



Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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## MEMORANDUM

**DATE:** February 9, 2023  
**TO:** Councilor R. Lisle Baker, Chair, Zoning & Planning Committee  
Members of the Zoning & Planning Committee  
**FROM:** Barney Heath, Director, Department of Planning and Development  
Jennifer Caira, Deputy Director Department of Planning and Development  
Zachery LeMel, Chief of Long Range Planning  
**RE:** **#43-24 Quarterly update on projects using the VCOD overlay districts**  
Councilors Albright and Danberg requesting updates on any potential projects brought to the Planning Department under the new Village Center Overlay District. The updates should include indications of interest and actual permits filed; for which villages and under which zoning districts; number of stories and units.  
**MEETING:** February 15, 2023  
**CC:** City Council  
Planning Board  
Jonathan Yeo, Chief Operating Officer  
Alissa Giuliani, City Solicitor

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### Introduction

At the end of 2023, the Newton City Council approved new zoning around seven MBTA stations/six village centers (Newton Centre, Newton Highlands, Waban, Newtonville, West Newton, Auburndale, and Eliot/Route 9), known as the Village Center Overlay District (VCOD). The VCOD satisfies both the City Council's goal of allowing for concentrated development near resources and amenities and compliance with State law, known as the MBTA Communities Act. This informational memo serves two functions:

1. Explain that the VCOD has been approved and is in effect.
2. Update the City Council on the status of Newton's MBTA Communities Act Compliance.

### VCOD in Effect

The City Council approved the VCOD zoning amendments on December 4, 2023. You can find the signed board order here:

<https://www.newtonma.gov/home/showpublisheddocument/116229/638418813014955217>

The appeal period for this zoning amendment has passed and the VCOD zoning is in effect. This means applicants may apply to develop a parcel within the VCOD using these regulations. For by-right projects,

this means applying for a building permit. To date, Planning and Inspectional Service staff have only received informational inquiries from property owners, architects, lawyers, and real estate brokers. No formal applications for a building permit have been received.

### **Newton's MBTA Communities Act Compliance**

Newton is considered a rapid transit community per the State guidelines and had a deadline of December 31, 2023, to submit a compliance application. We have submitted all materials, except the economic feasibility analysis (EFA) to the State for their compliance review and received confirmation from the State on January 11, 2024 (Attachment A).

The EFA is a required document since Newton's Inclusionary Zoning Ordinance (IZ) requires a greater percentage of affordable housing units and deeper levels of affordability than the State guidelines allow. Newton's EFA is being prepared by the Metropolitan Area Planning Council (MAPC). Due to a server error at the end of last year, MAPC has been delayed in providing Newton's EFA and other rapid transit community EFAs. Planning staff and MAPC are in regular contact with the State and this delay does not impact our compliance status. The state is moving forward with other legal reviews while waiting for the EFA.

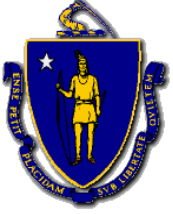
Once MAPC provides the EFA, Planning staff will share the complete submission with the City Council. However, we will still need to wait for the State to perform its compliance review. Either the zoning will be compliant or the State will list specific items that will need to be addressed for Newton to comply. If revisions are required, then amendments will need to be presented to the City Council like any other zoning amendment.

### **Next Steps**

The VCOD is currently in effect regardless of whether the State's review determines Newton is in full compliance with the MBTA Communities Act or if revisions must be made. Planning staff will share the complete submission once the EFA is received from MAPC and will work with the ZAP Chair to schedule a time to update the Committee as appropriate.

### **Attachments**

**Attachment A**                      Newton- RTC acknowledgement letter from EOHLC



Commonwealth of Massachusetts  
EXECUTIVE OFFICE OF HOUSING &  
LIVABLE COMMUNITIES

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

Via email: [fuller@newtonma.gov](mailto:fuller@newtonma.gov)

January 11, 2024

Honorable Mayor Ruthanne Fuller  
City of Newton  
1000 Commonwealth Avenue  
Newton, MA 02459

**Re: Newton- District Compliance Application for MBTA Communities under Section 3A of the Zoning Act**

Dear Mayor Ruthanne Fuller:

The Executive Office of Housing and Livable Communities (EOHLC) received a district compliance application from Newton submitted electronically on December 21, 2023. The application requests that EOHLC grant a determination of compliance for certain multi-family zoning district(s) (District), based on the criteria set forth in the Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act (Guidelines). Congratulations on developing and adopting the multi-family zoning necessary to reach this step.

EOHLC staff will conduct a thorough review of the application to determine whether the District meets Section 3A's requirements. The review includes an analysis of the District and how it addresses the requirements found in the Guidelines. Because we received your District Compliance Application prior to the Rapid Transit Communities deadline, during the review by EOHLC staff, Newton remains in Interim Compliance with Section 3A. During the review process, it is likely that EOHLC staff will contact your staff designated in the application to clarify the application or request additional information. Within 30 days after submittal, EOHLC staff will communicate to confirm that the application is complete or identify missing components.

At the conclusion of its review, EOHLC may determine that the District meets all requirements of Section 3A and the Guidelines, or there may be specific items that must be addressed for Newton to comply. The EOHLC team remains committed to continuing the partnership with Newton during the development of your district.

If you have questions or need further assistance regarding this process, please contact MBTA Communities Compliance Coordinator Nathan Carlucci, at [nathan.carlucci@mass.gov](mailto:nathan.carlucci@mass.gov).

Sincerely,

A handwritten signature in blue ink that reads "Caroline 'Chris' Kluchman". The signature is written in a cursive style with a horizontal line underneath.

Caroline "Chris" Kluchman  
Acting Director, Community Services Division

cc: Senator Cynthia Stone Creem  
Representative Ruth Balser  
Representative Kay Khan  
Representative John Lawn