MBTA Community Multi-Family Housing: DHCD Draft Regulations Overview

Presentation for Cohasset Select Board
by Lauren Lind, Planning & Zoning Director
March 22, 2022
Topics to be covered

- Housing Choice Initiative – Multi-family Zoning Requirement for MBTA Communities (MGL Chapter 40A, Section 3A)
- DHCD Draft Guidelines for Compliance
- Timeline for Compliance
- Implications & Concerns for Cohasset
- Next steps
- Q&A
- Discussion of Cohasset Comment letter on DHCD Draft Guidelines
New regulation, which is part of the Housing Choice Initiative enacted in an economic development bill passed in January 2021, requires MBTA communities to have at least one zoning district in which multi-family housing is permitted as of right and meets the other criteria.

Failure to comply with these multifamily zoning requirements would make a community ineligible for certain state funds. DHCD may, in its discretion, take non-compliance into consideration when making other discretionary grant awards.
(a)(1) 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.

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from:

(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 2EEEEE of chapter 29; or

(iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

(c) The department, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall promulgate guidelines to determine if an MBTA community is in compliance with this section.
MBTA Communities Map
Regulations for Compliance under DHCD Draft Guidelines

- Multi-family housing “as of right”
  - Site plan review and approval may be required for multi-family uses allowed as of right.
  - 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 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.

- Without age restrictions and must be suitable for families with children
- Does NOT place any limits on size of units, number of bedrooms, size of bedrooms and number of occupants
- Reasonable size district not less than 50 contiguous acres of land
- Must be within 0.5 mile of transit station
- Overlay district is permitted as long as least one portion of overlay district is at least 25 contiguous acres
- No portion of the district that is less than 5 contiguous acres will count toward the minimum 50-acre size requirement
- Gross density of 15 acres per unit
Regulations for Compliance under DHCD Draft Guidelines - Minimum multi-family unit capacity

- Section 3A requirement: gross density of 15 units per acre, subject to any further limitations imposed by wetlands regulations and Title 5

- Draft Guidelines requirements: “a reasonable number of multi-family housing units”
  - District’s unit capacity = a number of units 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.

- Regardless of community size, a minimum district capacity of 750 units is required.
Regulations for Compliance under DHCD Draft Guidelines - Minimum multi-family unit capacity

- Cohasset is categorized as a Commuter Rail Community, which has a minimum multi-family unit requirement of 15% of total housing stock:

  - 15% of 3,341 (total units per 2020 Housing Census) = ~501 units

- HOWEVER, due to minimum unit capacity per draft guidelines, Cohasset is required to zone for **750 units** regardless.
Regulations for Compliance under DHCD Draft Guidelines – Land Suitability/Determining Capacity

• When determining the unit capacity for a specific multi-family district, each MBTA community must estimate how many units of multi-family housing could be constructed on each parcel of developable land within the district or know title restrictions on use of the land
  • This request to provide “build out” analysis of multi-family district on a parcel-by-parcel basis will require significant effort by the Town

• Developable land shall not include land under water, wetland resource areas, areas lacking adequate water or wastewater infrastructure, publicly owned land that is dedicated to existing public uses

• Zoning requirements, including height limitations, lot coverage limitations, maximum floor area ratio, set back requirements and parking space requirements, lot shape factor, other restrictions applicable in that district under the zoning ordinance or by-law

• Restrictions and limitations set forth in any other municipal by-laws or ordinances (i.e local wetlands protection, tree preservation, etc.)
• If the estimate of the number of multi-family units that can be constructed in the multi-family district is less than the minimum unit capacity (750 units), then the MBTA community must change the boundaries of the multi-family district or make changes to the dimensional regulations to that district to allow for the development of a greater number of multi-family units as of right.

• District may include land areas that are further than 0.5 mile from transit station, provided that such areas are easily accessible to the transit station based on existing street patterns and pedestrian connections.
• The draft guidelines do not mandate the construction of any specified number of housing units; it is only required that there be a multi-family zoning district of reasonable size.

• Mixed-use is allowed in the multi-family zone so long as the multi-family housing density works.

• Existing units do not have to comply with the new zoning; remember, it is the zoning that counts, not what is on the ground. (i.e. Avalon Bay/The Preserve example)
Timeline for Compliance – Key Dates

- **31 Mar. 2022**: Comments on draft guidelines due to DHCD

- **2 May 2022**: 1) Present draft guidelines to SB, 2) Submit MBTA Community Info Form to DHCD, & 3) Updated GIS maps to DHCD (if applicable)

- **31 Dec. 2022**: Submit action plan or request for compliance determination to DHCD

- **31 Dec. 2024**: Deadline for zoning amendments adoption for Commuter rail communities
Draft Guidelines – Implications & Concerns for Cohasset

- Cohasset’s existing zoning does not allow multi-family by-right in any district
  - This (among other factors) proves that we are currently ineligible for compliance
  - Zoning amendments will be necessary for compliance
- Land Area – would need to expand beyond 0.5 mile radius, but to where?
  - Sidewalk/accessibility challenges
  - Water and wastewater capacity limitations
- 750 housing unit requirement impact on population growth & increased demand for public services
- Town staff capacity for build-out analysis extremely limited
  - While there are some technical assistance opportunities to become available, competition for TA will be intense
  - Consultant & legal needs may be costly
  - Municipal burden to unlock private property development opportunities via detailed build out analyses?
Draft Guidelines – Implications & Concerns for Cohasset

- 0.5 Mile Radius for Cohasset MBTA Commuter Rail Station

- Areas shaded in green/brown are wetlands which cannot be counted towards developable land in multi-family zoning district. In addition, there is a Town cemetery, parcels owned by the Cohasset Conservation Trust, dedicated opens space such as Wompatuck State Park, and golf course in the 0.5 mile radius of the Cohasset MBTA train station.
Next Steps

- **31 Mar. 2022**: Comments on draft guidelines due to DHCD

- **2 May 2022**: 1) Present draft guidelines to SB, 2) Submit MBTA Community Info Form to DHCD, & 3) Updated GIS maps to DHCD (if applicable)

- **31 Dec. 2022**: Action plan submission to DHCD

- **31 Dec. 2024**: Deadline for zoning amendments adoption

- **May–Dec. 2022**: Analyze current zoning & determine zoning amendments necessary to comply

- **Dec. 2022 – Dec. 2024**: Public engagement, drafting zoning amendments, public hearings, & Town Meeting action
Discussion of Cohasset comment letter for DHCD Draft Guidelines
Contact Information

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