



Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

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

Via Email: mayor@cityofmalden.org

November 8, 2024

Mayor Gary Christenson
Malden City Hall
215 Pleasant Street
Malden MA 02148

Re: Malden – Conditional District Compliance Determination for MBTA Communities under Section 3A of the Zoning Act (Section 3A)

Honorable Mayor Christenson:

Congratulations! The Executive Office of Housing and Livable Communities (EOHLC) has reviewed the district compliance application for the City of Malden, which is comprised of six subdistricts (District). After careful review and analysis, EOHLC has determined that Malden is **CONDITIONALLY compliant** with Section 3A. EOHLC recognizes the diligent work by the City of Malden to meet the requirements of the MBTA Communities Law. There are a few areas of the City's zoning that require refinement in order to meet the "as of right" requirements of the law.

Please note that this determination of conditional compliance by EOHLC does NOT qualify Malden for the MBTA Communities Catalyst Fund which was announced by Governor Healey in [June](#). When the City has a determination of compliance without conditions, it will qualify for this new capital funding program. You can learn more about the program at the web page [MBTA Communities Catalyst Fund](#) which has a link to the Notice of Funding Availability (NOFA). While housing production is not required, EOHLC is eager to hear about multi-family developments in your MBTA Communities District, please share permit activity with us at EOHLC3A@mass.gov.

Malden is designated as a Rapid Transit Community with 27,721 existing housing units per the 2020 United States Decennial Census. The City is required to have a district with a minimum land area of 31 acres, and a minimum multi-family unit capacity of 6,930 units.

EOHLC conducted a thorough review of the application, and makes the following **preliminary** determinations which are subject to change as we understand that the City will submit revised materials:

1. The District as reviewed currently comprises **162.50 acres**.
2. As of right multi-family unit capacity for the District is currently estimated at **6,932 units**.

3. The gross density of the District is currently estimated at **43.59 dwelling units per acre**.
4. At least **fifty percent (50%)** of the District is one contiguous land area as currently configured.
5. **At least fifty percent (50%)** of the required District land area and estimated unit capacity is within transit station areas as currently configured.
6. For projects 8 units and over, the District contains an Inclusionary Zoning requirement for which 15% of units must be affordable to households at or below 80% of Area Median Income (AMI). **EOHLC finds the Economic Feasibility Analysis and the supplemental information provided by the City supports the feasibility of multi-family development.**
7. The multi-family housing allowed in the District is suitable for families with children pursuant to Section 3A and Section 7 of the Guidelines.
8. There are no dimensional zoning requirements not captured by the compliance model that are likely to substantially affect the District's estimated multi-family unit capacity.
9. Taken as a whole, the geography of the District meets the land area, multi-family unit capacity, gross density, and contiguity requirements of Section 3A and the Guidelines.

The following table shows the **required** District minimums, the estimates **submitted** in the District application, and estimates as **determined** by EOHLC following its review. The final results are pending submittal of new materials by the City:

| | Required | Submitted | Preliminarily Determined |
|------------------------------------|-----------------|------------------|---------------------------------|
| Land area (acres) | 31 | Pending | Pending |
| Multi-family unit capacity (units) | 6,930 | Pending | Pending |
| Gross density (units per acre) | 15 | Pending | Pending |
| One 50% contiguous area | Yes | Yes | Yes |

EOHLC identified the following provisions in the Zoning Ordinance that **do not allow for multi-family as of right** in accordance with MGL c40A Section 3A and the MBTA Communities Guidelines. These two items require action by the City Council to make revisions to the zoning ordinance.

1. Remove the requirement in Section 12.12.400.1.C.3 that includes unit caps for the MD-1 district. Unit caps are not permissible under the Guidelines as they restrict as of right multi-family housing.
2. Sections 12.12.400.1.B.6, 12.12.400.2.B.5, and of Malden's zoning states that the MCMOD, and MMUD districts are not effective until EOHLC finds the districts compliant. Such requirement is inconsistent with the uniformity requirement in MGL c40A section 5 and also may be inconsistent with section 12.32.050 of the City's zoning ordinance that states zoning is effective upon the vote of the City Council. Please consult with your City Solicitor regarding the effective date, EOHLC strongly recommends that the City remove the delayed effective date. The reasons for this recommendation are: (1) the effective date is not a date certain and (2) the concept of "final approval" doesn't exist, compliance is a status.

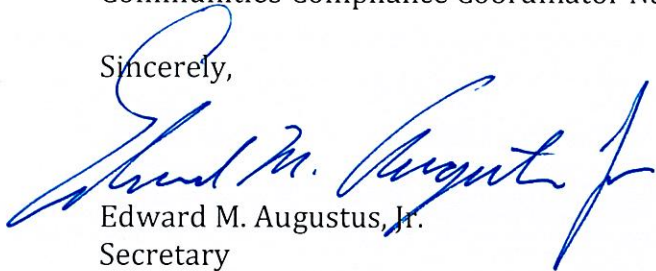
Please note that continued district compliance is **subject to** the following requirements:

- Municipalities must notify EOHLC in writing of any proposed or active zoning amendment that affects the district, or of any other by-law, ordinance, rule, regulation, or municipal action that limits the development of multi-family housing in the District. This notification must be sent to EOHLC3A@mass.gov prior to any planning board public hearing on the proposed zoning amendment.
- EOHLC may establish a system to monitor compliance over time to ensure that approved districts allow multi-family housing in accordance with the criteria under which they were approved.
- EOHLC may rescind a determination of conditional district compliance or require changes to the District to remain in conditional compliance as per Section 10 of the Guidelines if it becomes aware of additional information not identified in this conditional compliance review that would render the District noncompliant with Section 3A.

EOHLC will reconsider the City of Malden's application, and any additional materials it may provide, 180 days from the date of this letter, to determine whether the City has taken steps to make the changes required to address the conflicts with Section 3A and the Guidelines, which are noted above.

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, appearing to read "Edward M. Augustus, Jr.", is written over the typed name and title.

Edward M. Augustus, Jr.
Secretary

cc: Senator Jason Lewis, Jason.Lewis@masenate.gov
Representative Paul Donato, Paul.Donato@mahouse.gov
Representative Kate Lipper-Garabedian, Kate.Lipper-Garabedian@mahouse.gov
Representative Steven Ultrino, Steven.Ultrino@mahouse.gov
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