

# MBTA Communities Zoning Requirements

Public Forum  
October 3, 2023



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Milton Department of Planning and Community Development



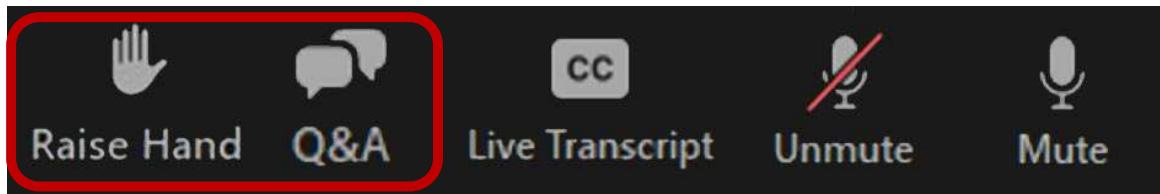
# Meeting Agenda

- 1) Introduction
- 2) Recap of MBTA Communities zoning requirements
- 3) Update on technical assistance
  - 1) Compliance modeling and district boundaries
  - 2) Fiscal impact analysis
- 4) Update on MBTA correspondence
- 5) Question and Comment period
- 6) 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.

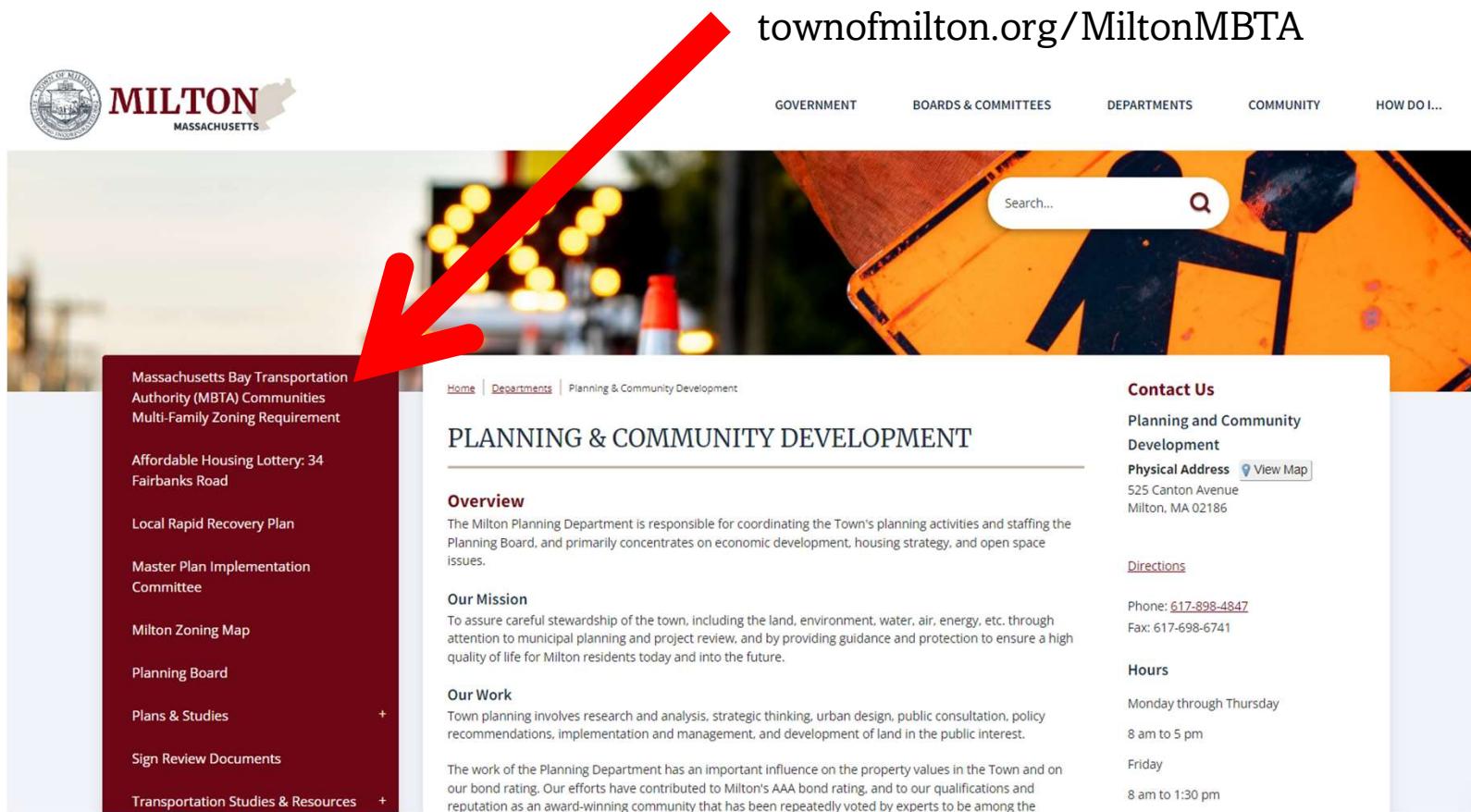


# Meeting Format

- 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.



# Resources



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

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**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](#)  
Fax: 617-698-6741

Hours  
Monday through Thursday  
8 am to 5 pm  
Friday  
8 am to 1:30 pm

**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

# 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

## Location

- The location and of districts within a  $\frac{1}{2}$  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  $\frac{1}{2}$  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  $\frac{1}{2}$  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.



# 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.

In August, 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 Bosto...

A Central Massachusetts housing group filed a lawsuit that could tee up a court battle over the state's new multifamily housing law.



Milton Planning

MBTA Communities Zoning Requirements

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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.



# Town Counsel Memo

See AG Advisory, p. 2 (emphasis added). We agree with the Attorney General's analysis in this regard. We also note, as does the AG, that under home rule, a municipality wields authority to enact local zoning only provided that such zoning is not inconsistent with constitutional or statutory requirements. Mass. Const. Amend. Art. 89 (amending Mass. Const. Amend. Art. 2). See AG Advisory, p. 1.

In our further opinion, in the event of a relevant legal challenge a court likely would accord substantial deference to the EOHLC in interpreting the EOHLC Guidelines broadly to satisfy the legislative purposes that the AG Advisory summarizes. For instance, the Supreme

In view of the above legal authority, we are compelled to underscore the Attorney General's cautions that emphasize that non-compliant MBTA Communities could be subject to civil enforcement actions, and potentially liability under state and federal anti-discrimination laws, if the required zoning districts are not created. See AG Advisory, p. 2. In our opinion, these potential penalties, in addition to the risk of loss of certain state funding, are a significant counterweight to arguments that the Guidelines are beyond EOLHC's authority to promulgate and enforce.



# What Does Compliance Look Like

The zoning district we create must satisfy several variables:

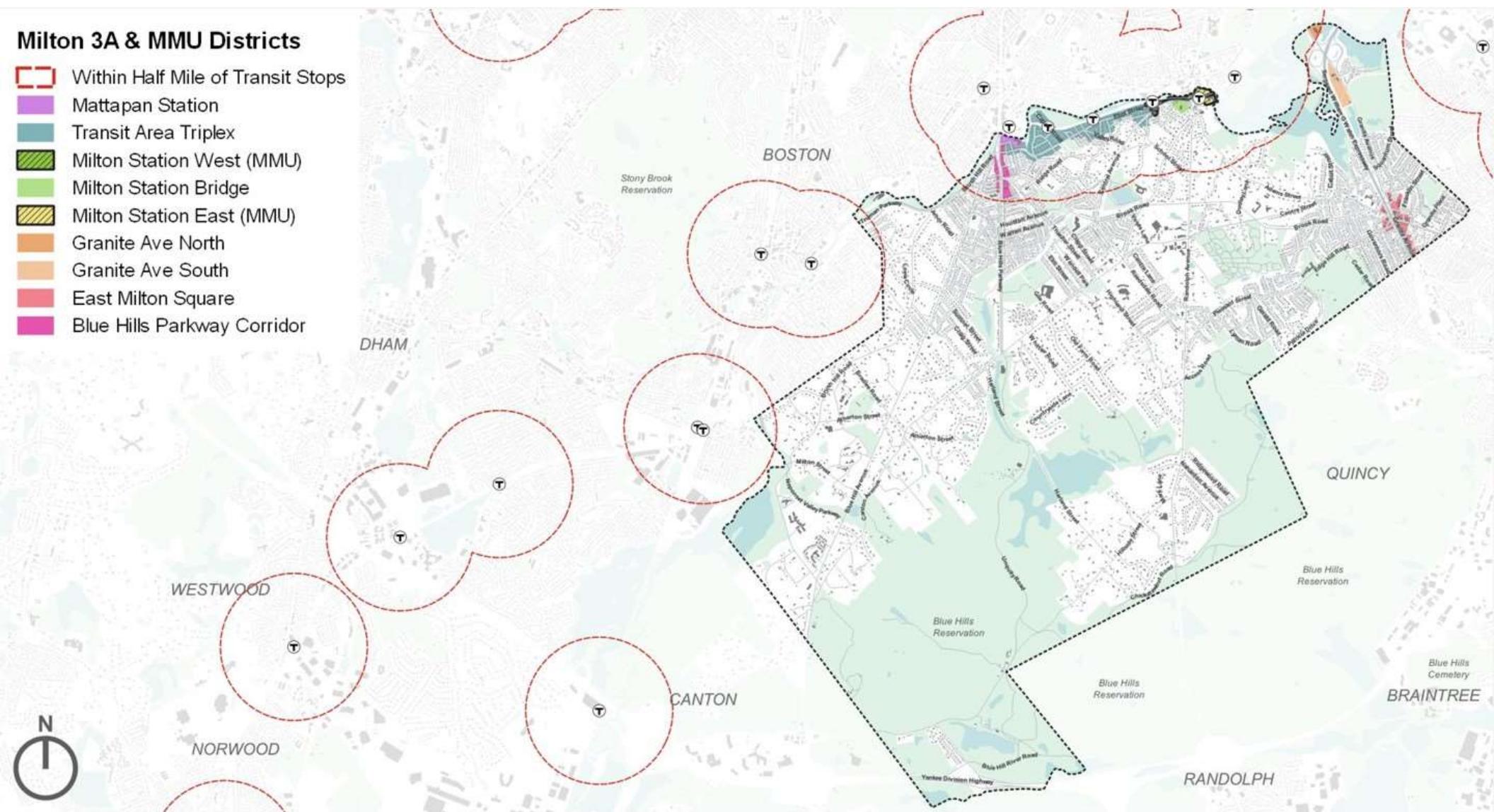
- At least 50 acres
- Zoned capacity of at least 2,461 units
- Overall density of 15 units per acre

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.



## Milton 3A & MMU Districts

- Within Half Mile of Transit Stops
- Mattapan Station
- Transit Area Triplex
- Milton Station West (MMU)
- Milton Station Bridge
- Milton Station East (MMU)
- Granite Ave North
- Granite Ave South
- East Milton Square
- Blue Hills Parkway Corridor



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# Mandatory Mixed Use Zone

The original HLC guidelines permitted new zoning to allow mixed-use, but prohibited a requirement that zones be mixed-use.

Recent changes to the guidelines now allow towns to create a Mandatory Mixed-Use (MMU) District that includes up to 25% of their unit capacity total.

- This is technically not a 3A compliant district, so using this option has implications for our overall compliance metrics

In order to preserve commercial uses in the Milton Village and Central Avenue business districts, the Planning Board has studied designating those areas as MMU districts.



# Suggested Pathway to Compliance

We are only presenting one pathway to compliance.

Based on Planning Board request, we tried a variety of parameters to arrive at two compliant scenarios (one with Tiered Transit Area, one with Transit Area Triplex), while retaining key priorities we heard previously:

- Milton Station as Mandatory Mixed Use
- East Milton Square as no more than 2.5 stories
- Transit Area minimum lot size of no less than 7,500sf
- Not letting the total units come in too far above the 2,461 minimum multifamily unit capacity

It was not possible to get to compliance with the Tiered Transit Area while meeting all of these priorities. The closest option we got to would have created over 3,000 units, would have had 45-50 units/acre on most of our denser subdistricts, and still would not have gotten to the 15 units/acre (it was at 14.3 units/acre when we ceased our attempts).

# Option 1n - Compliance Model Summary

NOTE: Red text indicates a parameter we added or altered in this option since the prior meeting.

## Mandatory Mixed Use (MMU) + Transit Area Triplex

Subdistrict	Key Model Inputs						Model Outputs							
	Max. units/acre	Max. unit/lot	Min. Lot Size	Min. Parking Spaces per Unit	Max. Bldg Height (stories)	Max. % Bldg + Parking Coverage	Unit Capacity	Acreage	Density Denominator	Modeled Density	% Land in Contiguous Subdistricts	% Land in Transit Area	% Units in Transit Area	% Unit Target Met by 3A District Alone
Granite Ave North (6)	45	n/a	n/a	1	6	60%	171	3.6	2.6	65.1		contributing	contributing	3A
Granite Ave South (4.5)	45	n/a	n/a	1	4.5	60%	530	11.7	11.4	46.4				3A
Mattapan Station	40	n/a	n/a	1	6	60%	220	4.9	4.1	48.1	contributing	contributing	contributing	3A
Milton Station East (6)*	40	n/a	n/a	1	6	60%	325*				contributing	contributing	contributing	MMU
Milton Station Bridge (4.5)	40	n/a	n/a	1	4.5	60%	185	4.8	4.8	38.9	contributing			3A
Milton Station West (4.5)*	40	n/a	n/a	1	4.5	60%	108*				contributing			MMU
East Milton Square	30	n/a	n/a	1	2.5	60%	423	22.2	22.2	19.0				3A
Transit Area Triplex	n/a	3	7,500 sf	1	2.5	60%	480	82.2	82.1	5.9	contributing	contributing	contributing	3A
Blue Hills Pkwy Corridor	30	n/a	7,500 sf	1	2.5	50%	175	16.9	16.9	10.3	contributing	contributing	contributing	3A
<b>TOTAL</b>							<b>2,617</b>	<b>146.3</b>	<b>144.1</b>	<b>15.2</b>	<b>74.4%</b>	<b>76.8%</b>	<b>56.2%</b>	<b>88.7%</b>
<b>COMPLIANCE TARGET</b>							<b>2,461</b>	<b>50</b>	<b>n/a</b>	<b>15</b>	<b>50%</b>	<b>50%</b>	<b>50%</b>	<b>Min. 75%</b>

\* In this option, we are assuming the **Milton Station East and West Subdistricts** will make use of the new mixed-use provision as described in [the most recent guidance from the State](#), issued on 8/17/2023. Mandatory Mixed Use (MMU) subdistricts count towards meeting 3A unit capacity requirements but do not count towards any other 3A requirements. The calculations in this sheet reflect that.

# Option 1n - Detailed Zoning Parameters

## Mandatory Mixed Use (MMU) + Transit Area Triplex

Subdistrict	Setbacks				Coverage	Height		Min. Parking Spaces per Unit	Max Units per Acre	Max Units per Lot	Min Lot Size
	Min. Front Setback	Min. Side Setback	Min. Both Side Setbacks	Min. Rear Setback		Max. Bldg + Parking Coverage	Max. Bldg Height (stories)				
Granite Ave North (6)	20'	10'	20'	30'	60%	6	75'	1	45	n/a	n/a
Granite Ave South (4.5)	20'	10'	20'	30'	60%	4.5	60'	1	45	n/a	n/a
Mattapan Station	15'	5'	20'	30'	60%	6	75'	1	40	n/a	n/a
Milton Station East (6)*	15'	5'	20'	30'	60%	6	75'	1	40	n/a	n/a
Milton Station Bridge (4.5)	15'	5'	20'	30'	60%	4.5	60'	1	40	n/a	n/a
Milton Station West (4.5)*	15'	5'	20'	30'	60%	4.5	60'	1	40	n/a	n/a
East Milton Square	15'	5'	20'	30'	60%	2.5	42'	1	30	n/a	n/a
Transit Area Triplex	15'	5'	20'	20'	60%	2.5	35'	1	n/a	3	7,500 sf
Blue Hills Pkwy Corridor	20'	5'	20'	20'	50%	2.5	35'	1	30	n/a	7,500 sf

# Next Steps

The Select Board has sent a zoning article to the Planning Board for its consideration. The Planning Board is reviewing this language and may choose to develop its own zoning article.

Unless the Select Board withdraws its article, the Planning Board will hold a public hearing on it sometime before the Special Town Meeting.

Special Town Meeting is scheduled for December 4, 2023.



# Fiscal Impact Analysis

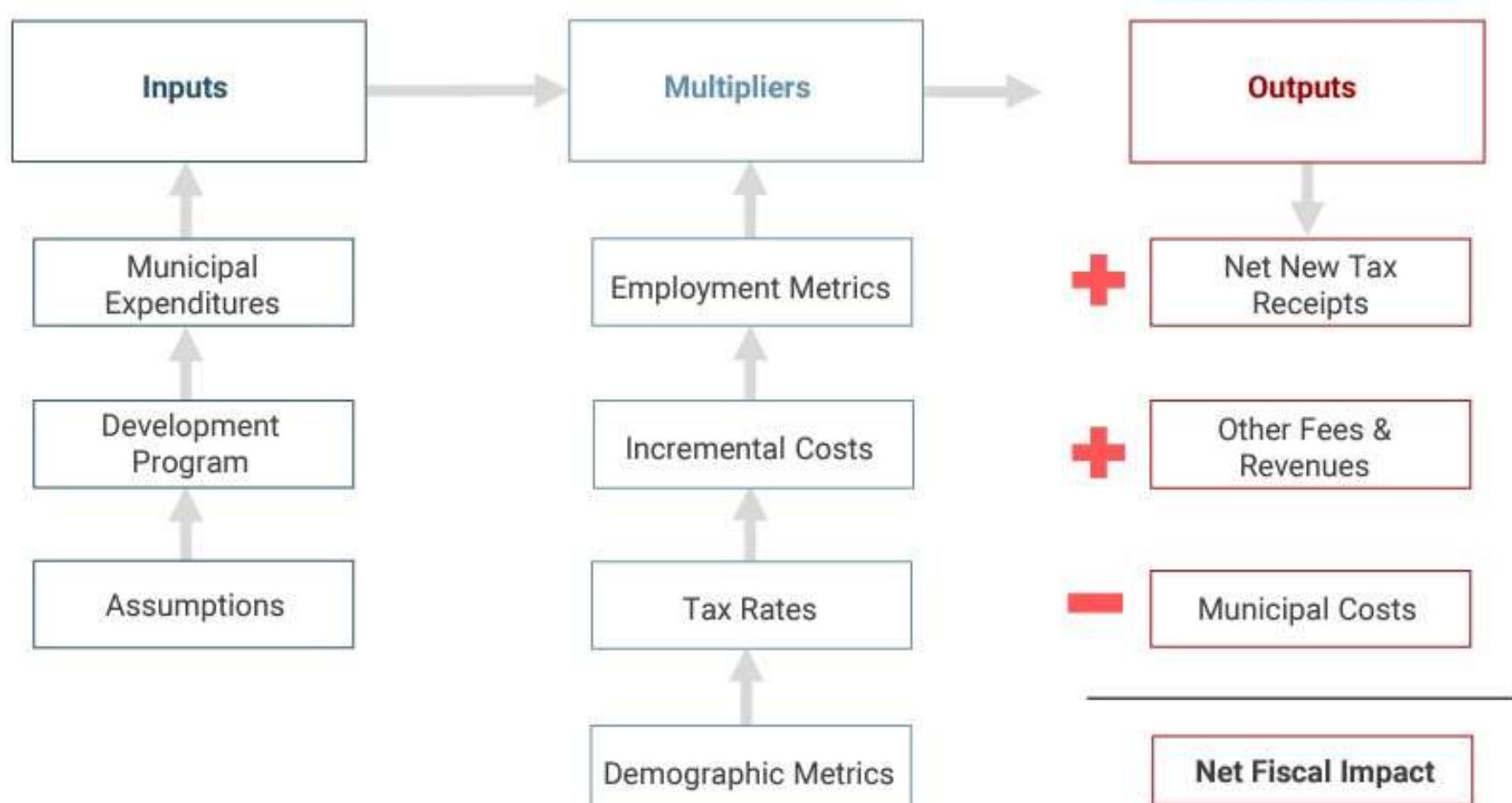
The Planning Board commissioned RKG Associates to conduct a fiscal impact analysis of MBTA Communities zoning. The purpose of this analysis is to:

- Provide the Planning Board with order of magnitude revenue and cost comparisons of different build-out scenarios for MBTA Communities districts
- Calculate potential fiscal benefits of building MBTA Communities districts over time
- Understand where constraints may be placed on existing department capacity
- Help Milton plan for potential capacity needs going forward

RKG's full analysis requires a final set of subdistricts and dimensional parameters. In the meantime, RKG has provided an interim analysis based on potential per-unit cost/revenue.



## FISCAL IMPACT MODEL FLOW



## NET FISCAL IMPACT RESULTS

### NET FISCAL IMPACT SUMMARY

Use Category	Dev't Program	Est. Assessed Value	Tax Rate	Est. Gross Annual Taxes	Est. Municipal Costs	Est. School Costs	Net Annual Taxes
Market Rate Apartments	50 Units	\$10,187,500	\$11.40	\$116,138	\$49,034	\$46,326	\$20,778

Use Category	Dev't Program	Est. Assessed Value	Tax Rate	Est. Gross Annual Taxes	Est. Municipal Costs	Est. School Costs	Net Annual Taxes
Market Rate Apartments	100 Units	\$22,625,000	\$11.40	\$257,925	\$108,965	\$95,089	\$53,871

Use Category	Dev't Program	Est. Assessed Value	Tax Rate	Est. Gross Annual Taxes	Est. Municipal Costs	Est. School Costs	Net Annual Taxes
Mixed Income Apartments	90 Market/ 10 Affordable	\$22,625,000	\$11.40	\$257,925	\$108,965	\$98,990	\$49,970

Use Category	Dev't Program	Est. Assessed Value	Tax Rate	Est. Gross Annual Taxes	Est. Municipal Costs	Est. School Costs	Net Annual Taxes
Market Rate Townhomes	12 Units	\$7,680,000	\$11.40	\$87,552	\$13,076	\$50,207	\$24,269

Source: RKG Associates, Town of Milton.

# MBTA Correspondence

On August 10, the Select Board sent a letter to the MBTA requesting an explanation for the classification of the Mattapan trolley line as rapid transit under the MBTA's Service Delivery Policy.

Lynsey Heffernan, the assistant general manager for policy and transit planning, responded on September 8.

In classifying transit modes, consideration by the MBTA is not given to destination (e.g. whether the mode includes service to downtown Boston), capacity, or service delivery levels. Rather, the designation is a technical one based on characteristics of the vehicle, such as whether it operates on a fixed guideway, uses a designated right-of-way, or uses a fixed catenary system. While quality and frequency of service are certainly an important part of the riders' experience and are areas in which the MBTA is seeking to improve, they are not material to the designation of the Mattapan Line as a light rail.



# MBTA Service

The Mattapan Trolley runs a train every six minutes in the peak commuting times, and every 12 minutes at other times of the day.

Other Rapid Transit communities have comparable transit times to Downtown Crossing.

The MBTA is currently engaged in a Mattapan Line Transformation Project, with \$127 million dollars committed.

Current MBTA repair work is ongoing through November, and is expected to make Red Line commute times 33 minutes faster, while commute times on the Mattapan Line will be 5 minutes faster.

## RED LINE M

### Weekday

peak trains every 7-8 min within trunk, 13-15 min on branches  
off-peak trains every 8 min within trunk, 16 min on branches



peak trains every 6 min  
off-peak trains every 12 min

	First	Last
Alewife	5:16 AM	12:30 AM *
Ashmont	5:16 AM	12:30 AM *
Alewife	5:24 AM	12:25 AM
Braintree	5:06 AM	12:06 AM
<b>M</b> Ashmont	5:14 AM	1:05 AM *
Mattapan	5:02 AM	12:53 AM

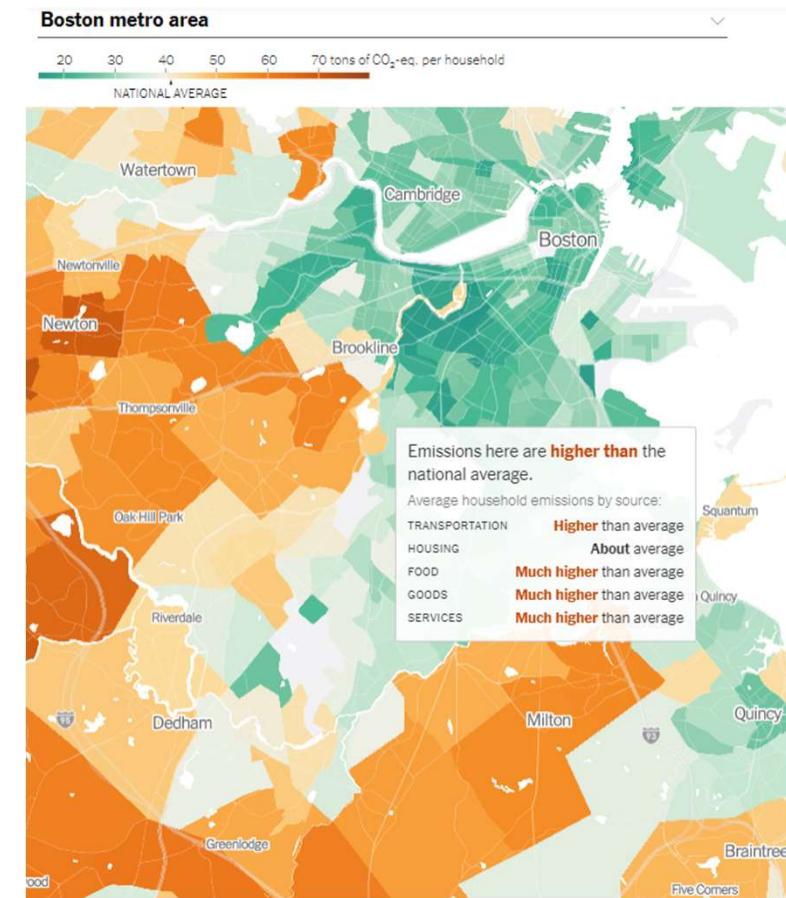


# MBTA Communities is Good Climate Policy

The Commonwealth supports multi-family housing near transit and believes it reduces reliance on single occupancy vehicles, which helps in our larger effort to confront the climate crisis

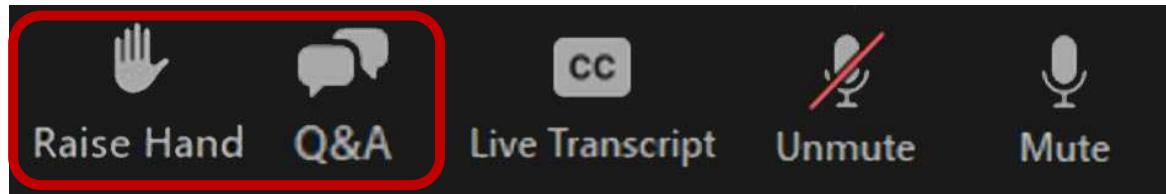
The Intergovernmental Panel on Climate Change's most recent Assessment Report asserts that “key adaptation and mitigation elements in cities include... land use planning to achieve compact urban form, co-location of jobs and housing, supporting public transport and active mobility (e.g., walking and cycling)”

“How we build cities and towns has a profound effect on the causes and impacts of climate change. An essential strategy for reducing urban-related carbon emissions is supporting dense, mixed-use communities and land uses that prioritize walking, biking, or transit to meet daily transportation needs, as well as balancing jobs and housing within the region” – Sierra Club



# Question and Comment

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A black and white aerial photograph of a town, likely from the early 20th century. The town is densely packed with buildings, including several large industrial structures with tall smokestacks emitting plumes of smoke. The town is surrounded by fields and some trees. The image serves as the background for the entire slide.

# Thank you!