

MBTA Community Virtual Public Presentation

8/15/23

Questions from Attendees

- Question: What are the consequences of non-compliance by 12/31/24 deadline?
- Response: Don't have an exact list but are aware of actions taken against communities that did not achieve interim compliance. Last January presentations were given to the Select Board and Planning Board. Some consequences have included Housing Authorities losing their funding. Communities could lose eligibility for Housing Choice grants and others. So, both loss of grant opportunities and losing existing funding.
- Question: Appears that some of the districts are already developed. How were the areas chosen? Shouldn't the areas be open/ available for development?
- Response: Due to size constraints and requirement of certain parcel sizes, we looked for large anchor parcels. There are various levels of development opportunities and developability in the areas that are presented.
- Question: If an area is already developed, then a developer could redevelop based upon these confines. Any way to make it less dense, can we put in height restrictions?
- Response: It will depend on what district is chosen and the acreage. We will be able to put in place height restrictions.
- Question: Will the Planning Board lose the power to look at traffic and traffic studies in approving a project?
- Response: There will be some authority for traffic mitigation, site plan review will be in place to shape the project making sure the development works within neighborhood.
- Question: Should base choice of a district be made on multiple means of egress? How do we balance opposing forces of transit, we don't have, and increase vehicular traffic?
- Response: Choosing a district along a LRTA route makes sense, but regardless as we do not have an MBTA station we will have to plan for additional vehicular traffic.
- Question: Any consideration for development next to the environmentally sensitive pond?

Response: Cannot count environmentally sensitive land, wetlands, buffers as acreage for the district and density requirements. Wetlands and buffers would need to be maintained during permitting.

Question: Is 300 Ames Pond targeted and would it have more restrictive rules being that it is next to a Pond?

Response: 300 Ames Pond would be part of a potential district. There would be no sidestepping of wetland permitting requirements. This is not like 40B permitting.

Question: Where are the LRTA routes?

Response: Both Main Street and Andover Street.

Question: Did you factor that the survey was prepopulated and may have led to North A coming out first? The top 3 were the first 3 on the survey.

Response: If people did not choose it would have been North A, North B, and Town Center in that order and that was not the case.

Question: Found the survey to be flawed; if you logged in did nothing and sent it, it would be prepopulated. Is there a way to see what was sent in without making a choice? Should have been set up so nothing was pre-listed.

Response: The design was based on the software that we used. No decisions are being made tonight. If respondents did not make a choice, the individual question was recorded as "skipped."

Question: How were the densities per district derived?

Response: We did not calculate the densities; this was something that came out the EOHL compliance modeling software.

Question: Is that formula available for viewing because it appears that some of the acreage was significantly different.

Response: The formula in the spreadsheets are locked-in and we cannot change them. They used existing data from GIS layers.

Question: Individual does research for a living and takes into consideration how survey is designed. Ranked in direct order of how it appeared on survey. Just drag and drop. Should be taken into serious consideration the design and human elements. Food for thought when evaluating comments.

Response: Appreciate comments. This was a tool to start the conversation and is by no means binding.

Question: Does the state consider the severe impact on communities the housing requirements would have on local infrastructure? For instance, what if a new sewer treatment plant is required or what about increases in police and fire fighting services for the new residents.

Response: We have not received any indication that there will be additional resources from the State.

Question: Rt. 133 bus line provides mediocre service; wasn't the purpose to get people off the streets and on public transit?

Response: Our local bus lines don't really play into this. We would still be an adjacent MBTA community. We tried to stay within the spirit of transit even though we are not required.

Question: Possibility of using more than 1 site (district)?

Response: Not a requirement; we were looking for anchor parcels to meet the requirement of at least 25 contiguous acres. Intent was to have it all together. Would have to run compliance model to look at different scenarios to look at densities to achieve the 1214 units.

Question: If more than 1 area is zoned could the Planning Board limit the development in one area based on the development in the other area?

Response: Density per acre based on by-right development; would have to be significant finding to limit density on proposed project.

Question: LRTA cannot service outside of its region; LRTA Roadrunner service cannot go to MBTA Station in Ballardvale because it is in the MVTRA service area—any discussions from the state about that? Reminded the audience that this is not a mandate to build.

Response: A bit outside of the scope of this housing initiative. Public transit separate funding streams. There are examples of services crossing designated areas.

Question: Asked about impact on schools with no age restrictions. Shuttle services from a development?

Response: Declining school enrollment numbers. 2010-2020 about 1,000 new housing units built. 2008-2022 loss of 1,200 students.

If developers bring in their own shuttle services, we encourage it.

Question: Shouldn't a cost benefit analysis of loss of grant funds for non-compliance with additional costs of building/ infrastructure?

Response: There has been a loss of housing authority funds in some communities. Not a typical cost analysis. From the Attorney General's 3/15/23 Advisory: "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.⁸ Non-compliant MBTA Communities are also subject to the administrative consequence of being rendered ineligible to receive certain forms of state funding.⁹ 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.¹⁰ MBTA Communities that fail to comply with the Law's requirements also risk liability under federal and state fair housing laws."

Question: Special Permit example from marijuana establishments that could locate someplace but were still denied. Would that apply here?

Response: This is a site plan review process not a special permit. Just the same as the marijuana applications. All of them received approval under site plan review and some were denied for other purposes. Site plan review would still allow the town to shape the project but does not have discretionary approval authority associated with it.

Question: Wasn't 40B project at 300 Ames Pond denied? Was there any consideration given to the neighborhood having to fight 4 different proposals to rezone the property to some else?

Response: The project was not denied, the developer let their project eligibility letter from the state run out. There was one proposed zoning change a few years ago. The 40B did not go forward. Over 20 years ago there was a commercial project proposed that was appealed and was not built because of the market changing after September 11th. There have been attempts over the years to do something that just hasn't come to fruition.

Question: Question the results of the survey; not user friendly, was not well designed and should be disregarded. What was Town Counsel's involvement in the survey design? Doesn't have to be one site, recommend that zoning be evenly distributed throughout town. Why was Trull Brook included, but not the old Tewksbury Country Club.

Response: Town Counsel was aware but not involved. Survey was a tool to start the conversation. We will look to see about distributing it based on density

requirements. The TCC could not be used because the open space is a requirement of the Eagles Landing condominium project and would be considered excludable open space.

Question: Should have impacts from Police, Fire and DPW before going to Town Meeting. What major infrastructure improvements will be necessary. What are the major financial impacts? North St Fire Station; water/ sewer upgrades.

Response: Noted.

Question: Is this "forever zoning" or once we reach the 1,214 units, will the zoning still exist?

Response: If we close in on 1214, we would go into Town Meeting to remove district after the requirement has been met.