Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING & LIVABLE COMMUNITIES
Maura T. Healey, Governor ◆ Kimberley Driscoll, Lieutenant Governor ◆ Edward M. Augustus Jr., Secretary

Sent via email to amarino@town.winthrop.ma.us

October 23, 2024

Anthony Marino
Town Manager
1 Metcalf Square
Winthrop, MA 02152

Re: Town of Winthrop: Pre-Adoption Review Application for Compliance with MBTA Communities/Section 3A of the Zoning Act

Dear Mr. Marino:

The Executive Office of Housing and Livable Communities (EOHLC) received a pre-adoption review application from the Town of Winthrop on September 12, 2024. The application requested that EOHLC conduct a pre-adoption review for the Town's proposed Multi-family Overlay District (MFOD) and its existing Center Business district, (collectively District) based on the criteria set forth in the Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act (Guidelines).

EOHLC appreciates all the work the Town has done to prepare for compliance with Section 3A. After careful review and analysis, EOHLC has the following technical feedback to aid the Town in achieving compliance. We hope the descriptions of technical corrections will assist the Town in creating zoning that can be deemed compliant. The MBTA Communities program staff is available to work through these technical details with you and your staff.

Winthrop is designated as an Adjacent community with 8,821 existing housing units per the 2020 United States Decennial Census. The Town is required to have a district with a minimum multi-family unit capacity of 882 units, a minimum land area of 12 acres and a gross density of at least 15 dwelling units per acre.

EOHLC identified the following issues which may affect the District's compliance with Section 3A:

1. EOHLC recommends adding the Chapter 40A definition of "multi-family housing" to Section 17.54.030 of the overlay district for clarification and to avoid conflicts with the definition of "multi-family dwelling" in Section 17.04.050.
2. EOHLC cautions that the definition of "family" in Section 17.04.050 of the zoning bylaw could be construed as an impermissible cap on the number of occupants per dwelling unit. Section 3A does not allow for zoning-based caps on unit occupancy.
3. EOHLC recommends reviewing Sections 17.44 Administrative Project Review and 17.50 Special Provisions applicable to the Center Business District with counsel to ensure that all standards, criteria, and procedures for permitting are objective and nondiscretionary and align with case law for as of right uses.
4. This review relies on EOHLC's assumption that Sections 17.24.030 and 17.24.040 Environmental Design Review by Zoning Board of Appeals and Environmental Design Review by the Planning Board will not apply to multi-family housing proposed in the District (including mixed-use development projects proposed in the CB) because the MFOD does not require special permits.

For the foregoing reasons, EOHLC recommends that the Town address the issues outlined before applying for District Compliance.

Please note that this pre-adoption review is limited to the specific issues identified at this stage of review and is based on materials provided by the Town of Winthrop. It does not constitute a representation that resolution of the identified issues would result in a compliant zoning district. We encourage the Town to review its existing zoning carefully to make sure there are no provisions that would affect the proposed overlay zoning district.

MBTA Communities staff at EOHLC will meet with you and your staff should you want to review the details of this letter. 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,

Caroline "Chris" Kluchman
Director, Livable Communities Division

Cc: Senator Lydia Edwards
Representative Jeffrey Turco