

MBTA Communities Zoning Requirements



Milton Department of Planning and Community Development

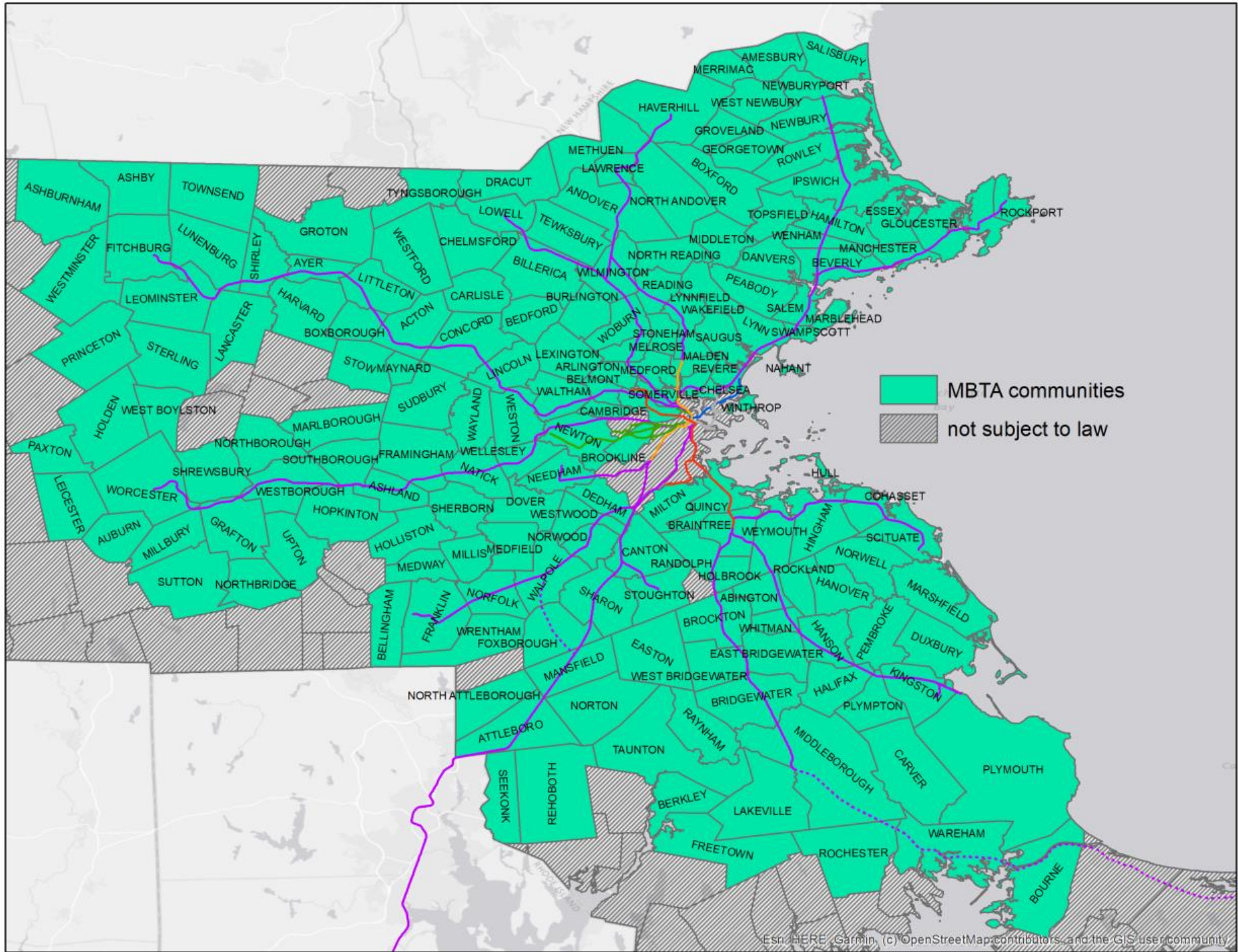
What is the MBTA Communities legislation?

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 ½ 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.





Guidance on Compliance

Section 3A instructs the Department of Housing and Community Development (DHCD), in consultation with the MBTA and the Department of Transportation, to develop guidelines for how towns can comply with the new zoning requirements.

These guidelines provide clarity to the legislation, including:

- What it means to permit multi-family housing “as of right”
- What is a district of “reasonable size”
- How to determine if a multi-family district has a minimum gross density of 15 units per acre
- 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 multifamily district

DHCD issued draft guidance on December 15, 2021.



Highlights of DHCD Guidelines

- As of right
 - “...the construction and occupancy of multi-family housing is allowed in that district **without the need to obtain any discretionary permit or approval.** Site plan review and approval may be required for multi-family uses allowed as of right. . . . Site plan review **may not** be used to deny a project that is allowed as of right, nor may it impose conditions that make it infeasible or impractical to proceed with a multi-family use that is allowed as of right.



Highlights of DHCD Guidelines

- Reasonable size
 - *Minimum land area:* “A district should not be a single development site on which the municipality is willing to permit a particular multi-family project. To comply with Section 3A’s “reasonable size” requirement, multi-family districts must comprise at least **50 acres of land**—or approximately one-tenth of the land area within 0.5 mile of a transit station.”
 - Overlay districts are allowed, but within certain conditions: “At least one portion of the overlay district land areas must include **at least 25 contiguous acres** of land. No portion of the district that is **less than 5 contiguous acres** land will count toward the minimum size requirement.”



Highlights of DHCD Guidelines

- Reasonable size, continued
 - Minimum multifamily unit capacity:* “A reasonably sized multi-family district must also be able to accommodate a reasonable number of multi-family housing units as of right. . . . A compliant district’s multi-family unit capacity must be equal to or greater than a specified percentage of the total number of housing units within the community. The required percentage will depend on the type of transit service in the community, as follows”

<i>Category</i>	<i>Minimum multi-family units as a % of total housing stock</i>
Rapid Transit Community	25%
Bus Service Community	20%
Commuter Rail Community	15%
Adjacent Community	10%



Highlights of DHCD Guidelines

- Reasonable size, continued
 - Milton is considered a Rapid Transit Community.
 - This means that in order to comply with Section 3A, Milton must create by-right zoning districts of at least **50 acres** that have a zoned capacity for **2,461 new multifamily units**.
 - This is not a mandate to produce a certain number of units, or a production goal: “There is no requirement nor expectation that a multi-family district will be built out to its full unit capacity.”



Highlights of DHCD Guidelines

- Minimum Gross Density
 - “To comply with this requirement, the zoning must legally and practically allow for a district-wide gross density of 15 units per acre. 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.’”
 - “To comply with the statute’s density requirement, an MBTA community may establish sub-districts within a multi-family district, with different density requirements and limitations for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multifamily units per acre.”



Effect of Noncompliance

- If at any point DHCD 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

DHCD may, in its discretion, **take noncompliance into consideration** when making other discretionary grant awards.



Effect of Noncompliance

- MassWorks at a glance
 - “The MassWorks Infrastructure Program is a competitive grant program that provides the largest and most flexible source of capital funds to municipalities and other eligible public entities primarily for public infrastructure projects that support and accelerate housing production, spur private development, and create jobs throughout the Commonwealth.”
 - \$66 to \$95 million distributed annually
 - Milton has received \$2.8 million in MassWorks grants since 2011
 - 2011: \$1.8 million for Houghton’s Pond improvements
 - 2012: \$1 million for Central Ave./Milton Village public realm improvements
 - Similar-sized towns (within 10% of Milton’s population) have averaged two awards worth \$2.2 million since 2011



Effect of Noncompliance

- Housing Choice Initiative at a glance
 - “The Housing Choice Initiative rewards municipalities that have produced certain rates or amounts of new housing units in the last five years and that adopted best practices related to housing production that will sustain a 21st century workforce and increase access to opportunity for Massachusetts residents.”
 - To achieve designation, towns must increase housing supply by 5% over the last five years, or 3% and adopt certain housing best practices
 - Designated towns have exclusive access to a capital grant program, plus preferential treatment for MassWorks, Complete Streets, MassDOT capital projects, and PARC and LAND grants



Deadlines for Compliance

- May 2, 2022
 - Submit MBTA Community Information Form to DHCD
 - Hold a briefing of the Select Board on the Draft Compliance Guidelines
- December 31, 2022
 - “Each MBTA community must provide DHCD with a proposed action plan and timeline for any planning studies or community outreach activities it intends to undertake in order to adopt a multi-family district that complies with Section 3A.”
- December 31, 2023
 - “An MBTA community must adopt the zoning amendment by the date specified in the action plan and timeline approved by DHCD.”



Broader Context



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Oregon Legislature Votes To Essentially Ban Single-Family Zoning

July 1, 2019 · 7:03 PM ET

The Mercury News

Gov. Newsom abolishes most single-family zoning...

NEWS > HOUSING • News

Gov. Newsom abolishes most single-family zoning in California

SB 9 allows up to four units on many single-family lots



Broader Context

METROPOLIS

Can You Force the Suburbs to Build Apartments? Massachusetts Is Trying.

Even if some towns “have to go kicking and screaming.”

BY HENRY GRABAR JAN 21, 2022 • 11:03 AM

BISNOW CITIES EVENTS CAREERS PODCASTS ABOUT

News **New York** Affordable Housing

New York Considering Law To End Single-Family Zoning

December 13, 2021 | Miriam Hall, Bisnow New York City

The New York Times

A Push for Zoning Reform in Connecticut

Momentum is growing for multifamily housing to be built in a state full of detached single-family houses.



The historic town green in the affluent suburb of Woodbridge, which is being pressured by housing activists to ease its zoning restrictions to allow multifamily housing. Tony Cenicola/The New York Times

By Lisa Prevost
Feb. 26, 2021



Broader Context

THE 192ND GENERAL COURT OF THE
COMMONWEALTH OF MASSACHUSETTS

[Bills & Laws](#)[Budget](#)[Legislators](#)[Hearings & Events](#)[Committees](#)

★ BILL H.1448

192nd (Current)

AN ACT RELATIVE TO HOUSING PRODUCTION

By Messrs. Vargas of Haverhill and Honan of Boston, a petition (accompanied by bill, House, No. 1448) of Andres X. Vargas, Kevin G. Honan and others relative to housing production. Housing.

View Text

Print Preview

Download PDF

Presenters:

Andres X. Vargas , Kevin G. Honan

Status:

Referred to Joint Committee on Housing

Bill History

Petitioners

Bill H.1448

SECTION 3. Chapter 40A, as so appearing, is hereby amended by inserting the following section:-

Section 18. (a) Any zoning regulations adopted pursuant to Chapter 40A shall allow, as of right and with no minimum parking requirements for dwelling units, mixed-use development or multifamily housing with 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 be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

(b) Any zoning regulations adopted pursuant to Chapter 40A shall allow, as of right and with no minimum parking requirements for dwelling units, multifamily housing with 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 be located not more than 0.25 miles from an eligible location.

The seal of the Town of Milton, Massachusetts, featuring a circular design with a central figure and text around the perimeter.

Milton Planning

MBTA Communities Zoning Requirements

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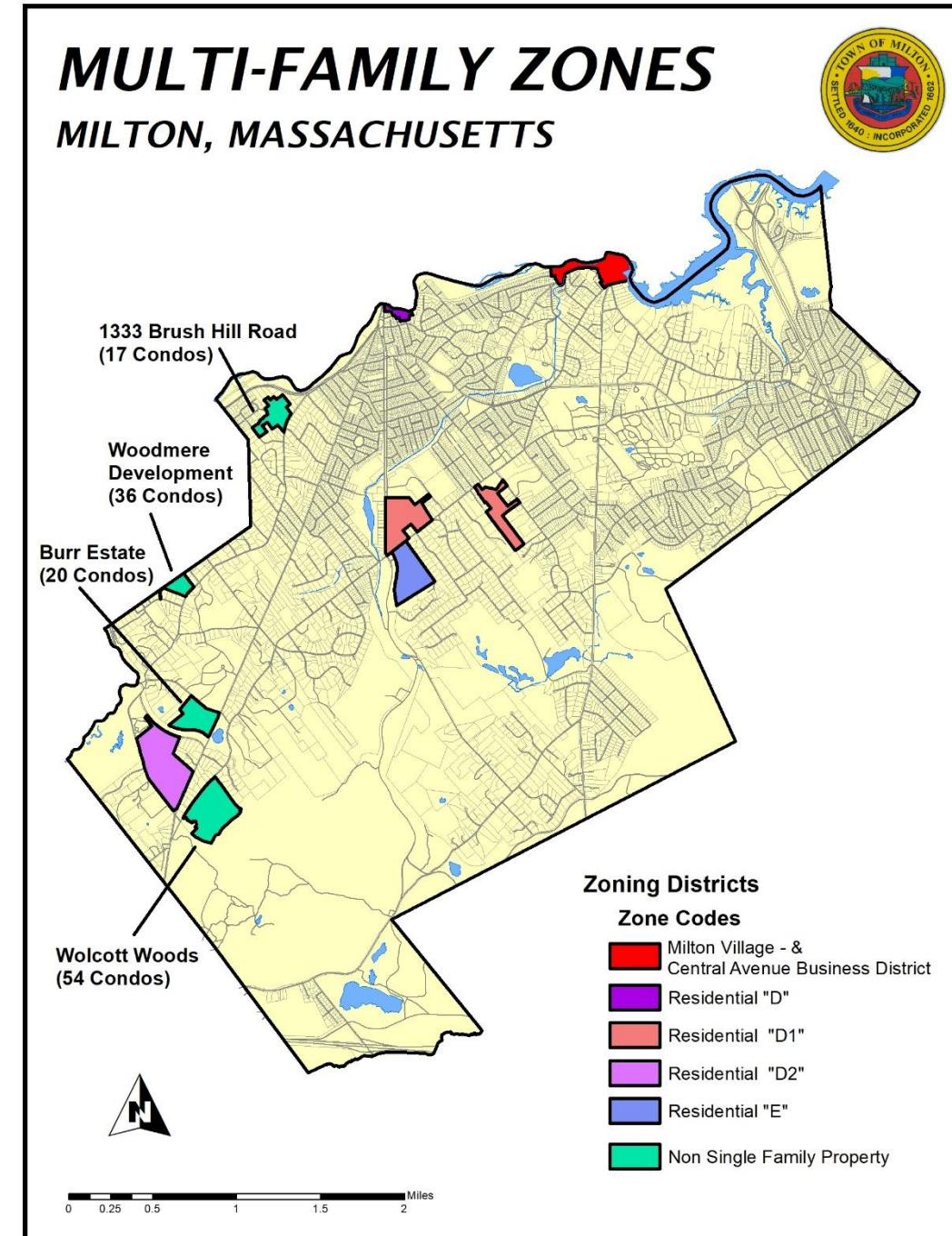
Options for Compliance

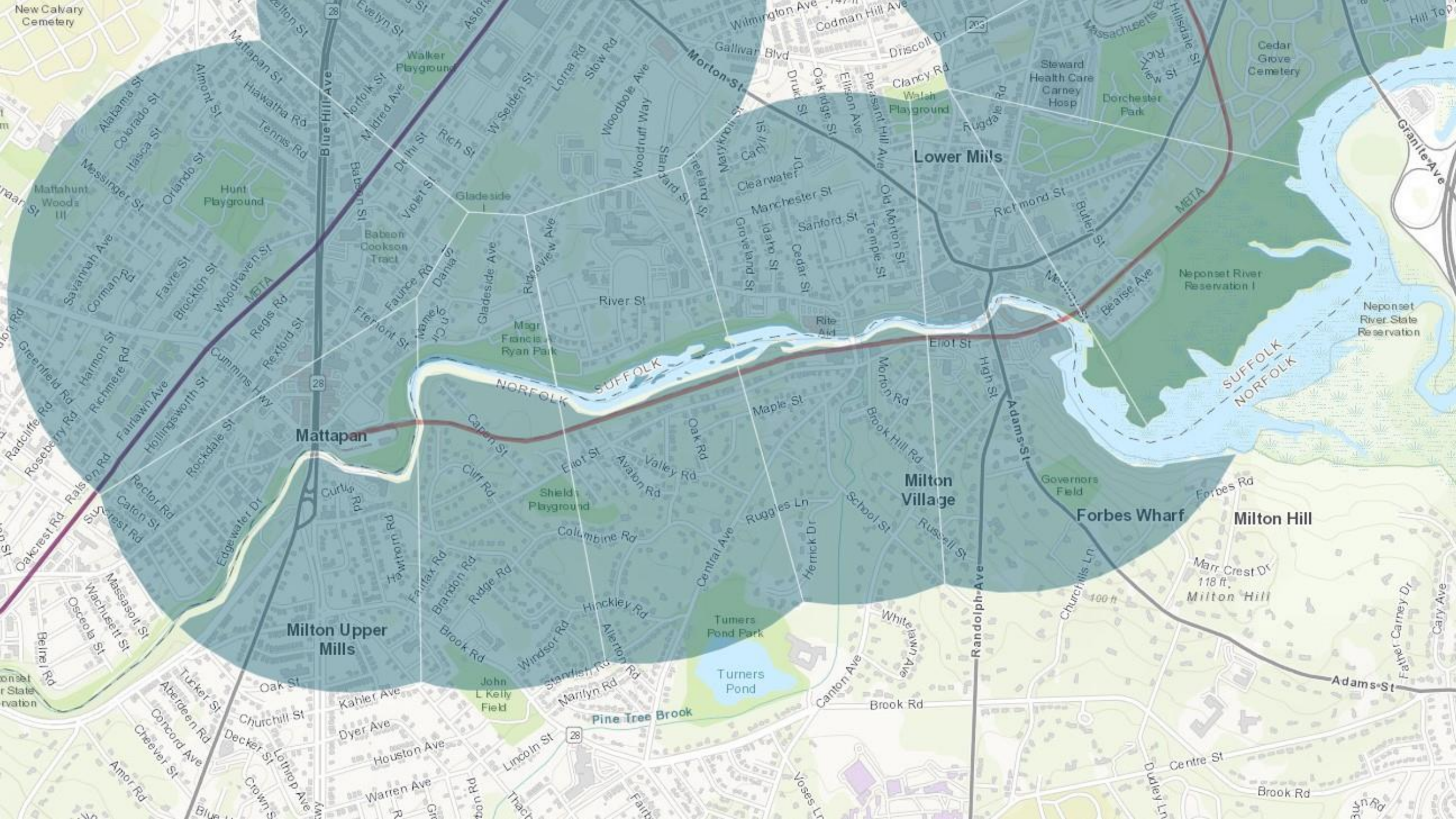
- Towns with existing compliant districts could potentially count that zoned capacity toward their requirements. Compliance means multi-family by right at a density of 15 units per acre with no age restrictions.
- Does Milton have any existing compliant districts?
 - No.
 - The overwhelming majority 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

- Towns are allowed to count units in existing zoning districts toward their total only if they would be allowed by-right.
 - In Milton, building anything more than a single-family house requires a special permit





Options for Compliance

- The zoning district we create must satisfy two variables:
 - At least 50 acres
 - Zoned capacity of at least 2,461 units
- This presents tradeoffs in terms of density:
 - A smaller district will require a greater density to create the minimum zoned capacity
 - A larger district will require a lesser density to create the minimum zoned capacity



Options for Compliance

- A 50-acre district would require a density of 50 units/acre





Mtn. View, CA 49.3 units / acre



context



neighborhood



plan



San Francisco, CA 52.5 units / acre



context



neighborhood



plan



Boston, MA 52.9 units / acre



context



neighborhood



plan



The Legacy at Arlington Center, Arlington, MA: 43 units/acre

Options for Compliance

- A 75-acre district would require a density of 33 units/acre



29 TO 31 UNITS PER ACRE



Tampa, FL 29.9 units / acre



Phoenix, AZ 31.5 units / acre



Los Angeles, CA 31.8 units / acre



context



context



context



neighborhood



plan



neighborhood



plan



neighborhood



plan



88 Wharf Street, Milton, MA: 29 units/acre

Options for Compliance

- A 125-acre district would require a density of 20 units/acre



18 TO 19 UNITS PER ACRE



Dorchester, MA 18.4 units / acre



context



neighborhood



plan



Tampa, FL 19.0 units / acre



context



neighborhood



plan



Cleveland, OH 19.2 units / acre



context



neighborhood



plan



Glenway Street, Dorchester, MA: 22 units/acre

Options for Compliance

- A 163-acre district would require a density of 15 units/acre





Belvoir Road, Milton, MA: 14.5 units/acre

Next Steps

- Comment period on draft guidelines expires on March 31, 2022
- Compliance requirements for 2022:
 - Tonight's presentation to the Select Board
 - Submission of MBTA Community Information Form by May 2, 2022
- Planning staff will continue to monitor technical assistance resources and information provided by the Commonwealth, including planning grant opportunities and clarity on the contents of the required action plan
- Planning staff will continue to support the Planning Board's discussions about future zoning districts, including creating alternative scenarios
- Much still depends on final guidelines, which should be released this summer

