

TOWN OF HINGHAM

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March 31, 2022

Secretary Michael Kennealy
Executive Office of Housing and Economic Development
1 Ashburton Place, Room 2101
Boston, MA 02108

Re: Draft Guidelines for Multi-Family Zoning Requirements for MBTA Communities

Dear Secretary Kennealy,

Thank you for the opportunity to comment on the Draft Guidelines for Multi-Family Requirements for MBTA Communities (the "Draft Guidelines"). On behalf of the Town of Hingham, I offer the following comments and concerns for consideration in developing the final Guidelines.

Concerns Related to the Draft Guidelines

The General Principles of the Draft Guidelines state that: "MBTA communities should adopt multi-family districts that will lead to the development of multi-family housing projects of a scale, density and character that are consistent with a community's long-term planning goals [emphasis added]." This principal recognizes that what is reasonable in one community may not be reasonable in another; however, the prescriptive standards set forth in the Draft Guidelines do not.

The Town of Hingham has undertaken a number of comprehensive planning efforts to encourage multi-family development in appropriate locations and in a manner consistent with community character. These include:

- *Completion of a Master Plan for redevelopment of a former naval ammunition depot*
The Master Plan resulted in the rezoning of approximately 100 acres of land, which is generally located within 1/2 mile of public transportation, for multi-family and affordable housing. The district has since been built out in a manner consistent with the character of the community with 520 multi-family units.
- *Adoption of mixed-use zoning within an industrial district*
The rezoning resulted in redevelopment of the Hingham Shipyard, which surrounds the MBTA ferry terminal, and now contains 488 multi-family units. This housing is also within an approximately 1 mile radius of the West Hingham commuter rail station.

- *Support for mixed-income, multi-family development*

Two additional projects, approved through comprehensive permits, resulted in construction of another 410 units within the 1/2 mile of the ferry terminal and 1 mile of the West Hingham commuter rail station.

Within the past year, the Town additionally completed both a Housing Plan and Master Plan. These plans identify local housing needs and local strategies to address those needs. The Draft Guidelines conversely establish a “one-size-fits-all” approach for multi-family development in MBTA Communities with respect to minimum unit capacity, minimum district size, and location that fails to consider our particular planning goals. The Draft Guidelines would impose these inappropriate minima despite the fact that Hingham has demonstrated results with respect to planning for multi-family housing. Please consider the following:

- Although not under “as of right” zoning, the Town has permitted more than 1,400 multi-family units without age restrictions within 1/2 mile of the ferry terminal and approximately 1 mile of the West Hingham commuter rail station.
- The Town experienced notable growth in larger multi-family units in recent years. Specifically, properties of ten or more units increase from 304 units or 4.1% of the housing stock in 2000 to 1,222 or 14.4% in 2010. The number further increase to 1,625 or 17.8% in 2017.
- The Department of Housing and Community Development (DHCD) designated Hingham as a Housing Choice Community in 2019 (re-designated in 2021) based on the Town’s high-growth production of new housing units.

The discussion of the Draft Guidelines has included statements that there is no requirement that any multi-family housing units actually be built in the new zoning district. If that is the case, then this seems like a futile exercise. Assuming that the real goal is, or should be, to encourage housing close to transit, then communities, like Hingham, that have in their current housing stock a significant amount of multi-family housing (without age restrictions) in close proximity to transit should be credited for such production regardless of whether it was constructed as of right or allowed by permit.

Concerns Related to Specific Minimum Standards

- *Minimum Unit Capacity*

It is unclear that imposition of a minimum unit capacity through the Guidelines is within the scope of the statute. That issue aside, DHCD erroneously categorizes Hingham as a “bus service community” because, although that designation currently applies to communities that also have bus stops (another requirement that appears to be inconsistent with Section 3A), it does not apply to communities that have commuter rail stations. The Town does have two commuter rail stations and a ferry terminal, making it by definition a commuter rail community. The Draft Guidelines create a minimum unit capacity for bus service communities and commuter rail communities of 20% and 15% respectively. The incorrect categorization would result in an additional 5% unit capacity applied to Hingham if the minimum unit capacity provisions of the Guidelines are enforceable.

- *Minimum District Size*
The Draft Guidelines define a district of “reasonable area” as consisting of a minimum of 50 acres, 25 acres of which must be contiguous and none less than 5 acres. These size requirements are overly prescriptive and ill-suited for Hingham given our existing natural and built environment and infrastructure limitations. Again, if the goal is to promote housing development, prescriptive requirements serve as more of a hindrance to that goal.
- *Location*
As noted above, Hingham has encouraged significant multi-family development within close proximity to the ferry terminal and there are hundreds of multi-family housing units within approximately 1 mile of the West Hingham commuter rail station. As a result, little land remains for additional density. Land surrounding the West Hingham and Nantasket Junction commuter rail stations is likewise limited. In West Hingham, most undeveloped land is protected by the Wetlands Protection Act or is owned by the Town and subject to federal and state legal restrictions that prohibit uses other than public parks or recreation. Land around Nantasket Junction consists primarily of poor soils and there is no capacity within the Weir River Sewer District to treat wastewater since capacity is limited by an existing Intermunicipal Agreement between Hingham and Hull (as the wastewater treatment plant is in Hull).
- *Other Community Impacts*
As noted above, the Town has significant infrastructure challenges related to wastewater disposal. Likewise, the Town’s water system is subject to withdrawal limits imposed by Massachusetts DEP. In addition to public infrastructure, the Draft Guidelines would strain other public resources, such as public safety, schools, and roadways.

Administrative Concerns

The Draft Guidelines acknowledge that some communities may have a “significant number of multi-family units already existing in the multi-family district; those communities should generally expect fewer new units to be produced in the district, because it is more fully built out.” I believe this to be the case in Hingham. It will nonetheless be time consuming and difficult to demonstrate that the Town meets the compliance standards specified in the Draft Guidelines.

- *Parcel by Parcel Analysis*
Hingham has limited capacity to complete the required analysis of zoning restrictions (height, lot coverage, setbacks and parking) and physical restrictions (soil conditions, wetland presence, infrastructure availability) on a parcel-by-parcel basis within a district consisting of no less than 50 acres, and the cost of engaging outside consultants to assist is cost prohibitive. It’s surprising that such analysis is being imposed on the community as this has always been the responsibility of the property owner or developer who wishes to propose development. There is no way for the community to determine what type of development might be proposed – apartment style or townhome, number of bedrooms, amenities. All of these development decisions are made by developers after review of market conditions and the type and size of units, as well as amenities to be provided, will all affect the units per acre. The number of assumptions that communities would be required to make to do such an analysis are substantial and totally impractical.

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- *Timeframes*

The timeframes for compliance are also impractical for an open town meeting form of government that typically only convenes once a year per state law. The amount of work required to determine the district location(s), do a parcel-by-parcel analysis, prepare a new zoning map, draft new zoning regulations, hold public outreach sessions, conduct statutorily required zoning hearings and prepare for town meeting is substantial. In addition, the compliance sections of the Draft Guidelines do not provide for DHCD review until after the zoning is adopted. If, for any reason, DHCD were to reject the zoning district, the amount of work that would have to go back into amending the district would be significant and there could be significant negative reaction from the town meeting voters.

For all of the foregoing reasons, we respectfully request that DHCD revisit its approach to the Draft Guidelines to remove prescriptive requirements and processes that seem to exceed the provisions of Section 3A but, more importantly, are unlikely to achieve the stated goals. We also strongly encourage DHCD to invite MBTA communities (of all types) that are affected by Section 3A and the guidelines to be part of the redrafting process.

Thank you for your consideration of the above comments. If you have any questions about the information provided herein, please feel free to contact Emily Wentworth, Hingham Director of Community Planning, at wentworthe@hingham-ma.gov or (781) 804-2394.

Sincerely,



Thomas Mayo
Hingham Town Administrator

cc: Hingham Select Board
Emily Wentworth, Director of Community Planning
Senator Patrick O'Connor
Representative Joan Meschino