



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

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

Sent via email to lnewman@needhamma.gov

August 1, 2024

Lee Newman
Director of Planning and Community Development
1471 Highland Avenue
Needham, MA 02492

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

Dear Mr. Newman:

The Executive Office of Housing and Livable Communities (EOHLC) received a pre-adoption review application from the Town of Needham on May 1, 2024. The application requested that EOHLC conduct a pre-adoption review for the Town of Needham's proposed district called the "Multifamily Overlay District," (District) based on the criteria set forth in the Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act (Guidelines).

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

Needham is designated as a Commuter Rail community with 11,891 existing housing units per the 2020 United States Decennial Census. The Town is required to have a district with a minimum multi-family unit capacity of 1,784 units, a minimum land area of 50 acres and a gross density of 15 dwelling units per acre.

EOHLC identified the following issues which may affect the District's compliance with Section 3A:

1. There are discrepancies between the district labels in the Compliance Model, the application, and the zoning by-law. For District Compliance, please ensure these abbreviations and district names

are consistent.

2. In Section 3.17.5, a lot partially within an underlying zoning district cannot have a building or structure for multifamily residential use within 110 feet of the lot line of an abutting lot containing an existing single family residential structure. Depending on the uses surrounding the district, this may affect its unit capacity.
3. The affordable housing requirement (12.5% of all units) would require an Economic Feasibility Analysis (EFA) because it is over 10% per Section 4B of the 3A Guidelines. However, if using the 10% figure suggested in the by-law, there is no requirement for an EFA.
4. The definition of “family” in the zoning bylaw (Section 1.3 Definitions) may be interpreted as a cap on occupancy, as it relates to occupancy of “dwellings units” : *“(3) not more than three unrelated individuals per dwelling unit living as a single housekeeping unit. The Board of Appeals may issue a special permit for up to two additional individuals per dwelling unit.”* Please ensure that residential dwelling units permitted in the District are not subject to this cap.
5. For the “Neighborhood Plan Option,” under Checklist Parameters in the Compliance Model, there is a maximum of 48 dwelling units per acre listed for the B subdistrict, which is not reflected in the zoning.
6. The submitted GIS shapefiles are missing required fields. Please ensure that the resubmitted shapefiles adhere to the following guidelines linked [here](#) and attached to this email.
7. EOHLC recommends that the Town review its Site Plan Review with counsel to ensure that the standards set forth are objective, nondiscretionary, and consistent with case law for as of right uses.

For the foregoing reasons, EOHLC recommends that the Town address the issues outlined before applying for District Compliance.

Please note that this pre-adoption review is limited to the specific issues identified at this stage of review and is based on materials provided by the Town of Needham. It does not constitute a representation that resolution of the identified issues would result in a compliant zoning district. We encourage the Town to review its existing zoning carefully to make sure there are no provisions that would affect the proposed overlay zoning district.

MBTA Communities staff at EOHLC will meet with you and your staff should you want to review the details of this letter. If you have questions or need further assistance regarding this determination, please contact MBTA Communities Compliance Coordinator Nathan Carlucci, at nathan.carlucci@mass.gov.

Sincerely,

A handwritten signature in blue ink that reads "Caroline 'Chris' Kluchman". The signature is fluid and cursive, with the first name "Caroline" written in a larger, more prominent script than the last name "Kluchman". The nickname "'Chris'" is written in a smaller, more compact script between the first and last names.

Caroline "Chris" Kluchman
Director, Livable Communities Division

cc: Senator Rebecca Rausch
Representative Denise Garlick