

# Brookline by DESIGN

To: Brookline Select Board,  
Town Administrator,  
Planning Board,  
Housing Advisory Board,  
Economic Development Advisory Board

From: Brookline by Design Steering Committee

Re: MBTA Communities Act & Harvard St. Corridor Zoning

Date: January 29, 2023

We want to thank Senior Planner Maria Morelli for her extraordinary efforts to find a workable solution to both better zoning on one of our major commercial corridors (Harvard St.) and meeting the highly prescriptive requirements of the MBTA Communities Act Guidelines.

We concur that her analysis and preliminary proposal has a lot of merit as a possible future course for zoning reform in Brookline. Specifically, we applaud the Planning Department's embrace of Form-Based zoning as an important zoning innovation that holds great promise for Brookline. We would support using the Harvard St. analysis done to date to jump start a focused look at Harvard St., if it aligns with the community goals and objectives to be identified within the Comprehensive Planning and Zoning Reform effort that the Town is about to start.

As outlined in greater detail on the attached **Detailed Analysis**, the negative consequences for Brookline would be substantial, including undercutting mixed use development; imposing inappropriate parking requirements; prohibiting housing suitable for the elderly, single people or couples without children; encouraging demolition of old buildings that provide moderate rents to many families; imposing a one-size-fits-all zoning on all of Harvard Street; negatively impacting affordability and encouraging dense luxury apartment or condominium buildings. For these and other reasons listed in the **Detailed Analysis**, we believe that the MBTACA Guidelines and a well-designed zoning re-write for Harvard Street are **incompatible**.

We recognize and advocate for the need to engage all stakeholders in the decision-making process around growth and change in Brookline and therefore oppose the emergency expenditure and accelerated process contemplated in this funding request before the Select Board, which seeks to fund an outside consultant to deliver the proposed up-zoning of Harvard St. in time to meet an arbitrary deadline of Fall 2023.

We believe it is in the Town's best interests to work with our State Legislative delegation to seek changes to some of the MBTA Communities Guidelines in order to secure better results for Brookline and to allow sufficient time for the robust community engagement and careful planning necessary to realize our community goals.

## **DETAILED ANALYSIS**

### **A. Specifics of the MBTACA Guidelines and the Difficulties They Pose:**

1) **UNREASONABLE TIMING:** The deadline for compliance (i.e. passage of a compliant zoning change) is this Fall's Town Meeting, the filing deadline for which is a mere 7 months away. That leaves no time for possible altering of the existing guidelines, no time for the necessary refinement of the proposal, no time for the careful urban design and form-based coding needed, let alone adequate community engagement or the necessary insights to be gained from looking at alternative ways to meet the MBTACA Guidelines.

2) **NO MIXED-USE:** Under the MBTACA Guidelines, we cannot mandate commercial uses on the first floor, even though retail and other active uses at the street level are critical for a vibrant mixed-use district. Some of our most cherished and vital local businesses, such as Brookline Booksmith, could be displaced if we incentivize redevelopment through adoption of zoning based on the guidelines as written.

3) **NO SPECIAL PERMITS:** The MBTA district must allow multi-family by-right. That means that many of the current checks and balances in our permitting process must be recreated in a "check-list" format, which cannot be responsive to site-specific issues. In Brookline, because of our complex urban landscape, much more development occurs *because* of the special permit process, not despite it.

4) **NO CREDIT FOR EXISTING UNITS:** If the newly designated district encompasses buildings larger than the new zoning allows, the existing units in those buildings that exceed the zoning limits cannot be counted in the “capacity” of the new district. (We are required to create a by-right multi-family zone with a *capacity* for 6,990 units regardless of how much housing is already built). This is another way in which already dense communities do not get “credit” for the multi-family housing they already have.

5) **ASSUMES SURFACE PARKING:** If the new MBTA zoning district has parking requirements, the guidelines assume all parking is surface parking and subtracts the amount of land area necessary for that parking from the capacity calculation, even though underground or shared public parking are more likely solutions in an urban setting.

6) **EXCLUDES MICRO-UNITS, STUDIOS, AND 1-BEDROOMS:** The MBTACA Guidelines mandate that any multi-family housing permitted in the new “by-right” district must be suitable for families, i.e., we cannot mandate or incentivize smaller housing units that would be suitable for young professionals, empty nesters, etc.

7) **UNCLEAR INCLUSIONARY HOUSING REGULATION:** While the MBTACA Guidelines theoretically allow us to retain our inclusionary housing requirements, it is unclear how effectively we can enforce them in the context of “by-right” development since they are currently extremely detailed and complicated and administered through the special permit process.

8) **IGNORES EXISTING DENSITY:** Brookline already meets the “goals” of the MBTACA many times over. In fact, you could characterize the Guidelines as trying to make suburban communities more like Brookline. The Guidelines require a rapid transit community to zone to have at least 25% of their housing be in buildings with 3 units or more. In **Brookline’s TPOD 75% of the existing housing already meets that criterion.** Within our transit overlay district (TPOD), population densities are equivalent to the densest communities in the region like Chelsea, Somerville, and Cambridge, approximately 18,000 people per square mile.

9) **FOSTERS DEMOLITION AND DISPLACEMENT:** The MBTACA Guidelines require Brookline to have a contiguous 41 acre district that is zoned for a “by-right” minimum density of 15 units per acre. Brookline already has **hundreds if not thousands of acres** with a density of 15 units per acre or more.

The creation of new higher-density zoning will likely result in large-scale demolition, and displacement of modestly priced housing and local small businesses. These displacement threats are very real and likely to occur under the current Harvard St. up-zoning proposal.

10) **PROHIBITS DEVELOPER CONTRIBUTION TOWARDS PUBLIC**

**BENEFITS:** Brookline has historically negotiated with developers to secure funding to mitigate localized impacts and make enhancements to public facilities in the vicinity of a development. This is known as value-capture. The MBTACA Guidelines prohibit this.

11) **REQUIRES THE ENTIRE CORRIDOR TO BE ZONED THE SAME:**

The idea that Harvard St. could meet the MBTA Guidelines as written requires that the 4-story rubric be applied uniformly through-out the corridor. While this building scale may be appropriate in some areas, we may determine that some areas could benefit from greater scale, while others clearly should be less. The Guidelines limit our ability to tailor zoning to specific site conditions.

**B. Fundamental Concerns with the Planning Department's Proposed Zoning Amendment for Compliance with the MBTA Communities Act Guidelines:**

1) **OPTIONS OTHER THAN HARVARD STREET:** The Town was not presented with optional district designations beyond the Harvard Street corridor to meet compliance. (MBTA Communities Act Guidelines for multi-family districts include all areas within one-half mile of an MBTA stop.) The Town has not been presented with alternative options that would be less impactful, or that would not concentrate further growth in an area already heavily impacted by recent 40B developments. It may be possible to devise a compliant district or districts that would not be up-zoning and therefore would have minimal impacts to buy time for a more refined approach.

2) **FORM-BASED CODE TIMELINE:** The proposed timetable to formulate, review, and approve a form-based zoning code is unrealistic and unprecedented. For instance, the example used in the Planning Department's presentations cite Somerville's form-based code as an example. Somerville's new code is 568 pages and the section dedicated to mid-rise buildings is 112 pages.

3) **COORDINATION WITH OTHER PLANNING:** Selecting Harvard Street because there was previous study of the corridor does not suffice as a planning

rationale to target our main commercial corridor. There has been no coordination with other planning initiatives including the HPP, AHOD study, Boylston Street Corridor study, and the Comp Plan update. (For example, the HPP identifies several areas with potential for multi-family housing development not on Harvard Street.)

4) **CHANGE IN FUNDAMENTAL ZONING PARAMETERS:** The proposed rezoning requires elimination of the current Zoning By-Law requirements for (a) ground-level commercial space and (b) minimum parking requirements. These are essential parts of the land-use regulations for Harvard Street, one of the Town's few densely developed commercial / mixed-use corridors.

5) **THE MAGNITUDE OF CHANGE:** In presentations to Boards and Committees, the Planning Department has asserted that these proposed changes are not up-zoning. It's unclear how the proposal could be construed as such, since much of the corridor has a maximum height of 40', which is clearly insufficient for a 4-story building, especially in the context of 15' first-floor ceiling heights. However, it is the **elimination of FAR** that constitutes the greatest up-zoning, which along most of the corridor represents at least a **tripling of the sq. ft. of usable building space** that can be built, which would radically alter the massing of structures along the corridor.

### **C. Fundamental Concerns with the MBTA Communities Act and the Implementation Guidelines:**

1) **MAKES DENSER COMMUNITIES BEAR THE BURDEN:** The formula used to identify the target capacity for our required multi-family by-right zoning district is based on existing housing units. This means the Guidelines seek to add the most housing capacity *in those communities that already have the largest number of housing units.*

In other words, it will cause already dense communities to become much denser. There is no offset for existing density or lack of available land. So, in Brookline, we are required to zone an area with a capacity for 6,990 dwelling units, by-right, which represents 25% of our existing housing. This seems backwards. (See: "[On Second Thought, T Zoning Proposal Needs a Redo](#)," by Charlotte Kahn, published in Commonwealth Magazine, March 28, 2022)

2) **IGNORES CHANGES IN COMMUTING PATTERNS:** The patterns of our home/work lives have changed. Yet the assumptions behind these guidelines have

not. At least 30% of the workforce is still working remotely and can live anywhere. Why do we as a State or Region want to assume all commutes follow the hub-and-spoke pattern? The plans and purchases for the extra capacity for the T have been scaled back already. We need to re-calibrate.

**3) REINFORCES DYSFUNCTIONAL DEVELOPMENT PATTERNS:**

Shoehorning housing units into already dense communities along Greater Boston's climate-vulnerable hub-and-spoke transportation system and *reinforcing* its stranglehold on job growth—with the attendant traffic congestion, high housing costs, and crowding and infrastructure deficiencies—while the remaining 2/3 of Massachusetts suffers from a lack of jobs and investment forecloses opportunities for the rest of the State and dooms us to more of the same problems we face now. By adding substantial housing in already dense areas, a shortage of access to parks, recreation, services, and other amenities will be exacerbated, causing a diminishment of quality of life and reduced opportunities for residents.

**4) GUIDANCE CITES GOAL OF CONFORMITY WITH EXISTING COMPREHENSIVE PLANS:**

In order to successfully plan for a growing population, we must identify and plan for the corresponding expansion of public facilities, infrastructure, and services. Brookline is starting a community-driven comprehensive planning effort to do just that. We need the time and support to complete the necessary planning work to lay the groundwork for zoning reform. Forcing these zoning changes in the manner and time frame currently demanded undermines local planning efforts.

**5) EXPANSION AND IMPROVEMENT OF PUBLIC TRANSPORTATION IS THE TRUE DRIVER OF HOUSING PRODUCTION:**

The Commonwealth has completely failed at coordinated planning, or, more accurately, they simply have not tried. Without a safer, more functional and flexible public transit system, housing growth in the inner core will simply create more traffic congestion, crowding, and environmental degradation.

**6) CREATES JOBS/HOUSING AND HOUSING/COMMERCIAL**

**IMBALANCES:** If we value walkable 15-minute neighborhoods, which require a healthy balance between access to retail, employment, education, and recreation, then adding substantial amounts of new housing will disrupt this balance and create large areas of residential-only development. Such a segmented development pattern will require residents to travel further when meeting their daily needs.