



Working with the MBTA Communities Law

Presentation for Northborough Planning Board – March 21, 2023

Agenda

1. Overview: MBTA Communities Law

2. Understanding Compliance Guidelines: Basics, Opportunities, & Limitations

3. The Compliance Model

4. A Closer look at Northborough

5. Questions





Overview: MBTA Communities Law

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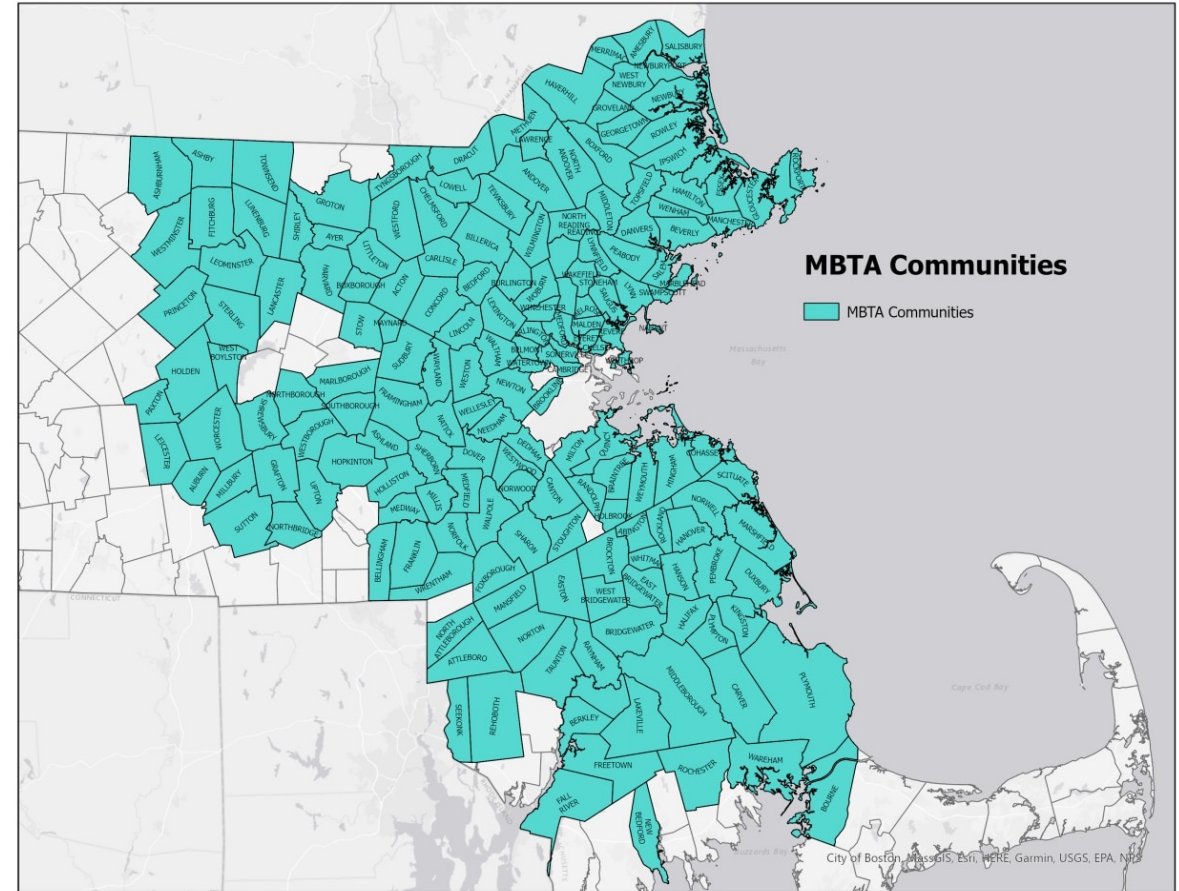
What is the “MBTA Communities Law”?

- Multifamily Zoning Requirement for MBTA Communities: MGL Ch. 40A, Section 3A
- Housing Choice Initiative: State economic development bill 2021
- Requires MBTA communities to have at least one zoning district in which multi-family housing is permitted as of right & meets the other criteria
- Failure to comply makes a community ineligible for certain state funds & other penalties



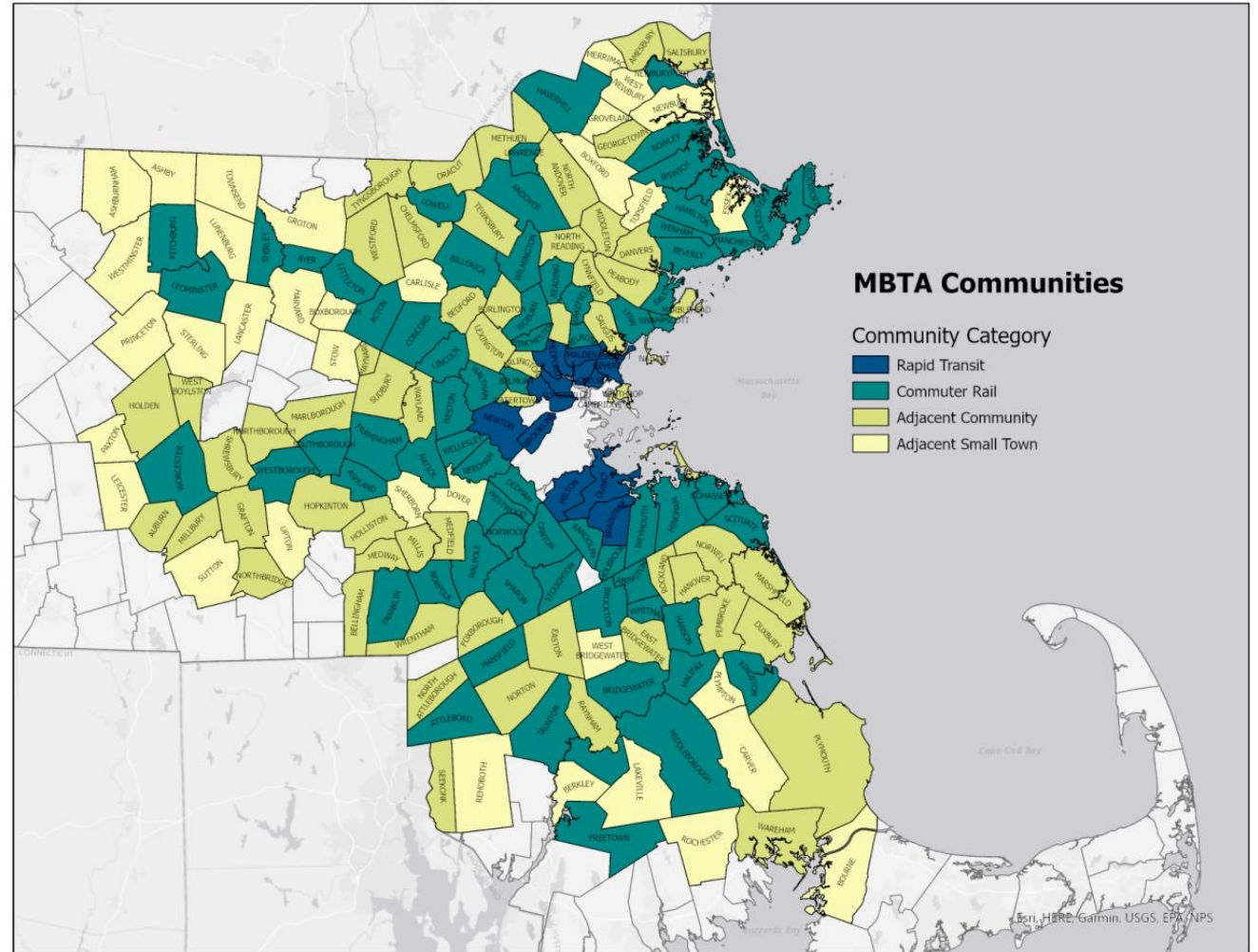
What makes a city or town an “MBTA community”?

- G.L. c. 161A established the Massachusetts Bay Transportation Authority (MBTA)
- The MBTA “area” includes four groups of communities:
 - The original 14 that hosted MBTA transit service
 - 51 more communities that host MBTA service and joined the system later
 - Communities abutting the 65 communities that host MBTA service
 - Other communities that have adopted a ballot question to be added to the MBTA service area (G.L. 161A, Sec. 6)



What does the law require?

- Four groups of MBTA Communities, classified by service type and proximity
- Each has different requirements
- All MBTA communities required to comply
- Regulations established by the Department of Housing & Community Development (DHCD) for determining compliance with new Section 3A of MGL c. 40A.



The basics:

- Multifamily as of right
- Minimum gross density of 15 units per acre
- Housing suitable for families with children (no age restrictions)
 - Cannot place limits on size of units, number of bedrooms, size of bedrooms, or number of occupants
- Within ½ mile of a commuter rail station, subway station, ferry terminal or bus station, if applicable and where possible
- District must be "of a reasonable size"
- Non-compliance = ineligible for certain discretionary grant programs & potential fair housing law violations



The law does **not**:

Require	Require new housing development (compliance not measured by production)
Require	Require communities to pay for infrastructure needed in a 3A district
Override	Override the Massachusetts Wetlands Protection Act or Title V of the Massachusetts Environmental Code
Provide	Provide communities with options for waivers or exemptions



DHCD's role:

- Develop guidelines to determine compliance, staying within the bounds of the statute
- Create a fair, reasonable way for communities to work toward compliance
 - December 2024 deadline for most communities – *so there is time to plan*
 - Technical Assistance (TA)
 - Coordinating the work of multiple organizations with a role to play – funding, TA, planning and zoning, etc.





Understanding Compliance Guidelines: Basics, Opportunities, & Limitations

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Understanding Compliance Guidelines: The Basics

Compliance Deadline

Category	Number of Communities	Deadline
Rapid transit community	12	12/31/2023
Commuter rail community	71	12/31/2024
Adjacent community	58	12/31/2024
Adjacent small town	34	12/31/2025





Understanding Compliance Guidelines: The Basics

What makes a potential 3A district?

“District of reasonable size”:

- Total minimum area (usually 50 ac.)
- Minimum gross density (15 units/ac.)
 - Based on developable land only
- Minimum unit capacity (varies by municipality)

Understanding Compliance Guidelines: The Basics

Area & location

The lesser of 50 acres or 1.5% of the community's developable land except in "adjacent small towns," where no minimum applies

At least half the district must be contiguous parcels

In most cases, a contiguous area of at least 5 acres is required

Capped at
1.5% of the
municipality's
total area.



Understanding Compliance Guidelines: The Basics

Area, location, transit station access

Encourages districts within ½ mile of train/rapid transit stations, but not always practical.

For communities within ½ mile of a train station:

Total developable station acres in the MBTA community	Portion of multifamily district that must be within a transit station area
0-100	0% ←
101-250	20%
251-400	40%
401-600	50%
601-800	75%
801+	90%



Understanding Compliance Guidelines: The Basics

How many multifamily units?

The number equals a percentage of the municipality's existing housing stock, according to the category requirements:

Category	Percentage of total housing units
Rapid transit community	25%
Commuter rail community	15%
Adjacent community	10%
Adjacent small town	5%

Minimum unit requirement of 750 units.

Capped at 25% of the municipality's total housing units.



Understanding Compliance Guidelines: The Basics

Calculating Gross Density

Gross Density measures the number of residential units per acre of land. The formula for compliance removes excluded land, so the calculation is based on feasible developable land.

Minimum density requirement of 15 units/acre.

Total Unit Capacity

Total Land Area - Excluded Land

=

Gross Density



Understanding Compliance Guidelines: The Basics

Excluded Land vs. Sensitive Land

Excluded Land

Areas that are not considered buildable. Most of these are "excluded" from gross density calculations.

- Water Resources: Wetlands & Water bodies
- Publicly owned land, except developable
- Rights-of-way
- Title 5 wetland setbacks
- 100-year floodplain
- Protected land, e.g., conservation land
- Institutional land, e.g. hospitals, universities, prisons, public utilities

Sensitive Land

Areas that may be difficult to develop but are not categorically excluded from buildable area.

- Wetland buffer zones
- Priority habitat areas
- Soils and slopes
- Areas prone to flooding (outside of 100-year floodplain)



Understanding Compliance Guidelines: The Basics

Zoned Capacity

The guidelines measure ZONED CAPACITY

It doesn't matter if the lot is:

- Zoned capacity is:
 - A hypothetical unit yield based on district regulations.
 - The number of units that could be permitted across the district by right.



- Zoned capacity is not:
 - A mandate to construct units.
 - Concerned with existing units
 - Able to take other regulations like WPA or Title 5 into account.

What matters is this:



Understanding Compliance Guidelines: Opportunities & Limitations

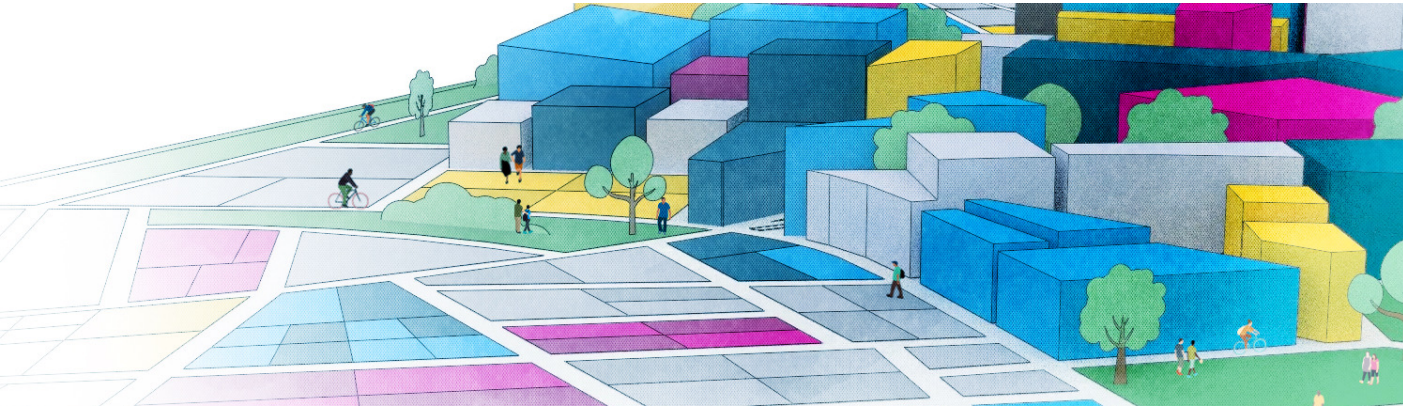
- Permitting can be subject to Site Plan Review (SPR), but no special permit
- SPR may be used to regulate aspects such as:
 - Vehicular/emergency access
 - Pedestrian/Vehicular Circulation
 - Exterior architectural design
 - Screening of adjacent properties
- SPR may **not** be used to deny a project that is allowed as of right or impose conditions that make it infeasible or impractical to proceed
- Communities prohibited from requiring mixed-use development, e.g., ground-floor commercial space with upper-story multifamily units



Understanding Compliance Guidelines: Opportunities & Limitations

- Communities may require up to 10% affordable units, or up to 20% higher requirement with proof that it will not impede multifamily development
- Affordable is not limited to 40B income limits
- New Chapter 40R may be used with affordability capped at 20% (statutory target)

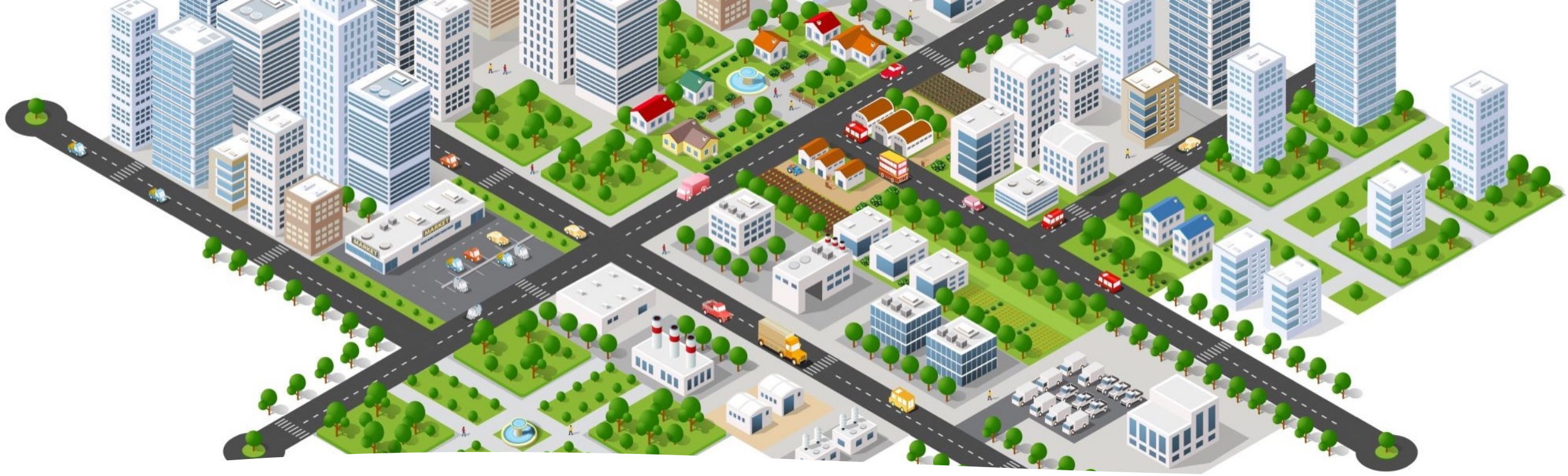




The Compliance Model

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What is the Compliance Model?

- Excel-based model
- Works with data selected and exported from MassGIS maps
- The model calculates the expected unit yield of a district, using map-generated data about the proposed district's location and basic zoning regulatory information:
 - Minimum lot size
 - Required parking
 - Required open space
 - # of units per lot

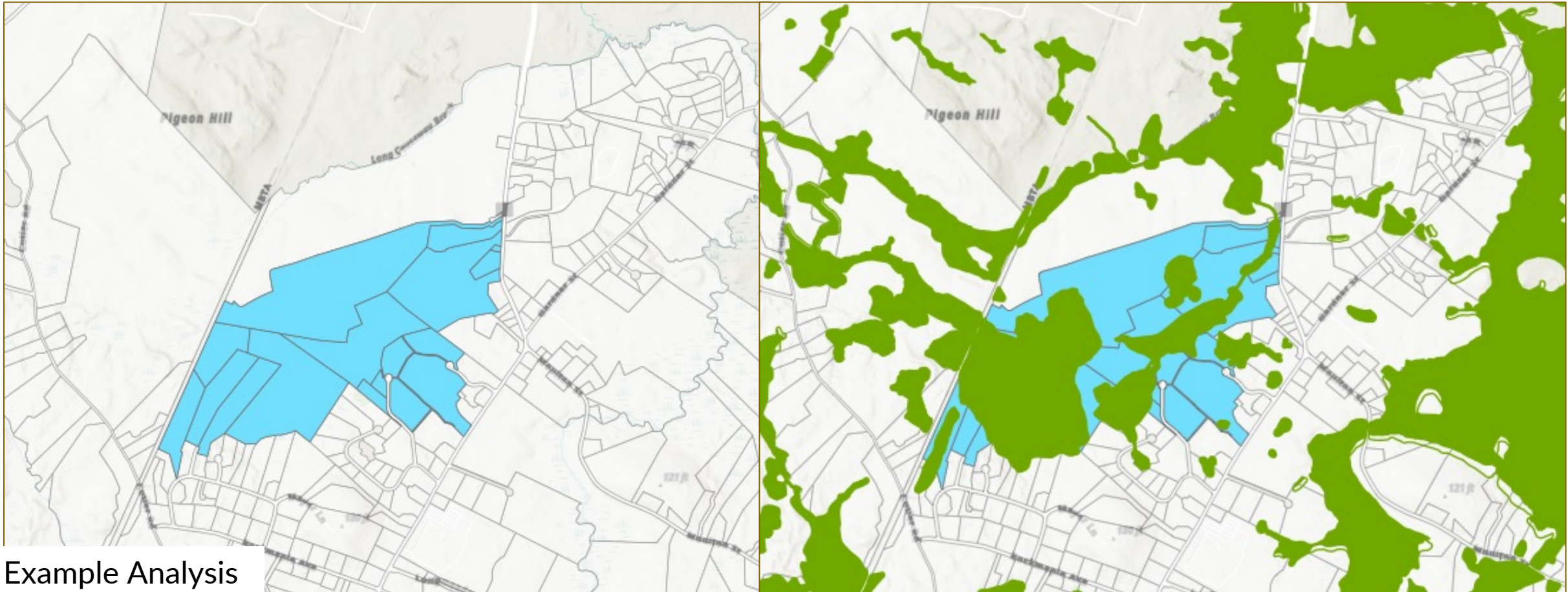


The model doesn't see this...

It sees this.



District Design Considerations: Excluded Land

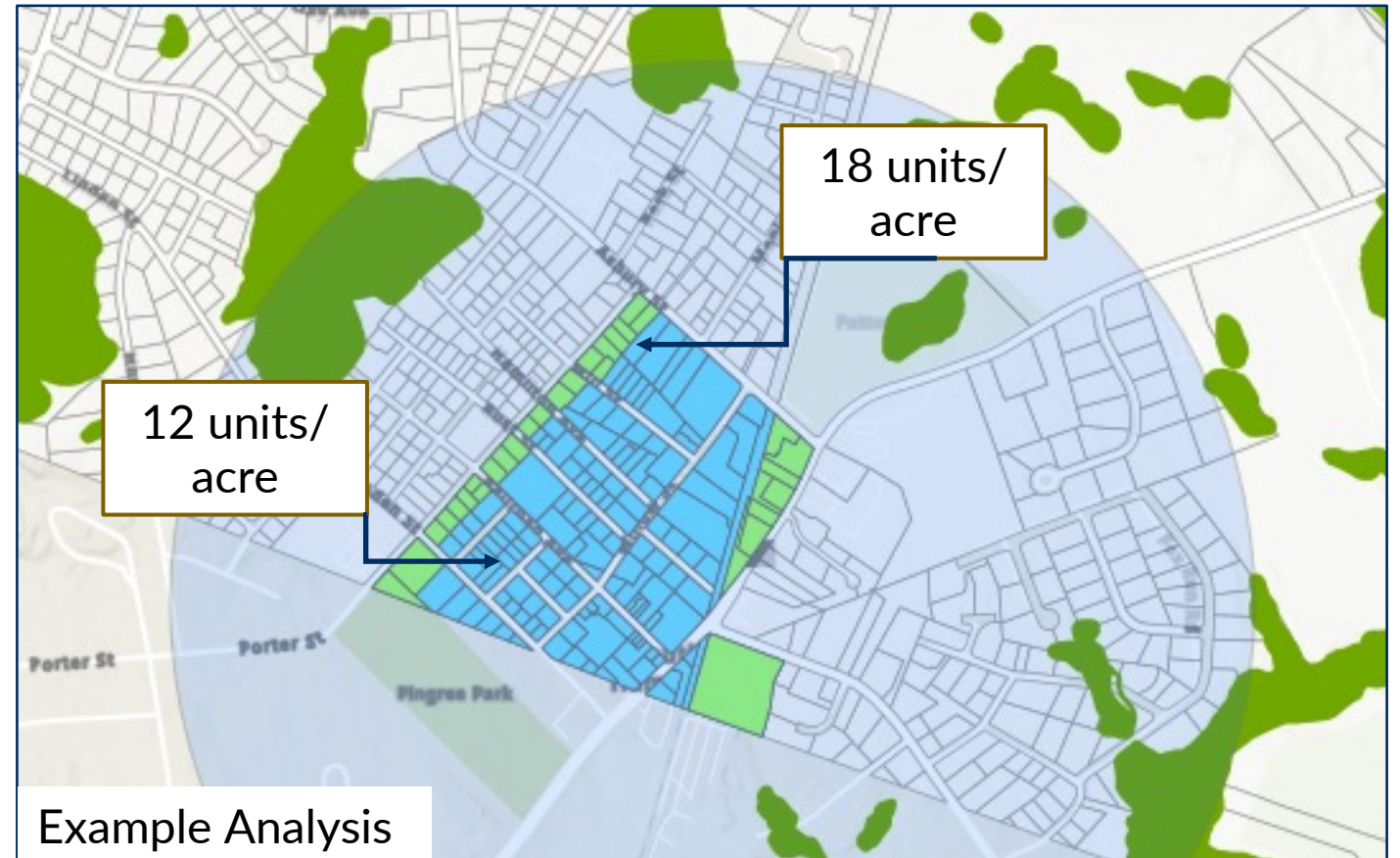


Example Analysis

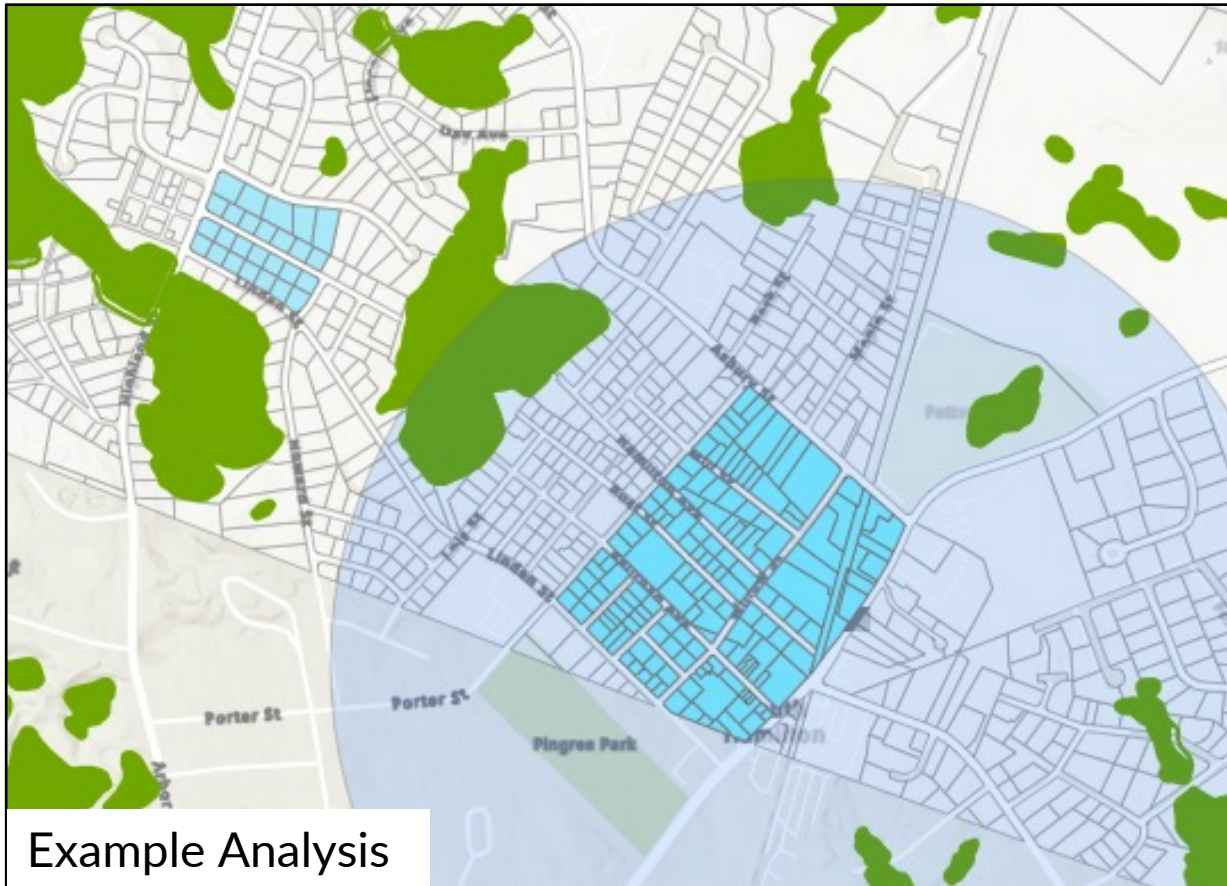


District Design Considerations: Subdistricts

Subdistricts with different dimensional regulations and densities are fine as long as the entire district averages out to 15 units/acre



District Design Consideration: Non-contiguous



Non-contiguous districts

- At least half of the total district area must be contiguous
- Each part of the district must be at least 5 acres



A Closer Look at Northborough

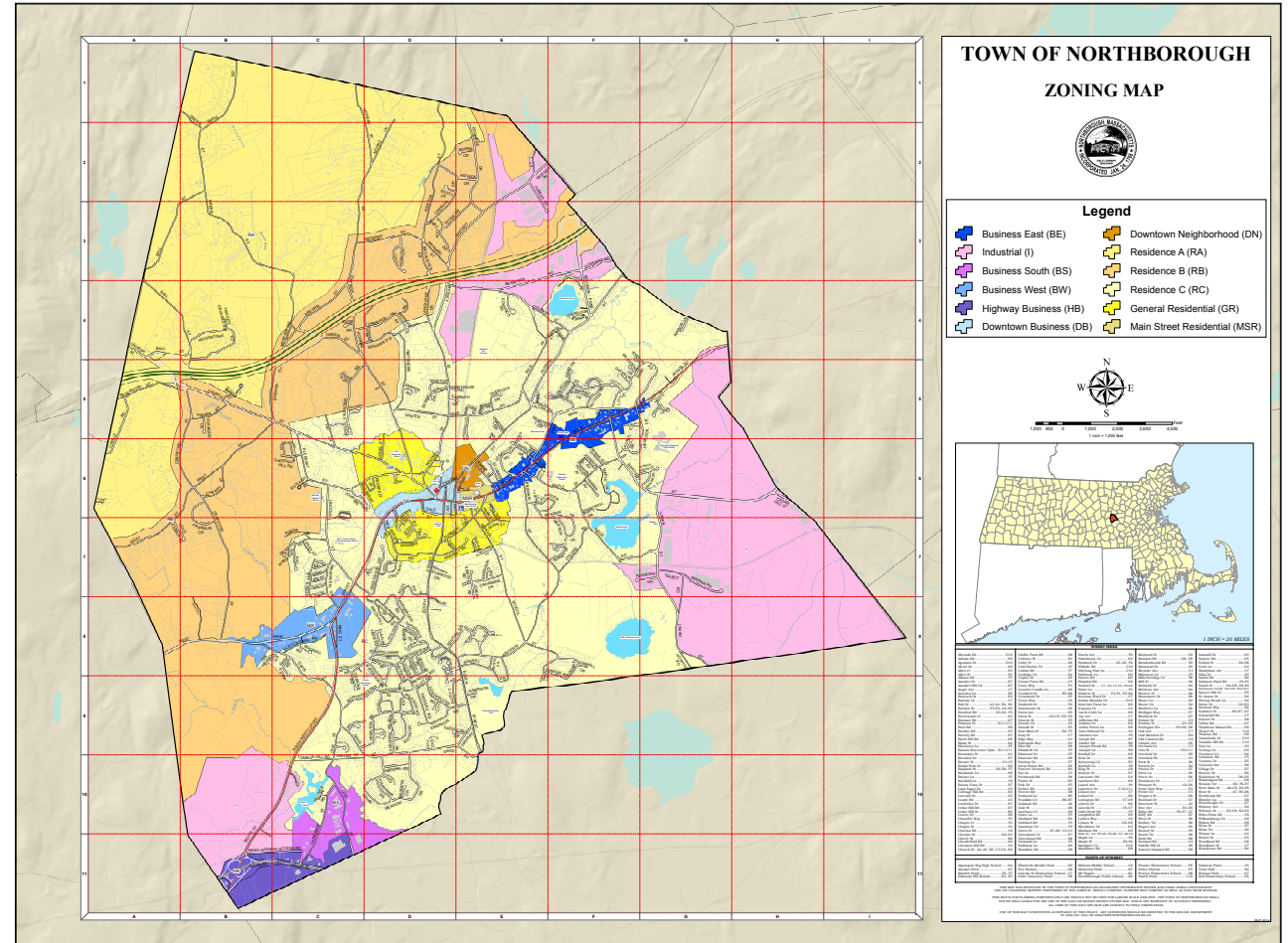
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A Closer Look: Community Requirements

Town of Northborough

- *Category: Adjacent Community*
- *2020 Housing Unit count: 5,897*
- *Minimum Unit Capacity: 750*
- *Min. District Size: 50 ac.*
- *Min. Gross Density: 15 units/ac.*
- *0% of Units within station area*



MBTA Communities “3A-TA” Phase One Timeline TOWN OF NORTHBOROUGH

February	March	April	May	June
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February – March 2022

- Initial review
- Prepare maps
 - Meeting with Town staff, Planning Board
 - Identify up to two potential district locations
 - Technical memo #1

End of March – End of April 2022

- Test areas identified by the Planning Board
- Run the model to test for compliance
- Test potential changes to district boundaries
 - Submit technical memo with recommendations

Mid-May – June 30, 2022

- Remote meeting with Town staff and the Planning Board to review draft zoning*
 - Submit final “next steps” memo and public information materials

*If sufficient consensus exists about one or more areas for a 3A district, we will request approval from MHP to proceed with drafting a 3A district bylaw prior to 6/30/23

A Closer Look:
MHP 3ATA



A Closer Look: Where does residential density exist?

- Avalon Northborough,
(Avalon Drive, Northborough)
 - 21.76 units/acre



- The Residence at the Falls
(200 Hudson Street, Northborough)
 - 25.15 units/acre



A Closer Look: Where does residential density exist?

- Mixed-use building
28 Main Street, Hudson, MA
 - 32.67 units/acre



A Closer Look: Sites for Consideration & Compliance Model Testing

SITES REVIEWED WITH THE MODEL

Avalon Northborough

Address: 1000-15999 Avalon Drive

Parcel Size: 42.01 acres combined

Number of units: 382 (existing)

Status: 40B development w/ 25% affordable units (96)

Parcel IDs: Map 108/3

333 Southwest Cutoff

Address: 333 and 353 Southwest Cutoff

Parcel Size: 27.71 acres

Number of units: 315 (proposed by Trammel Crow)

Status: not developed

Parcel IDs: Map 109/11 & Map 109/12



A Closer Look: Sites for Consideration & Compliance Model Testing

Zoning standards applied –largely based on Northborough’s existing Downtown Neighborhood District (DND) zoning:

- **Lot size:** 5,500 sf + 4,500 per additional dwelling unit over 2 (DND base minimum lot size)
- **Height:** 60 feet (per existing underlying Industrial District zoning)
- **Maximum lot coverage:** 30% (DND 2 family & multifamily)
- **Minimum Open Space:** 20%
- **Setbacks from DND**
- **Parking spaces per unit:** 1.75

Comparison Table of Requirements and Modeled Results

<u>Category</u>	<u>Guideline Requirements</u>	<u>Modeled Results</u>
Community:	Northborough	Northborough
Community Category:	Adjacent community	Adjacent community
2020 Housing Units (Census PL-94):	5,897	5,897
Minimum Multi-family Unit Capacity:	750	1,838
Minimum Land Area:	50	61.0
Developable station area:	0.00	0.00
% Unit Capacity within Transit Station Areas:	0%	0%
% Land Area Located in Transit Station Areas:	0%	0%



MBTA Communities Law: More Information

- <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>
- Massachusetts Office of the Attorney General
March 15, 2023, Advisory:
<https://www.mass.gov/doc/advisory-concerning-enforcement-of-the-mbta-communities-zoning-law>

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Multi-Family Zoning Requirement for MBTA Communities

This page includes Compliance Guidelines on new Section 3A of MGL c. 40A and related materials.

This new law requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing is permitted as of right and meets other criteria set forth in the statute:

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Advisory Concerning Enforcement of the MBTA Communities Zoning Law

The Office of the Attorney General is issuing this Advisory to assist cities, towns, and residents in understanding the requirements imposed by the MBTA Communities Zoning Law (G.L. c. 40A, § 3A) (the "Law"). The Law was enacted to address the Commonwealth's acute need for housing by facilitating the development of transit-oriented, multifamily housing. By any measure, Massachusetts is in a housing crisis that is inflicting unacceptable economic, social, and environmental harms across our state – particularly on working families and people of color. The Law directly responds to this crisis by implementing zoning reforms that require MBTA Communities to permit reasonable levels of multifamily housing development near transit stations.¹

Massachusetts cities and towns have broad authority to enact local zoning ordinances and by-laws to promote the public welfare, so long as they are not inconsistent with constitutional or statutory requirements.² The MBTA Communities Zoning Law provides one such statutory requirement: that MBTA Communities must allow at least one zoning district of reasonable size in which multifamily housing is permitted "as of right."³ The district must generally be located within half a mile of a transit station and allow for development at a minimum gross density of fifteen units per acre.⁴ MBTA Communities cannot impose age-based occupancy limitations or other restrictions that interfere with the construction of units suitable for families with children within the zoning district.⁵ For example, the zoning district cannot have limits on the size of units or caps on the number of bedrooms or occupants. The required zoning district must also



Questions?

