that are shared with them, but they cannot record the meetings themselves that have not already been negotiated in the contract. [Milton Access TV | Milton's Public Media Center.](http://Milton%20Access%20TV%20%7C%20Milton's%20Public%20Media%20Center)

- If boards and committees record their own meetings using the town Zoom account, Shane said MATV would be willing to post those recordings when the recording becomes available on the Town zoom account, which MATV can access.
- **Equipment** needed for boards and committees to record their own meetings (without MATV):
  - **Laptop** (personal or Town): The board/committee will need a laptop to utilize Zoom or similar platform. The town Zoom account secures the recording securely and safely. Only authorized town personnel, including MATV, have access to the Zoom account, and therefore access to the recording itself is restricted. Therefore, either personal or town devices may be used. Once the meeting is recorded on zoom, no one can edit or access it except authorized Town personnel and MATV.
  - ‘**Owl**’ device: The Owl device is a portable device that can record video and audio during meetings. The device sits on the table and moves automatically following the voice that is speaking. The link to see a photo is here: [Owl Labs - Leading the Way in Smart Video Conferencing Technology](#). The Owl device is currently already used by a few Boards/Committees (high satisfaction has been reported informally). Use of an ‘Owl’ (or comparable product) significantly enhances the quality of audio/video recordings with minimal need for technical expertise. Because of this, use of an ‘Owl’ device is recommended and is available at Town Hall for use. The reservation schedule for the ‘Owl’ is overseen by designated Town staff.
  - The Owl device is currently used by the Schools, the Library and the Selectboard for example. According to informal conversations, the Town may be amendable to purchasing 2 more Owls (@ \$1,200/device).
- Staff of boards/committee can borrow the Town’s ‘Owl’ device for convenient and higher quality capturing video and audio. Staff of boards/committees will be trained although is very user-friendly for a lay person.
- The participant capacity of the Town of Milton’s paid Zoom account will reflect the number of anticipated, required meetings. The Town’s current zoom account can accommodate up to 300 participants in one meeting, and a few thousand for a webinar. An upgrade of the zoom account will be assessed if capacity exceeds participation, which is not anticipated by Town officials familiar with meeting attendance.
- This bylaw is only about recording and posting. *How the meeting is conducted (all in-person, hybrid, remote only)* is out of the scope of this bylaw, as long as the meeting is recorded in whatever format it chooses. Individual boards/committees can decide that for themselves.

- If the 2025 MA law that allows Towns to conduct business remotely is allowed to expire, it will not impact the required posting of recorded meetings. Whether or not the law expires, it is assumed that meetings that are conducted all-in person can still be recorded.
- Enforcement of the new by-law will be treated the same as any other Open Meeting Law infraction.
- Although the Housing Authority is not under the authority of the Town of Milton, it is recommended to explore the interest and feasibility for voluntary participation.
  - Housing Authority (**Exempt: not under the authority of Milton Town Government**)

#### To be determined:

- It is unclear how to handle technical glitches. If recording is not possible for whatever technical reason, should there be a requirement for a signature of the Chair of the board/committee attesting to the reason? Or any member can sign? How many meetings is allowable to not record due to technical difficulties? Should this not even be an option?
- Should there be a time limit to post video recordings within X days of the meetings? State law requires meeting minutes to be posted in a 'timely' manner. Informally, a Legislative Analyst noted that it is assumed to mean about a month but this is not written in law. Posting of minutes of various boards and committee's in Milton within one month is frequently not adhered to. Should the posting of recordings be listed as 'within one week', 'within one month' or 'in a timely manner'?

#### Possible costs

- Upgraded zoom account (not anticipated for now)
- Purchase of additional Owl's: \$1,200 per Owl
- Possible expansion of MATV contract in the future (not now)

#### Milton Housing Authority

From Brian Tatro [REDACTED] Sent Mon 6/5/2023 6:51 AM

"Meetings for the Milton Housing Authority are held in person. We do not use Zoom at the present time. Our meetings are not visually recorded. We are not part of the Milton town government so cannot take advantage of their recording ability. The housing authority is a state agency with elected townspeople serving on the board of commissioners. The meetings are posted at the town hall. Anyone is welcome to attend our meetings at the address below. We appreciate your interest. Thank you."

INTER-MUNICIPAL AGREEMENT FOR THE CREATION AND MAINTENANCE OF  
THE SWAP/TRIC SHARED HOUSING SERVICES OFFICE

THIS AGREEMENT is entered into by and between the Towns of Hopkinton, Medfield, Milton, Norwood, Randolph, and Sharon hereafter referred to collectively as the “Municipalities,” this \_\_\_\_ day of \_\_\_\_\_ 2023, as follows:

WHEREAS, the Municipalities desire to share the services and costs of a common SWAP/TRIC Shared Housing Services Office; and

WHEREAS, the Town of Hopkinton is willing and capable of performing the duties associated with hosting a SWAP/TRIC Shared Housing Services Office; and

WHEREAS, each of the Municipalities has authority to enter into this Agreement pursuant to G.L. c. 40, s. 4A;

NOW, THEREFORE, the Municipalities, in mutual consideration of the covenants contained herein, intending to be legally bound, agree under seal as follows:

1. Term. The term of this Agreement shall commence on the date of execution and shall expire on June 30, 2026, unless earlier terminated as set forth herein. Any municipality may withdraw from the Agreement as defined below. The Agreement may be renewed for seven (7) additional three-year terms as voted by each municipality through its respective Select Board, City or Town Council, and/or primary legislative body by January 1 of the year of the expiring term.

2. Lead Municipality. During the Term of this Agreement, the Town of Hopkinton shall act as the lead municipality. The Town of Hopkinton shall perform or provide the following under the direction of the Town of Hopkinton Town Manager:

- a. Issue Requests for Proposals for Consultants to provide housing administrative services described in Exhibit A: Core Housing Services, attached and incorporated herein, for all the Municipalities. All procurements must comply with M.G.L. Chapter 30B and other relevant federal and municipal procurement thresholds, laws, and statutes;
- b. Enter into contracts with Consultant to provide said housing administrative services;
- c. Manage the Consultant contracts;
- d. Receive invoices from the Consultants and make payments in a timely manner for services rendered;
- e. Establish a revolving fund to administer the collection, accounting and use of funds provided by the Municipalities to fund the Consultant contracts;
- f. Provide overall program oversight and related administration;
- g. Provide conflict resolution in accordance with Section 10 below.

3. Duties of the SWAP/TRIC Shared Housing Services Office. During the Term of this Agreement, the SWAP/TRIC Shared Housing Services Office shall perform the housing administrative services as described in Exhibit A: Core Housing Services for an annual allocation of hours as indicated in Exhibit B: Fee Structure, attached and incorporated herein.

4. Funding Structure and Payment. The Town of Hopkinton shall annually request funds from the Municipalities for the upcoming year by July 1 with payment due within 30 days of the written request and the Municipalities shall provide annual funding to the Town of Hopkinton pursuant to the Fee Structure, attached as Exhibit B: Fee Structure. Funding for supplemental services not included in Exhibit A: Core Housing Services and for additional hours in excess of the allotted hours in Exhibit B: Fee Structure shall be requested separately, at the discretion of the Town of Hopkinton and the individual municipality. The Town of Hopkinton shall hold all funds in a separate revolving fund account in trust for each Municipality and shall not disburse such funds for any purpose other than payment of invoices from the contracted Consultants for services rendered and other program expenses. Municipalities may contract and pay for additional hours for supplemental services during the year by mutual agreement between the consultant and municipality.

5. Subsequent Year Adjustments. The annual allocation of hours in Exhibit B: Fee Structure shall be reviewed and adjusted, if necessary, annually, three (3) months prior to end of each fiscal year throughout the Term of this Agreement. The Town of Hopkinton shall provide a record of the actual hours of services provided to each municipality and propose an amended Exhibit B in order to make any adjustments necessary for the following year of the Term, which shall be adopted as the Municipalities may agree, in accordance with Section 15. Municipalities may increase or decrease hours year-to-year as desired and appropriated. At year end, any remaining balance of under 10 hours are forgiven; greater than 10 hours due the municipality are carried forward to the next fiscal year.

6. Indemnification. Notwithstanding the final sentence of G.L. c. 40, §4A, to the extent permitted by law, each Municipality (the “Indemnifying Municipality”) separately agrees to indemnify the Town of Hopkinton, including all officials, officers, employees, agents, servants and representatives, from and against any claim arising out of the duties performed by the Regional Housing Services Office pursuant to the Agreement in or on behalf of the Indemnifying Municipality for any claim of liability, loss, damages, costs and expenses for personal injury or damage to real or personal property by reason of any negligent act or omission by the SWAP/TRIC Shared Housing Services Office while performing services for the Indemnifying Municipality. As to any claim or occurrence, the express indemnification set forth above shall be town-specific: Hopkinton’s obligations shall be limited to the services provided for Hopkinton; Medfield’s obligations shall be limited to the services provided for Medfield; Milton’s obligations shall be limited to the services provided for Milton; Norwood’s obligations shall be limited to the services provided for Norwood; Randolph’s obligations shall be limited to the services provided for Randolph; and Sharon’s obligations shall be limited to the services provided for Sharon’.. The Indemnifying Municipality’s obligation to indemnify under this Section shall be limited to and benefited by the immunities and the limits on liability that would be applicable under M.G.L. c. 258 and any other law or statute limiting the liabilities of municipalities as if the negligent act or omission had been made by an employee of the

Indemnifying Municipality. Furthermore, the Indemnifying Municipalities shall not be liable for any claims arising from:

- a. Violations of state or federal civil rights statutes;
- b. Violations of state or federal discrimination statutes;
- c. Wrongful termination claims;
- d. Violations of any state or federal statute dealing with employment practices;
- e. Claims that are covered by any insurance policy.

7. Termination. (Subsection A) Any Municipality, by a vote of its respective Select Board, City or Town Council, and/or primary legislative body may withdraw from and terminate this Agreement at the end of any fiscal year with the provision of at least sixty (60) days written notice to the Town of Hopkinton. No such termination shall affect any obligation of indemnification that may have arisen hereunder prior to such termination. Upon such termination, the Town of Hopkinton shall prepare full statements of outstanding unpaid financial obligations under this Agreement and present the same to the terminating Municipality for payment within sixty (60) days thereafter. The Town of Hopkinton, by a vote of its respective Select Board, may terminate this Agreement upon the provision of at least one-month prior written notice to the participating Municipalities. After termination of this Agreement, the Town of Hopkinton shall remain liable to the participating Municipalities for any portion of the payments received not earned. (Subsection B) Any Municipality may withdraw at the end of any fiscal year in which the municipal legislative body has not appropriated funds sufficient to support that municipality's participation in the subsequent fiscal year, provided that in such an event, the municipality shall give as much notice to other subscribers to this Inter-Municipal Agreement as the circumstances allow.

8. Advisory Committee. There shall exist an Advisory Committee comprised of one (1) representative from each municipality, whom shall be appointed by the Town Manager/Administrator of the municipality. The Advisory Committee shall endeavor to meet on a quarterly basis in August, November, February and May. The Town of Hopkinton shall prepare and send to each municipality a quarterly status report prior to the quarterly meeting.

9. Conflict Resolution. The Advisory Committee may hold additional meetings to discuss and resolve any conflicts that may arise including, but not limited to, disagreements regarding the needs of each municipality and changes to the annual allocation of hours as indicated in Exhibit B: Fee Structure. Any recommendations made to the director of the SWAP/TRIC Shared Housing Services Office must be made by a majority vote. Any unresolved issues shall be decided by the Town Manager of the Town of Hopkinton.

10. Additional Communities. The Advisory Committee may vote at any time to amend this Agreement to add an additional municipality or municipalities by unanimous vote and approval of the Lead Municipality, so long as there are no more than ten (10) member communities. If voted and approved as provided in this Section, the participation of said municipality or municipalities is effective as of July 1 of the fiscal year next after the vote is taken unless otherwise agreed among all parties. Any such additional municipality must be a municipality within the South West Advisory Planning Committee (SWAP) or Three Rivers

Interlocal Council (TRIC) subregion of the Metropolitan Area Planning Council (MAPC) unless waived by a majority of the Town Managers/Administrators of the originally participating communities.

11. Financial Safeguards. The Town of Hopkinton shall maintain separate, accurate and comprehensive records of all services performed for each of the Municipalities hereto, and all funds received from the Municipalities. The Town of Hopkinton shall issue a financial report for each fiscal year to each of the Municipalities by December 31 of the following fiscal year. The Town of Hopkinton agrees to comply with audit and financial requests and give full access to financial records, procurement and transactions documentation, and other applicable documentation to the Municipalities. The Town of Hopkinton shall promptly notify the Municipalities of any potential or actual violations of the generally accepted financial, accounting, or procurement procedures as related to the SWAP/TRIC Shared Housing Services Office.

12. Non-Local Funding Sources. Should any funding for the SWAP/TRIC Shared Housing Services Office, appropriated by the Municipalities, stem from non-local funding sources (i.e. federal, state, other grant sources), the Municipality or Municipalities are required to notify the Town of Hopkinton, in writing, of the source of the funding ninety (90) days prior to the beginning of the upcoming fiscal year, or the transfer of funding from the Municipality to the Town of Hopkinton. Written notice of non-local funding shall include any and all enhanced record keeping, reporting, audit, and financial management requirements. The Town of Hopkinton shall acknowledge receipt of the notice of non-local funding, in writing, and affirm compliance with the outlined reporting requirements. If the Town of Hopkinton acknowledges the notice of non-local funding and agrees to comply with the outlined reporting requirements, the Town of Hopkinton is expected to fulfil that obligation to the best of its ability and provide adequate access to all records to the appropriate Municipality. This clause includes, but is not limited to, the financial responsibilities established in The Federal Uniform Administrative Requirements, Cost Principles, and Audit Requirements outlined in the Code of Federal Regulations, specifically 2 CFR Part 200.

13. Assignment. None of the Municipalities shall assign or transfer any of its rights or interests in or to this Agreement, or delegate any of its obligations hereunder, without the prior written consent of all of the other Municipalities.

14. Amendment. This Agreement may be amended only in writing signed by all Municipalities duly authorized thereunto.

15. Severability. If any provision of this Agreement is held by a court of appropriate jurisdiction to be invalid, illegal or unenforceable, or if any such term is so held when applied to any particular circumstance, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or affect the application of such provision to any other circumstances, and the remaining provisions hereof shall not be affected and shall remain in full force and effect.

16. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts.

17. Headings. The paragraph headings herein are for convenience only, are no part of this Agreement and shall not affect the interpretation of this Agreement.

18. Notices. Any notice permitted or required hereunder to be given or served on any Municipality shall be in writing signed in the name of or on behalf of the Municipality giving or serving the same. Notice shall be deemed to have been received at the time of actual receipt of any hand delivery or three (3) business days after the date of any properly addressed notice sent by mail as set forth below:

Town of Hopkinton  
Town Manager  
18 Main Street  
Hopkinton, MA 01748

Town of Medfield  
Town Administrator  
459 Main Street  
Medfield, MA 02052

Town of Milton  
Town Administrator  
525 Canton Avenue  
Milton, MA 02186

Town of Norwood  
General Manager  
566 Washington Street  
Norwood, MA 02062

Town of Randolph  
Town Manager  
41 South Main Street  
Randolph, MA 02368

Town of Sharon  
Town Administrator  
90 South Main Street  
Sharon, MA 02067

19. Complete Agreement. This Agreement constitutes the entire Agreement between the Municipalities concerning the subject matter hereof, superseding all prior agreements and

understandings. There are no other agreements or understandings between the Municipalities concerning the subject matter hereof. Each Municipality acknowledges that it has not relied on any representations by any other Municipality or by anyone acting or purporting to act for another Municipality or for whose actions any other Municipality is responsible, other than the express, written representations set forth herein.

Hereon duly authorized and executed as a sealed instrument,

TOWN OF HOPKINTON  
By its Town Manager

---

Date: \_\_\_\_\_, 2023

Hereon duly authorized and executed as a sealed instrument,

TOWN OF Medfield  
By its Town Administrator

---

Date: \_\_\_\_\_, 2023

Hereon duly authorized and executed as a sealed instrument,

TOWN OF MILTON  
By its Town Administrator

---

Date: \_\_\_\_\_, 2023

Hereon duly authorized and executed as a sealed instrument,

TOWN OF NORWOOD  
By its General Manager

---

---

Date: \_\_\_\_\_, 2023

Hereon duly authorized and executed as a sealed instrument,

TOWN OF RANDOLPH  
By its Town Manager

---

Date: \_\_\_\_\_, 2023

Hereon duly authorized and executed as a sealed instrument,

TOWN OF SHARON  
By its Town Administrator

---

Date: \_\_\_\_\_, 2023

## Exhibit A

### Core Housing Services

#### 1. Monitoring

- Monitoring Database of Affordable Housing Developments and residents
- Monitor LIP and local ownership units
- Monitor LIP rental developments
- Assist with resales of ownership units
- Maintain municipal inventory records with the Subsidized Housing Inventory maintained by the Department of Housing and Community Development

#### 2. Local Support

- Assist assessors with valuations of restricted ownership units
- Provide technical support to staff and housing entities
- Create and implement housing programs
- Advise and consult on projects
- Prepare and Review project documents
- Provide resident support, if requested

#### 3. Regional Activities

- Assist communities with regional linkages
- Provide programs and referrals to residents

## Exhibit B Fee Structure

The participating municipalities have allocated the amount listed below for FY24. The services of the Shared Housing Office provider will be available for \$155.00/hour.

This fee structure does not include payment for voluntary supplemental services which will be proposed and invoiced outside of this agreement or payment for additional hours in excess of the allotted hours.

	FY24 Appropriation
Hopkinton	\$23,000
Medfield	\$20,000*
Milton	\$12,000
Norwood	\$10,000
Randolph	\$11,520
Sharon	\$20,000

\*Conditional to Norfolk County approval

## Nicholas Milano

---

**From:** Nicholas Milano  
**Sent:** Wednesday, August 9, 2023 9:40 PM  
**To:** SB  
**Cc:** Lynne DeNapoli; Colin Loiselle  
**Subject:** FW: Animal Shelter Proposal  
**Attachments:** Axis Construction Corp- Price Proposal Form.pdf; FW: Animal shelter email 2; FW: email 3 of animal shelter proposal

Please see below email from Paul Kalous, OPM for the Animal Shelter project that there was one proposal received for the animal shelter with bid price of \$3,453,601. Please note he has some questions to follow up on about how the bidder handles ledge in their proposal.

The Animal Shelter Advisory Committee is meeting Thursday at 12:30 pm to discuss.

Thank you,

Nick

---

**From:** Tim Czerwienski <tczerwienski@townofmilton.org>  
**Sent:** Wednesday, August 9, 2023 4:30 PM  
**Subject:** FW: Animal Shelter Proposal

Members,

This is the first of three emails coming your way in advance of our meeting tomorrow.

---

**From:** Kalous, Paul [REDACTED]  
**Sent:** Wednesday, August 9, 2023 3:47 PM  
**To:** Tim Czerwienski <[tczerwienski@townofmilton.org](mailto:tczerwienski@townofmilton.org)>  
**Cc:** Therese Desmond [REDACTED]  
**Subject:** Animal Shelter Proposal

[External Email- Use Caution]

Hi Tim,

You may have already heard from Therese. We only received one proposal. The proposal appears to be responsive. The base price without options for the entrance dormer or pop up is \$3,453,601. There is a troubling item on their bid form: they do not appear to assume a quantity of ledge and they put in a very high unit cost for ledge as well. Certainly a question we will seek clarification on if the committee wants to move forward. I would like to drop by with the original paper proposal and chat tomorrow or early Friday.

This email has the price proposal attached and is the first of 2 or 3 as I try to transmit the electronic files.

Thanks,

**Paul G. Kalous AIA MCPPO**

Vice President

**Hill International, Inc.**

75 Second Avenue

Suite 300

Needham, MA 02494

## SECTION 00 42 00 PRICE PROPOSAL FORM

### 1.01 THIS FORM TO BE SUBMITTED AS PART OF THE PRICE PROPOSAL.

### 1.02 PROJECT IDENTIFICATION

- A. Project Identification: Modular Construction of the Milton Animal Shelter, located at: Access Road, Milton, MA 01890
- B. Proposal To: Town of Milton.
- C. Proposal From: Axis Construction Corp.

### 1.03 PROPOSER'S OBLIGATIONS AND REPRESENTATIONS

- A. The undersigned Proposer proposes and agrees, if this Proposal is accepted, to enter into an Agreement with the Owner in the form included in the RFP Documents to perform all Work as specified or indicated in the RFP Documents, for the Contract Price, and within the Contract Times specified in this Proposal, in accordance with all other terms and conditions of the Contract Documents.
- B. The Proposal will constitute one of the Contract Documents; except for provisions that contradict the requirements of the Conceptual Documents and that are not specifically accepted by the Owner prior to execution of the Agreement.
- C. The undersigned certifies that he/she has read this Request for Proposal and has carefully examined all specifications and requirements therein. The undersigned further certifies that prior to occupancy, the proposed modular units will comply with all the specifications of this Request for Proposal and that the proposer is an eligible proposer as defined in this Request for Proposal. The undersigned acknowledges that the Town of Milton may reject any and all proposals and waive any minor deviations if it is deemed to be in the best interest of the Town of Milton. The Proposer fully understands that time is of the essence and that the Modular structures will be obtained from existing fabricated boxes if possible.
- D. The undersigned agrees to perform the work associated with the modular classrooms herein specified in this Request for Proposal as follows:
  1. The undersigned proposes to furnish all labor and materials required for the transport, site assembly/installation, removal and all services required to complete and deliver the Milton Animal Shelter, Milton, MA ready for use and occupancy by the Town of Milton, and including related site demolition, compliance to conservation commission order of conditions, site work including grading, excavation, new site paving and retaining walls, the construction of a connection canopy roof, stairs and ramps as indicated on the RFP documents and the drawings included in the Non-Price Proposal.
  2. The undersigned agrees to furnish all labor to transport, complete site work, utility connections, piers, miscellaneous modifications to the site and interior of the building, assembly/installation of modular units at the site necessary to make the building ready for use and occupancy..
- E. This Proposal will remain subject to acceptance for 30 days after the day of Proposal opening.

F. In submitting this Proposal, the Proposer represents and agrees, as more fully set forth in the Agreement, that:

1. The Proposer has examined and carefully studied the Proposal Documents.
  - a. Addendum No. 1, dated 7/21/23
  - b. Addendum No. 2, dated 8/4/23
  - c. Addendum No.   , dated   .
2. The Proposer has visited the site and become familiar with the general, local, and site conditions that may affect cost, progress, and performance of the work.
3. The Proposer is familiar with all applicable federal, state, and local laws and regulations that may affect cost, progress, and performance of the work.
4. The Proposer has carefully studied all data relating to existing surface and subsurface conditions and structures which has been identified or made available by Owner.
5. The Proposer is aware of the general nature of the work to be performed by the Owner and other at the site that relates to the work for which this Proposal is submitted.
6. The Proposer has correlated the information known to the Proposers, information and observations obtained from visits to the site, reports and drawings identified in the RFP Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Conceptual Documents.

#### 1.04 CONTRACT PRICE

A. The Proposer will complete the work in accordance with the contract documents for the following price (enter price in both words and figures):

1. Base Installation/Purchase Costs: (Identify cost in both written text and numerical value)

Lump Sum of three million four-hundred fifty three six-hundred one <sup>no</sup>/<sub>100</sub>

Base Lump Sum Cost: (\$ 3,453,601.00)

2. Indicate of this Base Lump Sum Cost the breakdown between the Civil Site Work Specified and the Modular Design and Construction:

a. Civil Site Work: \$1,256,500.00

b. Modular Design/Fabrication/Installation (all other work) \$2,197,101.00

B. Price Option 1: Add a pop-up that extends from the waiting area, over the exterior main entrance forming a canopy over the entrance. A window will be in the rear dormer over the waiting area. (Refer to A2.01 Modular Building Concept Elevation 1) The Proposer will complete the work in accordance with the contract documents for the following price (enter price in both words and figures):

1. Add to the Base Installation/Purchase Costs: (Identify cost in both written text and numerical value)

Lump Sum of eighty - two thousand two-hundred thirty - six <sup>no</sup>/<sub>100</sub>

Alt. 1 Lump Sum Cost: (\$ 82,236.00)

C. Price Option 2: Add a pop-up that is 8 ft. by 8 ft. in size, with a window in each dormer end located above the waiting room area similar to shown, visible from the driveway entrance as on Modular Concept Elevation 2) The Proposer will complete the work in

accordance with the contract documents for the following price (enter price in both words and figures):

1. Add to the Base Installation/Purchase Costs: (Identify cost in both written text and numerical value)

Lump Sum of Sixty-four thousand seven-hundred eighty-seven <sup>no</sup> <sub>700</sub>

Alt. 2 Lump Sum Cost: (\$ 64,787.00)

D. Price Option 3: Deduct concrete walks and curbs granite curbs and install asphalt walks and curbs where concrete is shown on the exterior civil plans. The Proposer will complete the work in accordance with the contract documents for the following price (enter price in both words and figures):

1. Deduct to the Base Installation/Purchase Costs: (Identify cost in both written text and numerical value)

Lump Sum of N/A

Alt 3 Lump Sum Cost: ( minus \$ N/A)

**Unit Costs:** Please furnish unit costs per cubic yard of the following for materials that could not be calculated based on the civil sitework specifications and geotechnical report:

Ledge Removal for Trenches quantity assumed: N/A

Ledge Removal for trenches cost per cubic yard: \$720.00 cubic yard

General Ledge Removal quantity assumed: N/A

General Ledge for removal cost per cubic yard: \$540.00 cubic yard

Import of clean fill quantity assumed: N/A

Import of clean fill cost per cubic yard: \$96.00 cubic yard

## 1.06 CONTRACT TIMES

A. The proposer agrees that the installation of the Modular units and all related site work and improvements shall be substantially complete in accordance with the Agreement within a duration of 365 calendar days of award.

## 1.07 PROPOSAL ATTACHMENTS:

A. The following documents are attached to this proposal, as required by the RFP:

1. Document 00 43 01.10 - Bid Bond (or other acceptable Bid Security) - attached to Price Proposal.
2. Document 00 43 01.30 – Proposer's Certificate of Labor Harmony and OSHA Compliance
3. Document 00 43 01.40 – Proposer's Certificate of Payment of Prevailing Wage
4. Document 00 43 01.70 – Performance Bond
5. Document 00 43 01.80 – Payment Bond
6. Certificate of Corporate Registration from the Massachusetts Secretary of the Commonwealth (required for out-of-state corporations only)
7. Certificate of Eligibility DCAMM Form CQ7
8. Completed DCAMM Update Statement, Form CQ3

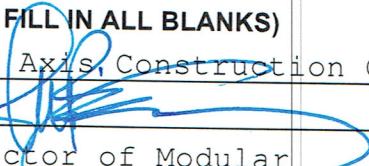
## 1.08 CERTIFICATIONS

A. The undersigned certifies that the said "person" is not presently debarred from doing public construction work in the Commonwealth of Massachusetts under the provisions of Chapter 29, Sec. 29F, or any other applicable debarment provision of any other Chapter of the General Laws, or any rule or regulation promulgated hereunder. Additionally, the undersigned is not presently debarred by any Agency of the Federal Government.

B. The undersigned certifies that the project shall be designed by architects and engineers licensed in the Commonwealth of Massachusetts and constructed in accordance with the latest edition of the Massachusetts Building Code.

**1.09 SUBMITTED BY (PROPOSER TO FILL IN ALL BLANKS)**

A. Name of Proposer - Company Name Axis Construction Corp.

B. Signature of person signing Form: 

C. Title of Person signing Form: Director of Modular

D. Printed name of person signing Form John Buongiorno

E. Address of Proposer Company 125 Laser CT Hauppauge NY 11788

F. Phone number [REDACTED]

G. Email Address of person signing form: [REDACTED]

## VOTE OF THE SELECT BOARD

I, the Clerk of the Select Board of the Town of Milton, Massachusetts (the “Town”), certify that at a meeting of the board held August 22, 2023, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the board in my custody:

Voted: to approve the sale of a \$20,150,000 5.00 percent General Obligation Bond Anticipation Notes (the “Notes”) of the Town dated August 30, 2023 and payable August 30, 2024, to J.P. Morgan Securities LLC at par and accrued interest, if any, plus a premium of \$309,705.50.

Further Voted: that in connection with the marketing and sale of the Notes, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated August 8, 2023, and a final Official Statement dated August 15, 2023, each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that the Town Treasurer and the Select Board be, and hereby are, authorized to execute and deliver a significant events disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Notes for the benefit of the holders of the Notes from time to time.

Further Voted: that we authorize and direct the Town Treasurer to establish post issuance federal tax compliance procedures and continuing disclosure procedures in such forms as the Town Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Notes and to comply with relevant securities laws.

Further Voted: that any certificates or documents relating to the Notes (collectively, the “Documents”), may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document; delivery of an executed counterpart of a signature page to a Document by electronic mail in a “.pdf” file or by other electronic transmission shall be as effective as delivery of a manually executed counterpart signature page to such Document; and electronic signatures on any of the Documents shall be deemed original signatures for the purposes of the Documents and all matters relating thereto, having the same legal effect as original signatures.

Further Voted: that each member of the Select Board, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the Notes were taken in executive session, all in accordance with G.L. c.30A, §§18-25, as amended.

Dated: August 22, 2023

---

Secretary of the Select Board

134234199v.1

**Bid Results**

**Milton (Town)**  
**\$20,150,000 General Obligation Bond Anticipation Notes**

The following bids were submitted using **PARITY®** and displayed ranked by lowest NIC.  
Click on the name of each bidder to see the respective bids.

Amount Awarded (M)	Bidder Name	NIC	Bid Amount
	<a href="#">J.P. Morgan Securities LLC</a>	3.463000	20,150M
	<a href="#">TD Securities</a>	3.562000	20,150M
	<a href="#">BofA Securities</a>	3.582000	20,150M
	<a href="#">Jefferies LLC</a>	3.583000	20,150M
	<a href="#">BNYMellon Capital Markets</a>	3.715320	20,150M
	<a href="#">Oppenheimer &amp; Co., Inc.</a>	3.898000	20,150M
<hr/>			
Awarded Totals	0M		120,900M
Issue Size	20,150M		

**J.P. Morgan Securities LLC - New York , NY's Bid****Milton (Town)****\$20,150,000 General Obligation Bond Anticipation Notes**

For the aggregate principal amount of \$20,150,000.00, we will pay you \$20,459,705.50, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate:

Maturity Date	Amount \$	Coupon %	Yield %	Dollar Price
08/30/2024	20,150M	5.0000	3.4000	101.547

Bid: 101.537000

Premium: \$309,705.50

Net Interest Cost: \$697,794.50

NIC: 3.463000

Time Last Bid Received On: 08/15/2023 10:24:38 EDST

This proposal is made subject to all of the terms and conditions of the Official Bid Form, the Official Notice of Sale, and the Preliminary Official Statement, all of which are made a part hereof.

Bidder: J.P. Morgan Securities LLC, New York , NY

Contact: Ravi Thaker

Title: Associate

Telephone: [REDACTED]

Fax:



Maura Healey, Governor  
Kimberley Driscoll, Lieutenant Governor  
Gina Fiandaca, Secretary & CEO  
Jonathan L. Gulliver, Highway Administrator



August 15, 2023

**Subject:** **Milton** - Intersection Improvements at Route 28 (Randolph Avenue) & Chickatawbut Road  
Project File No. 607342

Milton Select Board  
[nmilano@townofmilton.org](mailto:nmilano@townofmilton.org)

Dear Members of the Board:

Thank you for your letter regarding the design project at Route 28 and Chickatawbut Road in Milton. This project is in the 75% design phase and is programmed to receive construction funding through the 2023 Transportation Improvement Program utilizing Highway Safety Improvement Program funding. This requires that the project be advertised for construction by September 2023. This design project will provide needed safety improvements to the intersection by reducing vehicular accidents, improving pedestrian and bicycle accommodations, and reducing vehicular speeds in the vicinity of the roundabout at a top crash location.

However, as the ongoing design progresses, MassDOT will keep the community informed and involved in the development of the project and the ongoing Corridor Study by the design Team, not limited to active participation in the Roadway Safety Audits (RSAs) as well as sharing or findings and recommendations as they pertain to the project at hand and to the corridor overall.

MassDOT has considered options to provide short-term left-turn signals. However, the options to provide these in the short-term within the existing footprint of the roadway are not feasible based on the existing corridor demand. Additionally, leveling the incline of the roadway approach to the intersection from the south is beyond the scope of this project and would require more significant construction and funding than what can be accomplished within a short-term project. It would also adversely impact the adjacent Department of Conservation and Recreation parkland, which would require Article 97 and regulated habitat impacts.

Although I understand that Former Secretary Tesler participated in a site walk with Milton staff and officials in Fall 2022, I have forwarded your request for an additional site walk to the relevant parties.

I appreciate your interest in this important project. Should you have any further questions or comments, please feel free to contact the Project Manager, Josh Bartus, by email at [Joshua.bartus@state.ma.us](mailto:Joshua.bartus@state.ma.us).

Sincerely,



Michael J. O'Dowd, P.E.  
Director of Major Projects

MJO/jdb

cc:     Erin Kinahan, P.E., District 6 Project Development Engineer  
          Chase Berkeley, P.E., Milton DPW Director  
          File

**Town of Milton**  
**Application for Volunteer Appointment to**  
**Boards, Committees, and Commissions**

Residents interested in volunteering to serve on a Board, Committee, or Commission are requested to fill out the form below and submit by email to the Select Board, at [volunteer@townofmilton.org](mailto:volunteer@townofmilton.org), by mail to Select Board Office: ATTN: Volunteers, 525 Canton Avenue, Milton, MA, 02186, or in person to the Select Board Office.

**Name:** Robert Beato

**Date:** August, 2, 2023

**Address:** [REDACTED]

**Home Phone:** -

**Email:** [REDACTED]

**Cell Phone:** [REDACTED]

**Registered Voter in Milton:** No

**Precinct:** 4

Please check the Board, Committee, or Commission that is of interest to you. One application is required for each requested Board, Committee, or Commission. An individual may serve on only up to two different Boards, Committees, or Commissions.

If you are interested in serving, but are unsure which might be the best fit, please contact Town Administrator Nicholas Milano at [nmilano@townofmilton.org](mailto:nmilano@townofmilton.org) to discuss and learn more.

**General Government - Select Board**

- Board of Registrars
- Commission on Disability
- Council on Aging
- Local Emergency Planning Committee
- Municipal Broadband Committee
- Retirement Board
- Telecommunication Design Review Committee
- Traffic Commission

**General Government - Town Moderator**

- Audit Committee
- Board of Appeals
- Bylaw Review Committee
- Fire Station Building Committee
- Information Technology Committee
- Personnel Board
- Redistricting Committee
- Warrant Committee

**Finance - Select Board**

- Capital Improvement Planning Committee
- Education Fund Committee
- PILOT (Payment in Lieu of Taxes) Committee

**Community Advocacy - Select Board**

- Airplane Noise Advisory Committee
- Animal Shelter Advisory Committee
- Bicycle Advisory Committee
- Climate Action Planning Committee
- Cultural Council
- Equity and Justice for All Advisory Committee
- Bicycle Advisory Committee
- Climate Action Planning Committee
- Cultural Council
- Equity and Justice for All Advisory Committee
- Historical Commission
- Local Historic District Study Committee
- Trustees of the Affordable Housing Trust
- Youth Task Force

**Town of Milton**  
**Application for Volunteer Appointment to**  
**Boards, Committees, and Commissions**

**Land Use and Conservation - Select Board**

Community Preservation Committee  
 Conservation Commission  
 Open Space & Recreation Planning Committee  
 Shade Tree Advisory Committee  
 Sign Review Committee

**General Government - Select Board and Planning Board**

Master Plan Implementation Committee

**General Government - Select Board and Town Moderator**

School Building Committee

1. What professional experience, life experience, skills, insight, education, or special training would you bring to the Board, Committee, or Commission? A resume (one to two pages) is welcome but not required. You may optionally post a link to your LinkedIn resume here.

Through being an avid soccer player, I've quickly learned how to be a leader, how to overcome obstacles, and how working together is better than being by yourself. Because of this I feel like I can collaborate well with others while also bringing new ideas to the Youth Task Force. Being a rising freshman, I am looking forward to becoming involved at the High School level with my peers and exploring new ways to create a space for us to gather on the weekends.

2. Please describe your familiarity with the work that the Board, Committee, or Commission you are applying for does? If so, have you attended any meetings?

Since my mom serves on the select board, I am very familiar with how the Board, Committee, and the Commission are run. Yes, I have attended multiple town meetings and elections.

3. What level of meeting frequency are you able to attend?

a. Twice Weekly   
b. Weekly   
c. Twice Monthly   
d. Monthly

**Town of Milton**  
**Application for Volunteer Appointment to**  
**Boards, Committees, and Commissions**

4. Have you previously been a member of a Board, Committee, or Commission, in Milton or elsewhere? If so, please list the name(s) and approximate dates of service.

No

5. Are you currently serving on any Board, Committee, or Commission? If so, please provide the name of the Board, Committee, or Commission and when you were appointed.

No

6. Do you or anyone in your immediate family have a current employment or business relationship with the Town of Milton that could create a conflict of interest? If so, please describe.

No

**Town of Milton**  
**Application for Volunteer Appointment to**  
**Boards, Committees, and Commissions**

7. Are there any other possible conflicts of interest for serving on this Board, Committee, or Commission? If so, please describe.

My mom is a select board member, her name is: Erin G. Bradley.

**Town of Milton**  
**Application for Volunteer Appointment to**  
**Boards, Committees, and Commissions**

**REQUIRED: Please read the following and sign in acknowledgement that you understand and agree:**

The completion of this form does not guarantee my appointment. This application will be kept on file for two (2) fiscal years (July 1 – June 30); after that I must file a new application to be considered for an appointment. Being appointed to a board, committee, or commission means that I am considered a Municipal Employee under MGL Chapter 268A and thereby subject to Conflict of Interest Law MGL Chapter 268A and Open Meeting Law MGL Chapter 30A, §§ 18-25. I understand that I will read the Open Meeting Law Guide, the Summary of the Conflict of Interest, take the online Conflict of Interest training, and be sworn in by the Town Clerk within two weeks after my appointment.

**PLEASE NOTE: Once this form is submitted, it becomes a public document. If there is information that you do not want open to the public, please do not include it on this form. Information that will be redacted prior to the form being made public includes personal information includes: address, phone numbers, and email addresses.**

Applicant Signature: \_\_\_\_\_

Date: 8/2/23

**Official Use Only:**

Date of Application

Acknowledgement: \_\_\_\_\_

Date Appointment Letter Sent: \_\_\_\_\_

Method of

Acknowledgement: \_\_\_\_\_

Method of

Acknowledgement: \_\_\_\_\_

No Openings at this time: \_\_\_\_\_

Date Committee Chair Notified: \_\_\_\_\_

Appointing Authority: Select Board \_\_\_\_\_ Planning Board \_\_\_\_\_ Town Moderator \_\_\_\_\_

Board/Committee/Commission: \_\_\_\_\_

Appointment Date: \_\_\_\_\_

Term: \_\_\_\_\_