

Sponsor (Name or Committee):

Planning Board

Article Contact (Name, Title, Email, Phone):

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Article Title:

Zoning Bylaw Amendment - MBTA Communities Bylaw

Article (Warrant Language):

ARTICLE XX. To determine whether the Town will 1) amend Section 2.2 (Zoning Map) of the Town's Zoning Bylaw, MBTA Communities Multi-family Overlay District boundary (amendment shown in **bold italics** for emphasis only) and 2) add a new Section 7.11.7 Other Sections Requiring a Special Permit to Section 7.11 (MBTA Communities Multi-family Overlay District) as follows; or take any other action relative thereto:

1. Amend Section 2.2 Zoning Map as follows:

MBTA Communities Multi-family Overlay District, Town of Concord, April ~~2023~~**2026**, consisting of 5 subdistricts (Scale 1" to 1,400').

2. Add new Section 7.11.7 Other Sections Requiring a Special Permit (all language is new, but not shown in **bold italics**):

7.11.7 Other sections requiring a special permit. An application for a development within the MBTA Communities Multi-family Overlay District is not required to apply for a Special Permit for the purposes of the uses listed in Section 7.11.3.2. However, the following section(s) in the Zoning Bylaw may require a Special Permit. For the purposes of this Section 7.11, the procedures and criteria for granting a Special Permit for the Section below are incorporated into the Planning Board's Site Plan Review Process, as described in Section 7.11.6:

(a) Section 7.2 Floodplain Conservancy District

Article Explanation:

This article would bring the town into compliance with some requirements that the State's Executive Office of Housing and Livable Communities has stated are left unfulfilled by Concord's original MBTA Communities District, which was created in 2024. The article would satisfy area requirements by adding Concord Greene to subdistrict 4 and move certain floodplain requirements from Special Permit to Site Plan Review.

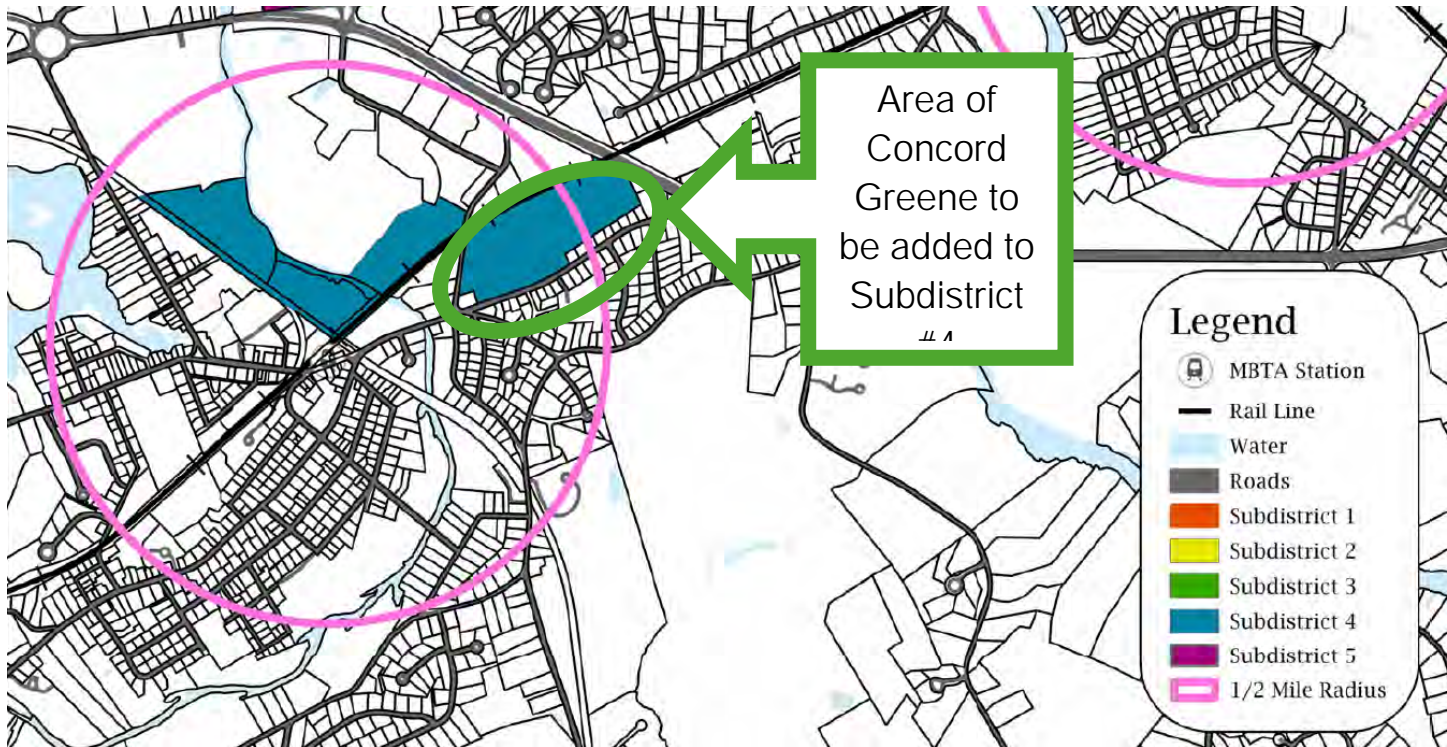
On June 12, 2025, the Town received [notice from the EOHLC Secretary](#) stating that the Town is conditionally compliant with Section 3A and 760 CMR 72.00. The Town has one year to bring the District into full compliance. EOHLC has determined that the following items need to be addressed for the Town to be found in full compliance:

- (a) The District's geography is less contiguous than the flexibilities provided in Section 72.05(1)(a)(3) of the Regulations permit. At least half of the District land areas must comprise contiguous lots of land.
- (b) Several areas of the District appear subject to special permit requirements, including §7.2 Floodplain Conservancy District, and §6.2.2 Minimum Lot Area. These two sections together subject a large portion of the District to special permit requirements due to the presence of flood zone areas. The Town can either exempt the District from this requirement and move the substantive requirements into Site Plan Review or another non-discretionary process or remove the affected parcels from the District's unit capacity.
- (c) The GIS shapefiles provided show a district that excludes street and rail right of way areas, and the district acreages submitted in the compliance model indicate that the ROW was not included in the area measurements. The definition of gross density in G.L. Chapter 40A, Section 1A requires including right of way areas in calculations. Therefore, these areas must be included in district shapefiles even if local practice is to not include them in zoning districts. Including these areas will affect the district's land area and gross density calculation.

Item (c) has been addressed in the GIS Compliance Model by the Town's GIS Team so that abutting streets and rail right-of-way areas are included.

A complicated set of calculations is needed to ultimately be able to address EOHLC's Comment (a) above regarding the contiguity of the MBTA Overlay District. The current MBTA Overlay District totals 84.4 acres, which means that the Town is required to have at least one contiguous area that is 42.2 acres, but the largest area is Subdistrict 4 at 31.5 acres. Furthermore, it is not just the single 50% contiguous district requirement that goes into the GIS Compliance Model; the District is also required to have a density of 15 units per acre, zone for 1,094 units in total, and be at least 50 acres with at least fifty percent of the required District land area and estimated unit capacity with the ½ mile radius transit station areas. As different scenarios were prepared, including and/or excluding one parcel or another through the GIS compliance model, a parcel might get added and the 50% contiguous area requirement is satisfied, but because the parcel has floodplain, which gets excluded from the calculation, the unit requirement may fall below 1,094 units. That is, the issue with getting the analysis to work is that when one requirement is addressed, it may throw another requirement off.

The Planning Board reviewed multiple alternative scenarios to address item (a) and determined that adding the land area associated with Concord Greene to Subdistrict 4 is the preferred solution. By adding only Concord Greene to Subdistrict #4, the MBTA District is compliant with the State's Compliance Model requirements (unit count, transit area, contiguous area, and density). This option means that other commercially zoned land does not get included, protecting existing commercially zoned property from being redeveloped by-right into a multi-family residential use.



Including Concord Greene into the MBTA District does not mean there is going to be additional development. If Concord Greene were to be redeveloped, all 221-unit owners of Concord Greene would have to agree to sell their unit.

To address item (b), the Board is proposing to add Section 7.11.7 which clarifies that an MBTA Communities multi-family project is not required to get a special permit but still must meet all the standards for Section 7.2.

If EOHLC does not find the Town in compliance by June 12, 2026, the Town will not be eligible for certain grants, such as a MassWorks grant that could be used for upgrades to the Town's wastewater facility or towards the construction of a new water treatment facility.