



# MBTA Communities: 3A Compliance

February 24<sup>th</sup>, 2025



# Presentation Staff

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# Presentation Agenda

- Overview of Section 3A Requirements for MBTA Communities
  - What is the MBTA zoning law
  - Development Process
  - Proposed Compliance Plan
- Compliance Deadline Discussion
  - Legal and Financial Considerations
  - Grant examples
- Q&A

# Zoning in Marblehead

## What is Zoning?

- Zoning gives local governments the ability to regulate the use and development of land

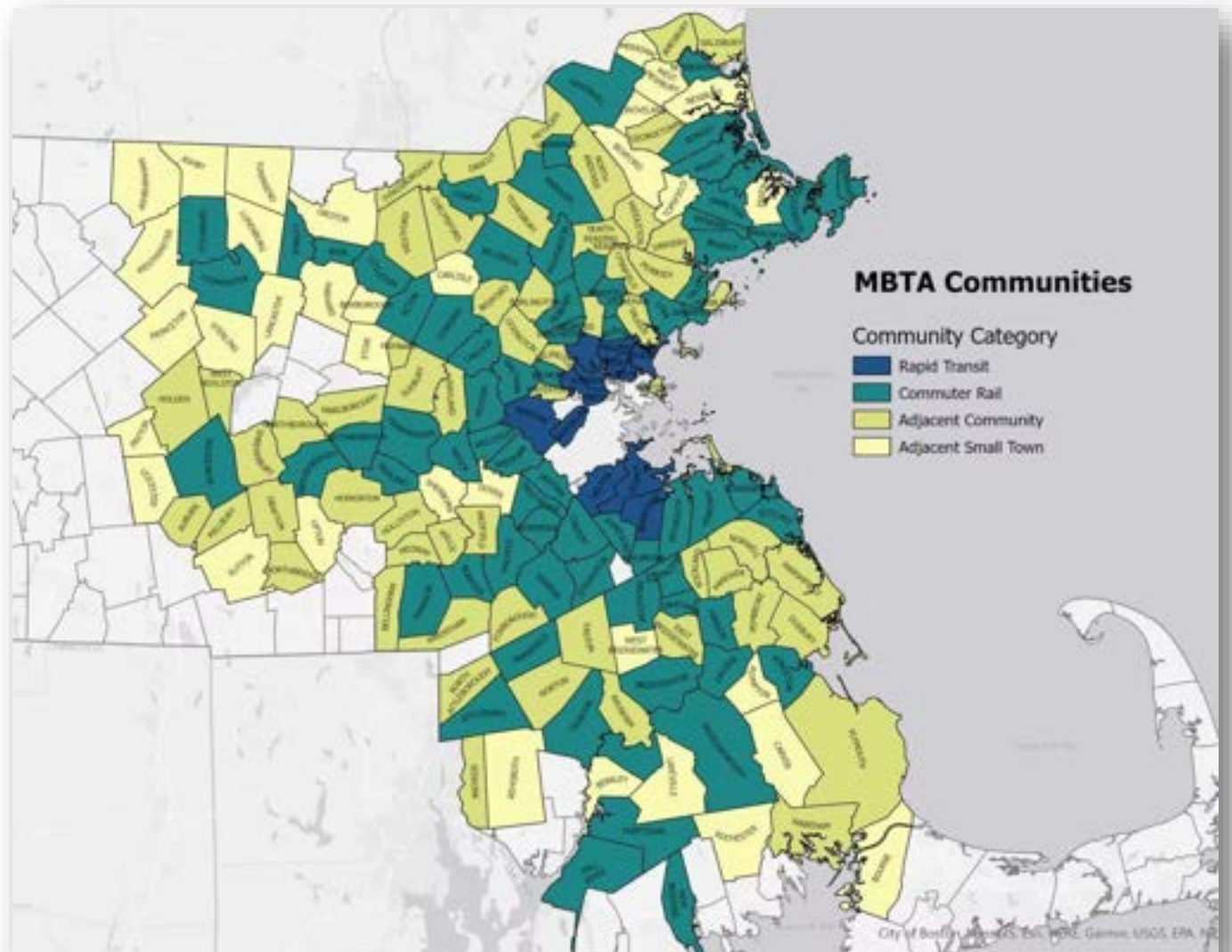
## This includes:

- Dimensional size of buildings (“building envelop”)
  - Distance between buildings and other land uses (setback and frontage requirements)
  - What the land can be used for (Residential, Commercial, Industrial)
- Marblehead has 15 zoning districts and two overlay districts
  - The first zoning bylaw was adopted in the 1920s
    - Hundreds of years after the establishment of the Town
    - Has been amended many times
  - **What Zoning is not: A mandate for building**



# What is the MBTA 3A Communities Law?

- Adopted January 2021 by Governor Baker
  - Passed with broad bipartisan majorities in the Legislature
- The law requires that 177 communities in the Commonwealth zone for “at least 1 district of reasonable size in which multi-family housing is permitted as of right”
- Marblehead is classified as an **Adjacent Community**
  - Adjacent communities are those that are adjacent to municipalities that contain MBTA stations



# Parameters for Developing a Compliance Plan

- ☐ Zoning must equal to at least 1% of the Town's total land area
  - Marblehead is 2,771 acres in size
  - Not less than a total 27 acres
- ☐ Multi-family must be allowed as a matter of right
  - Without the need for a special permit, variance, zoning amendment, waiver, or other discretionary approval. Local bulk, density, dimensional requirements still apply.
- ☐ Minimum density 15 units per acre
- ☐ The district(s) can be located anywhere within the Town
  - Can be more than one area, no area less than 5 acres
  - One of the areas must be 50% of the total
- ☐ Must zone for 10% of the total number of housing units
  - Marblehead has 8,965 total housing units
  - Not less than the capacity of 897 units

# Existing Zoning in Marblehead that permits Multi-family Housing

- Marblehead currently permits similar zoning in the following ways:
  - Smart Growth Districts
  - Incentive Zoning
  - Chapter 40B
- Existing zoning allows for row houses (a type of multi family) in four of our zoning districts by special permit
- Existing zoning allows mixed use commercial with residential above in one district as a matter of right and by special permit in the others

# Compliance Plan Development – Existing Density

- Existing density was considered as part of development
  - Marblehead has several parcels that are at least 15 units/acre
  - Majority located around Business/Historic District
- Sub-District #1 and #2 include parcels that already meets or exceeds 15 units/acre



## Key

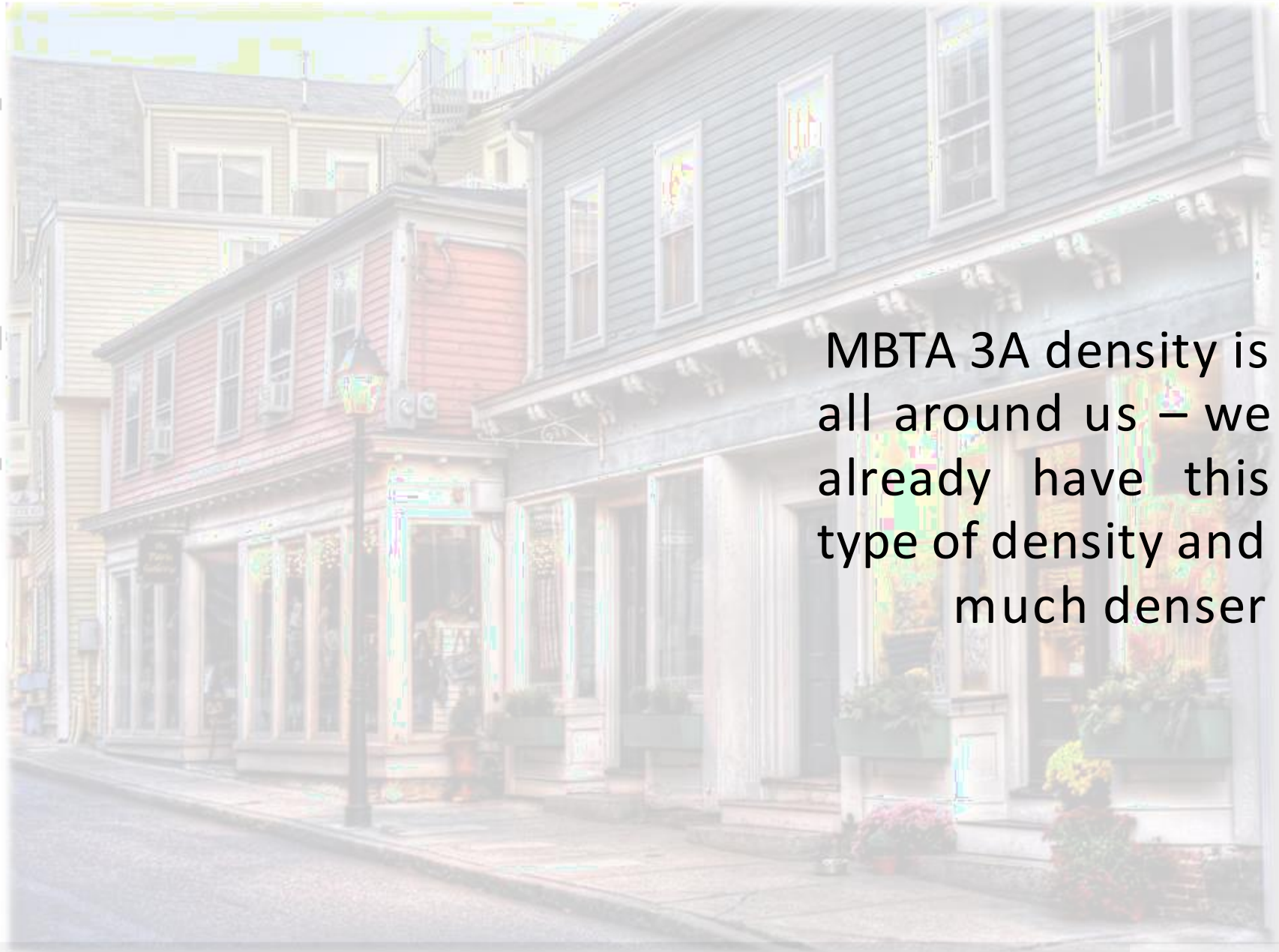
<15 units/acre – Brown

>15 units/acre – Red

Note: Not all parcels are represented

**Source:** Massachusetts Housing Partnership, Massachusetts Property Records





MBTA 3A density is  
all around us – we  
already have this  
type of density and  
much denser

- State Street
- No. of Units: 4
- Parcel Acreage: .256
- Density: 15 units/acre



- 182 Pleasant Street
- No. of Units: 4
- Parcel Acreage: .216
- Density: 18 units/acre



- 53 Allerton Place
- No. of Units: 4
- Parcel Acreage .114
- Density: 35 units/acre



# Compliance Plan Development – Town Input

## Focus Group with Department Heads:

- Municipal Light Department
- Water and Sewer
- Drainage
- Engineering
- Planning Board
- Marblehead Public Schools



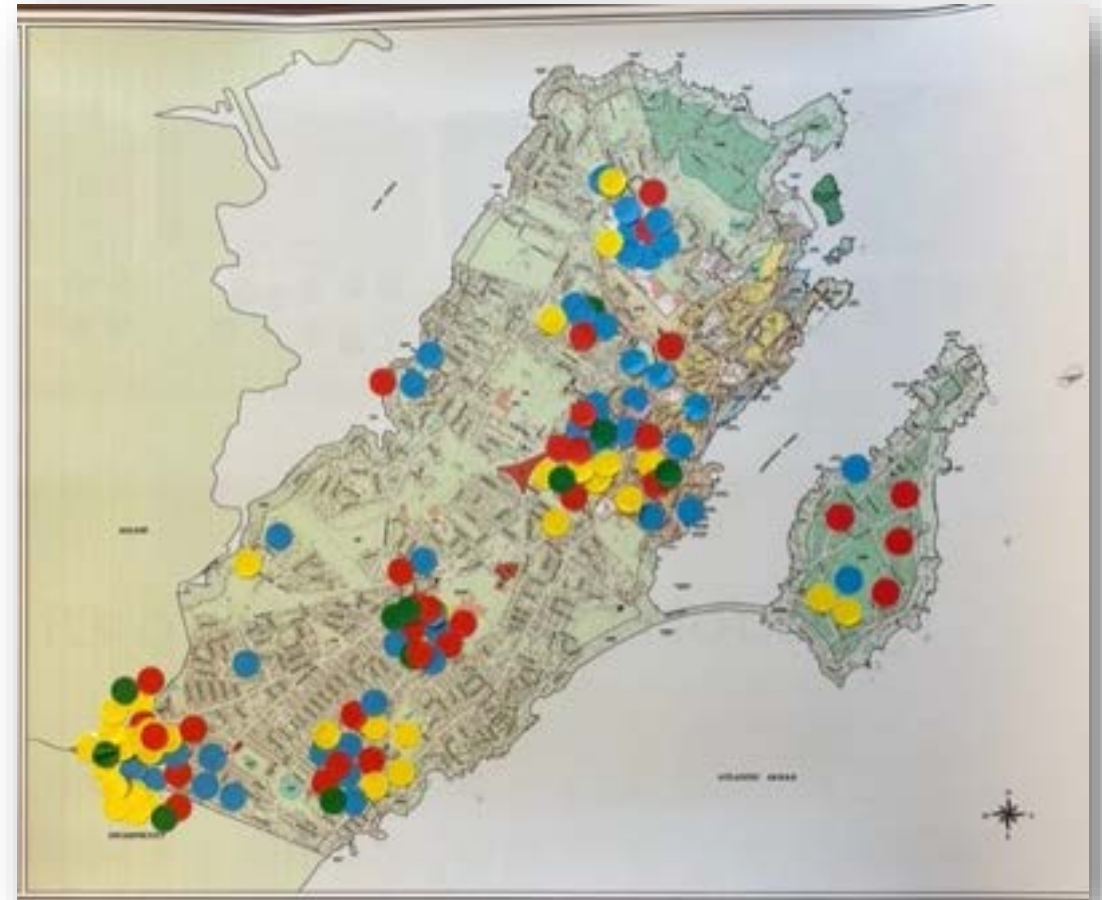
# Compliance Plan Development – Public Input

Planning Board and Town Planner supported by Bohler Design Group

- Two grants awarded by the State to assist development
- Developed over one year

## Engagement Process

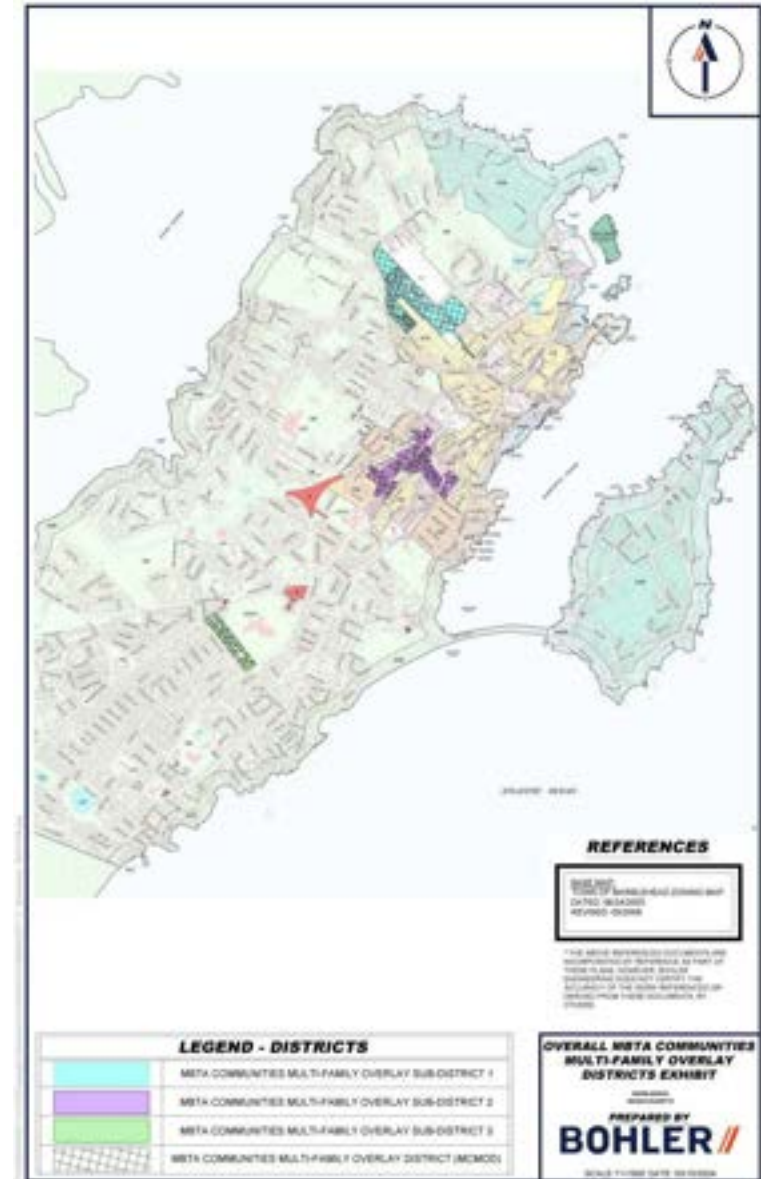
- Focus groups have been held with:
  - Architects, Developers
  - Landowners
  - Town Committees
  - Department Heads
  - Chamber of Commerce and Businesses
- Public Forums
- In-person workshops and meetings



**Pictured:** Public Feedback on locations to place MBTA Communities Zoning

# Proposed MBTA Compliance Plan

Proposed districts at a glance:



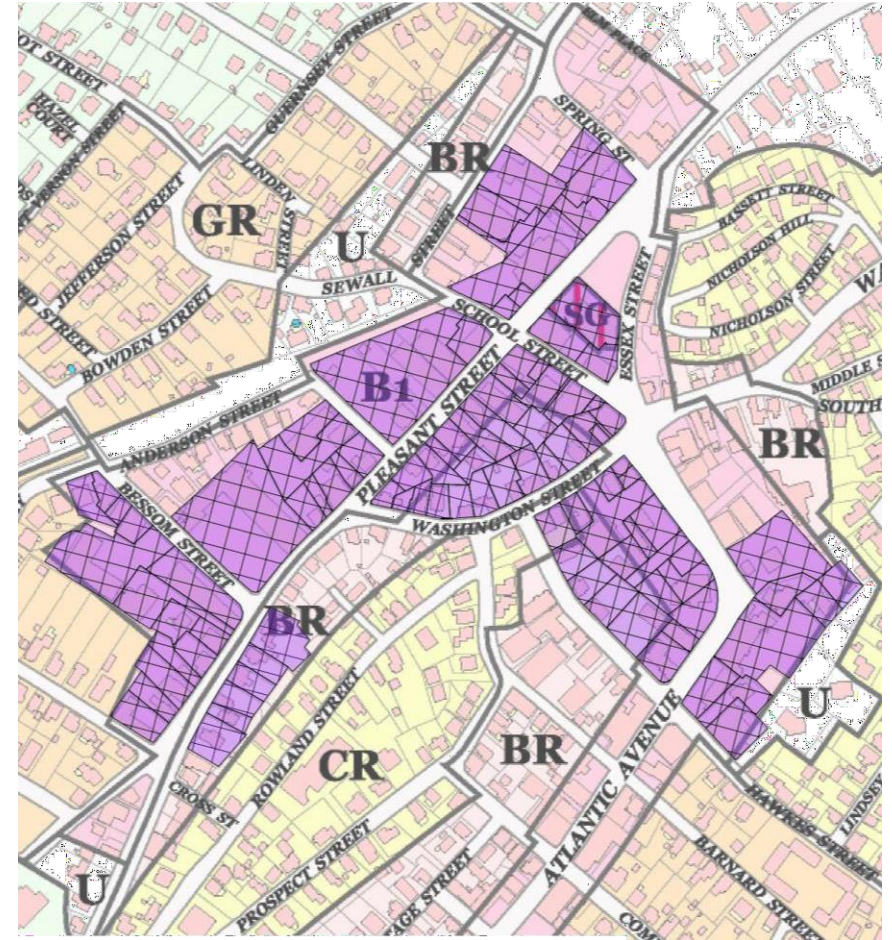
# Sub-District #1 – “Tioga Way”

- Select of existing Unrestricted District
  - Presently the Town allows multi-family by special permit
- Includes under-utilized office buildings
- 5 developments that already meet density requirements
  - Marblehead Highlands – 40B Development
  - Sailmaker Place – 40B Development
  - Elbride Road – Incentive Zoning
  - Lincoln Park
  - Arnold Terrace



# Sub-District #2 – “Pleasant Street”

- Expansion of Smart Growth District
  - Originally adopted by Town Meeting in 2009
  - One applications for Pleasant Street District
- Considerations
  - Adding to walkable neighborhoods
  - Continuation of the integration of mixed land uses
  - Provides a means to incorporate more compact building design as an alternative to conventional, land consumptive development
  - Near public transportation to encourage the use of mass transit, thereby reducing the impact of the car



# Sub-District #3 – “Broughton Road”

- Existing multi-family housing owned and operated by the Marblehead Housing Authority
  - First constructed in the 50’s and then expanded in early 80’s
- Marblehead Housing Authority is currently exploring ways to redevelop existing property
  - Development discussions happening regardless of MBTA Communities changes



# Compliance Plan Summary

After a year of development and engagement, the Town has a compliant draft zoning plan that:

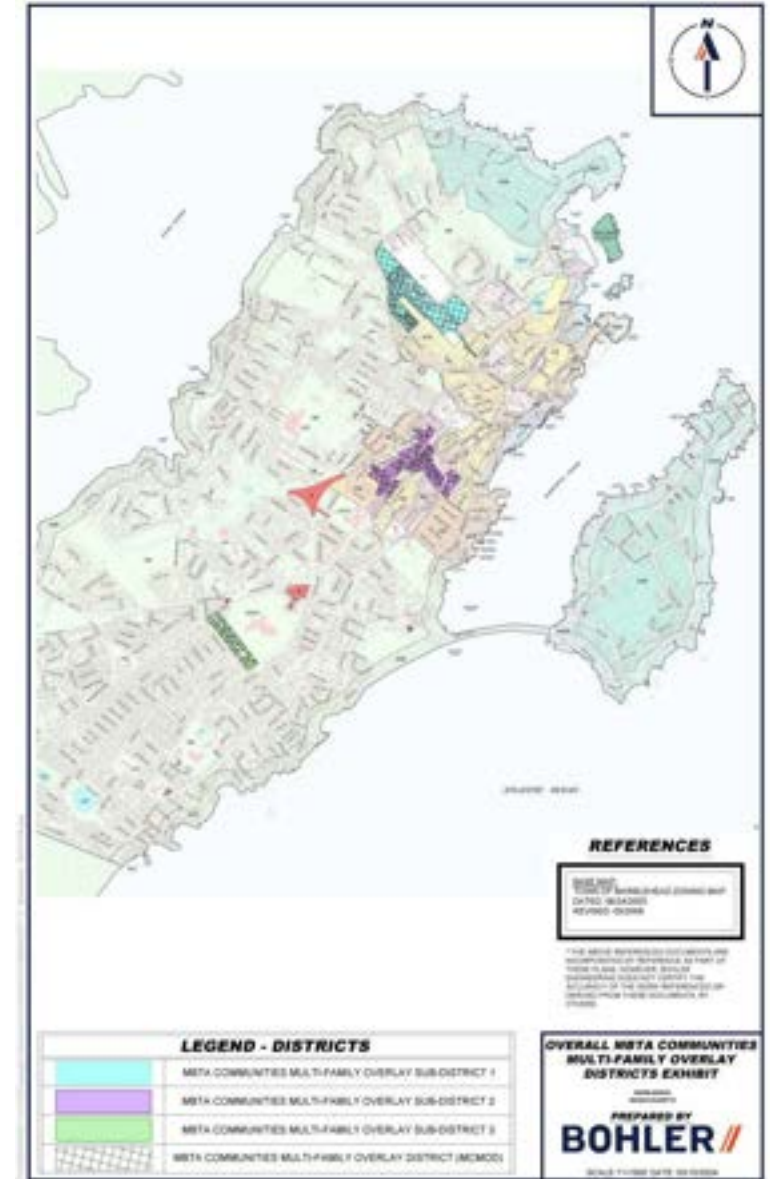
## **Preserves the character of Marblehead**

- Proposal uses an incremental step approach – Zoning areas that already have or allow multi-family by special permit
- Old & Historic Districts not included

## **Takes into consideration existing multi-family and mixed-use development**

- ~360 units already exist out of the 897 unit requirement

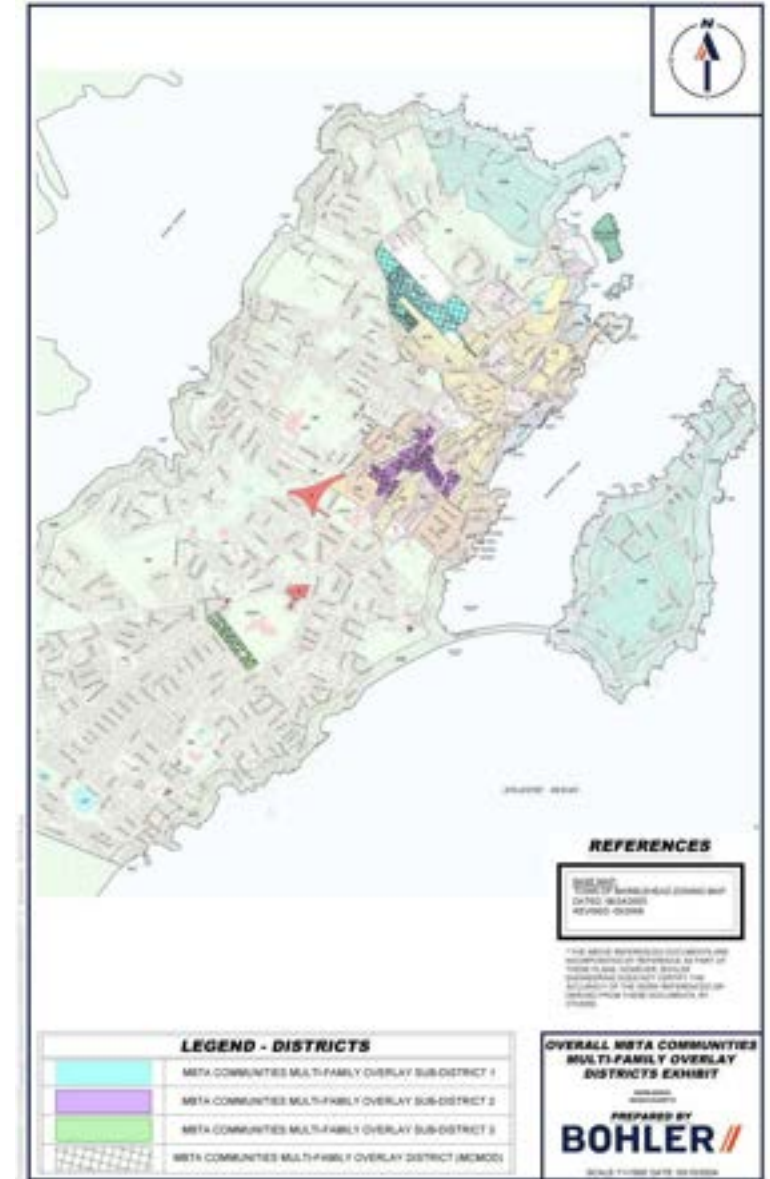
## **Is compatible with Marblehead's infrastructure capacity to accept additional development**



# Compliance Plan Summary

## Benefits of Multi-family Housing for Marblehead:

- Allows for residents to age in place and/or downsize
- Incentivizes denser, more efficient housing options
- Can help alleviate future infrastructure costs in the long run
- Can help Marblehead achieve its net-zero sustainability initiative



# **Financial and Legal consequences associated with MBTA 3A Zoning**

# Why does Marblehead have to comply?

- Communities that fail to comply with the Law may be subject to civil enforcement action.<sup>1</sup>
- Non-compliant MBTA Communities are also subject to the administrative consequence of being rendered ineligible to receive certain forms of state funding.<sup>2</sup>
- Importantly, MBTA Communities cannot avoid their obligations under the Law by foregoing this funding.
  - The Law requires that MBTA Communities “shall have” a compliant zoning district and does not provide any mechanism by which a town or city may opt out of this requirement.<sup>3</sup>

1. See, e.g., G.L. c. 12, § 10 (the Attorney General shall take notice of “all violations of law” and bring “such...civil proceedings before the appropriate state and federal courts...as [s]he may deem to be for the public interest”); G.L. c. 231A, § 2 et seq. (authorizing declaratory judgment actions to “secure determinations of right, duty, status, or other legal relations under...statute[s]”). 9

2. G.L. c. 40A, § 3A(b).

3. G.L. c. 40A, § 3A(a)(1).

# What happens if Marblehead fails to Comply?

- Marblehead would lose access to *specific* grants and lose competitiveness in others.

- At least 13 specific grant programs:

1. Collaborative Workspace Program, MassDevelopment,

2. Real Estate Services Technical Assistance, MassDevelopment,

3. Commonwealth Places Programs, MassDevelopment,

4. Land Use Planning Grants, EOEEA,

5. Local Acquisitions for Natural Diversity (LAND) Grants, EOEEA,

6. Municipal Vulnerability Preparedness (MVP) Planning and Project Grants, EOEEA

7. Community Planning Grants, EOHLC,

8. Massachusetts Downtown Initiative, EOED,

9. Urban Agenda, EOED,

10. Rural and Small Town Development Fund, EOED,

11. Brownfields Redevelopment Fund, MassDevelopment,

12. Site Readiness Program, MassDevelopment,

13. Underutilized Properties Program, MassDevelopment,

# Key grant examples that directly impact Marblehead

## Coastal Resilience Grant Program

- Municipal Shipyard Resiliency Project [\$900,000 received from this program over the last 4 years] – In progress
- State Street Landing CZM project [\$210,000] – In progress

## Transportation Improvement Program

- Pleasant Street at Village, Vine, and Cross Streets Intersection Improvements [\$672,750 – Completed in 2021]  
- Complete
- Village Street Bridge [\$3 million construction cost] - Seeking

## Community Planning Grant Program

- Five Corners Intersection redesign [\$135,000] - In progress
- Master Plan [\$130,000] - In progress

# Compliance Information in Summary

Compliance Deadline: July 14<sup>th</sup>, 2025

- Non-compliance would have a negative effect on the Town's ability to capture state funding
- Non-compliance would bring legal risks and cost

# Q&A Session

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Thank you.