

TM approves 'rapid transit' compliant plan

By Elaine Cushman Carroll Milton Times staff

After three years of contentious debate, lawsuits and attempts at compromise, Milton Town Meeting voters approved a zoning plan that will keep the town into compliance with the MBTA Communities law as a rapid transit community.

The vote to approve Article 6 on June 17 could result in an increase of up to 1,500 new units of housing in ten new districts across town over time, according to those who worked on the plan.

Town Meeting members also voted to send a second plan, contained in Article 5, back to the Planning Board for further study. That article would have been compliant with the state law's regulations only if the town were granted a reclassification to an "adjacent community" standing.

By sending it back for further study the measure can be brought back before voters at a later time if the town is reclassified through legislative or judicial pathways.

Select Board Chair Ben Zoll said, "Essentially I think the result reflects a long and significant process

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that was taken seriously by everyone involved."

"It also underscores the need for us to pull back from a single issue and face the border issues in ways that lift each other up rather than knock each other down," Zoll said.

He said he hopes to continue to refine the plan and spend the next several months educating residents, particularly those whose properties might be affected by the new overlay zoning districts.

"My hope is that we can continue to have resolution. It doesn't do us any good as a town to have this as an open wound," Zoll said.

After a joint meeting of the Select Board and the Planning Board on June 20, Zoll said the board agreed to submit the 25% plan to the state and also to go ahead with a request for a declaratory judgment with regards to the classification as rapid transit.

"In our session the Select Board has made a motion to appoint Tom Dougherty as a special town counsel to file a brief in regards to the MBTA Communities Act," Zoll said.

He said the board instructed Town Counsel to contact Dougherty, a Milton attorney, over the week to discuss strategy. The board will also send him a letter to confirm the pro bono nature of the work, Zoll said.

"We will submit our 25% zoning plan to the (EO)HLC and the Attorney General's office. Our expectation is that both offices will find them satisfactory," Zoll said.

Brian O'Halloran who worked with Milton Neighbors for Responsible Zoning (MNRZ) said he is still awaiting the ruling on a lawsuit brought by residents that seeks reclassification for Milton.

"After that we need to look at the 10% plan in the context of that decision," O'Halloran said.

"I think there's a sense of relief that there is some closure tonight, even though it didn't go the way I would have liked it to go," he said at the close of the Special Town Meeting.

A group of 16 residents recently filed suit in Norfolk Superior Court to have the town reclassified, as of June 19 no ruling had been passed down in that case that is before Judge Mark Gildea.

The state Legislature passed the MBTA Communities Act as part of a larger bill in an attempt to address the state's housing crisis in January, 2021.

The act called for 177 communities that were in some way served by public transportation to provide by-right multifamily housing of three or more units. The Executive Office of Housing and Livable Communities (EOHLC) put forth regulations in 2022 and amendments in 2023. It placed communities into one of five classifications that required different levels of compliance.

Milton was one of 12 communities placed in the most demanding "rapid transit" category that meant it needed to create zoning districts that had the capacity for 2,461 units of housing, or 25% of the town's total housing inventory.

Many in town have said since the start that EOHLC's guidelines unfairly placed the town in the highest classification based on the Mattapan High Speed Trolley Line that runs along the Milton-Boston line. The trolley line that has seen few improvements in decades does not meet any standard as rapid transit, they contend.

Town Meeting voters initially approved a different 25% plan in December, 2023. Members of MNRZ then collected 3,000 signatures in ten days for a referendum question. About 54% of those voting in the special election overturned the Town Meeting vote in February 2024.

In response, the state Attorney General's office sued the Town for noncompliance with the law and also moved to withhold several discretionary state grants. The state's highest court ruled that the law was constitutional and could be enforced, but also said the guidelines were not properly put in place and needed to be repromulgated.

EOHLC Press Secretary Tara Smith said that the town had been considered in interim compliance with the law since the end of May. That's when the newly reconstituted Select Board agreed to have Town Administrator Nicholas Milano file an action plan that said the town agreed to creating a plan as a rapid transit community.

"Upon becoming interim compliant in May, Milton was able to apply for Community One Stop for Growth grants before the June 4 deadline. Regarding additional grants managed by our fellow agencies, (EO)HLC coordinates with them about communities that are not in compliance," Smith said.

"Milton still needs to submit their 3A district to (EO)HLC for compliance review. If they do so by July 14, they will remain in interim compliance," she said.

Town officials said that since the beginning the town has lost roughly \$800,000 in state grants due to non compliance and has spent roughly \$300,000 in legal fees.

Acting Town Moderator Brian Walsh said that a motion to merge Articles 5 and 6 was not allowed under the rules. Town Meeting also approved three amendments to the citizen's group that put forward Article 6.

As a zoning article, Article 6 required a two-thirds majority. The vote on the rapid transit plan was 164 to 73, with two abstentions, equalling just over 70% of the vote.

The motion sending Article 5 back for further study was approved 207 to 13, with three abstentions. It had the support of the Warrant Committee and the Planning Board.

The debate on the two articles stretched over two nights and included pleas on both sides of the issue.

MNRZ founder Denny Swenson defended the Planning Board's 10% plan and said they had to choose between "bad and awful" to come up with that plan.

She said the number of units under the 25% plan was extreme and "the assignment was backwards." The assignment, Swenson said, "was to look at a map and jam 2,500 units in."

She said the "as of right" zoning in the plan would place a burden on the town's infrastructure including roads and schools.

"We are stripping our zoning controls and giving it away to developers," Swenson said.

"In every neighborhood I meet people who tell me they saved up everything they had to move out of the city to live in Milton," she said. "Many stressed the importance and value they place on having their own driveway, that tree by the sidewalk, that stitch of land in their backyard. They paid dearly to live in their neighborhood."

Swenson said, "I align with the residents who want thoughtful zoning. I care for that resident who bought into the neighborhood and paid for that single-family zoning and is getting the rug ripped out from under them."

She urged that the town instead seek a declaratory judgment to change what she called "the mistaken classification."

TMM Tony Cichello said the 25% plan was prepared by the Planning Board and is the only compliant plan the town has at this point.

"If we don't do it, the state will do it for us," Cichello said. "We've spent a lot of time talking about housing. Housing is a critical issue. We heard it's essential to health and safety."

The MBTA Communities Act is legal and is a step in solving the housing crisis, he said.

"It's the law that's in front of us now and it's what we've got to respond to," Cichello said.

"We've been at this a long time. The guidelines have now been promulgated into law. They're binding. We've spent thousands and thousands of dollars coming up with compliant plans, noncompliant plans," he said.

Cichello said there is a "last gasp effort" for reclassification that is unlikely to be successful.

"If it is, we can change the zoning to be compliant," he said. "The plan's not perfect, people may not like it, but it's what we need to do."

Article 6 creates the following zoning districts: Granite Avenue north, former paper mill site, Blue Hill Avenue station area; Blue Hills Parkway Corridor; Eliot Street Corridor, Fairmount Commuter Rail station area and Milton Village/Central Avenue area. It also includes the sites of three already approved 40B developments: Randolph Avenue West (711 Randolph Ave.) and Randolph Avenue East (728 Randolph Ave. and nearby properties), and the Residences at East Milton.

Milano said those seeking more specifics about the parcels included in the overlay are available via a link on the Special Town Meeting page: [https:// www.mapsonline.net/miltonma/mbtacomcommunitydistrictsmapper. html](https://www.mapsonline.net/miltonma/mbtacomcommunitydistrictsmapper.html)



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