

# MBTA Communities Zoning Requirements

Warrant Committee Presentation  
August 14, 2023



---

Milton Department of Planning and Community Development



# What is the MBTA Communities law?

Enacted as part of the economic development bill in January 2021, new Section 3A of M.G.L. c. 40A (the Zoning Act) requires that an MBTA community shall have at least one zoning district of reasonable size in which multi-family housing (three or more units) is permitted as of right and meets other criteria set forth in the statute:

- Minimum gross density of 15 units per acre
- Not more than  $\frac{1}{2}$  miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.
- No age restrictions
- Suitable for families with children.

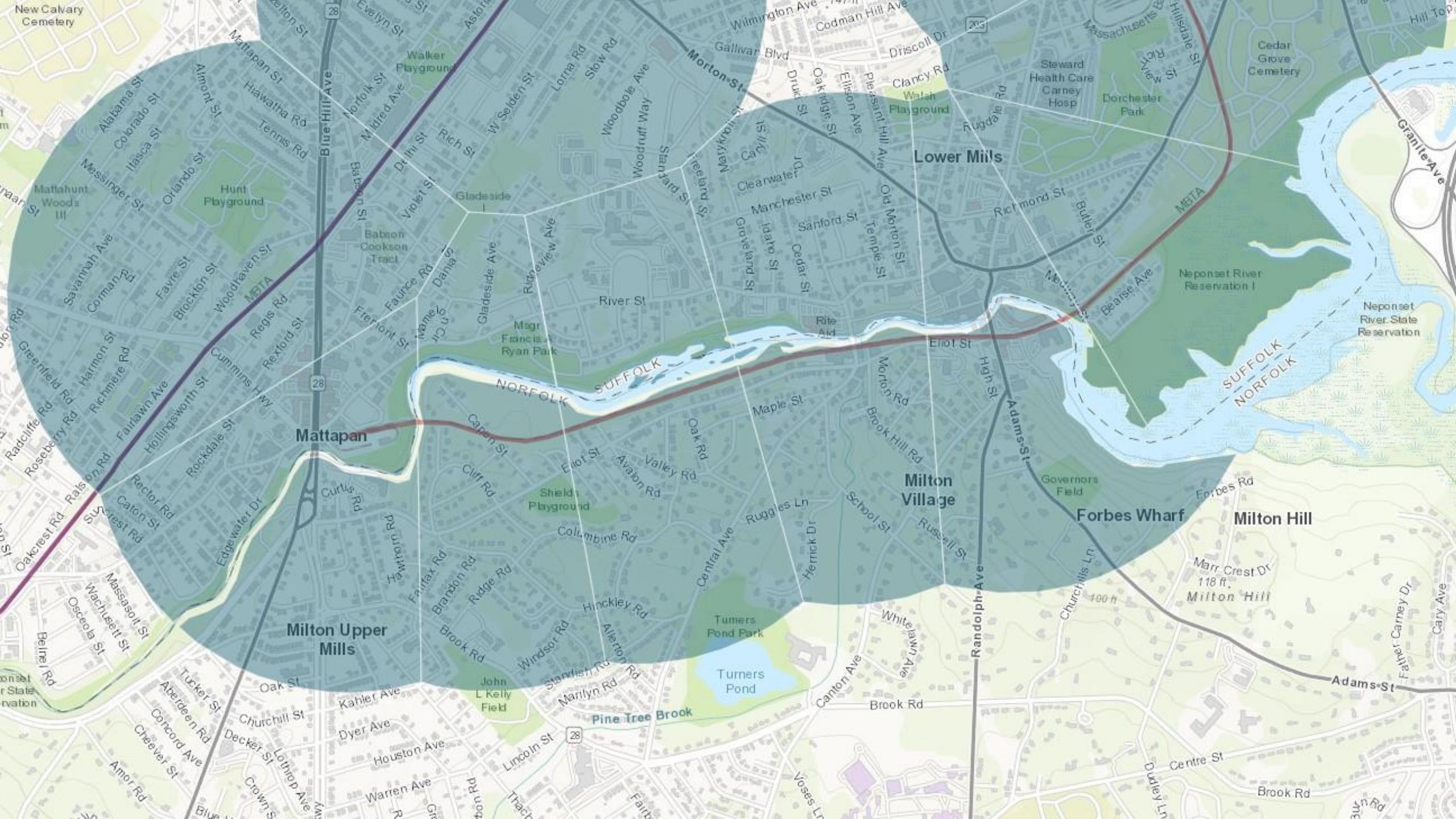
Towns that do not comply with the new requirements will be ineligible for **MassWorks, Housing Choice, and Local Capital Projects** funds.



# Options for Compliance

- Towns with existing compliant districts could potentially count that zoned capacity toward their requirements. Compliance means multi-family by right at a density of 15 units per acre with no age restrictions.
- Does Milton have any existing compliant districts?
  - No.
  - The overwhelming majority of land in Milton is zoned for a single housing unit per parcel.
  - Where townhouse and multifamily development is allowed, it is by special permit, not by right.
  - Much of our multifamily development is age restricted.





# Options for Compliance

The Executive Office of Housing and Livable Communities (HLC) guidelines for compliance give towns flexibility in where zoning districts can go, how large they are, and what their dimensional requirements are.



# Options for Compliance

## Location

- The location and of districts within a ½ mile of transit is determined by how much Developable Area exists in that area. Milton’s Developable Area is reduced by the fact that the Mattapan Trolley hugs the Neponset River and the border with Boston; a significant fraction of the ½ mile radius is either on state property or not in Milton.
  - The HLC guidelines allow Milton to locate as much as 50 percent of our compliant zoning districts outside of the ½ mile transit radius

## Subdistricts

- The Town can create multiple subdistricts in different areas, with the following restrictions
  - At least half of the district needs to be contiguous
  - Subdistricts need to be a minimum of five acres



# Options for Compliance

## Dimensional Requirements

- Dimensional requirements like height, setbacks, and density do not need to be uniform across subdistricts, as long as the average of all the subdistricts meet the law's minimum requirements for density, reasonable size, and by-right permitting.
  - Example: One subdistrict comprising half the total district can have a density of five units per acre, and another district comprising the second half of the total district can have a density of twenty-five units per acre.

The flexibility in HLC's guidelines can help the Town craft districts that minimize change to the physical character of residential neighborhoods.



# Options for Compliance

HLC's guidelines categorize communities according to their level of MBTA service. Milton, owing to the Mattapan Trolley's classification as an extension of the Red Line, is considered a rapid transit community. Under the guidelines for rapid transit communities, Milton has certain obligations.

- Our deadline for compliance is December 31, 2023
- Our compliant district must have the potential for 2,461 units (25% of our existing year-round housing stock). The term for this is “unit capacity.”



# What is Unit Capacity?

Unit capacity is simply the number of units that could be built under a certain zoning scheme.



The MBTA Communities law is a zoning mandate, not a production mandate. Compliance does not depend on how many housing units get built.



# What Does Compliance Look Like

The zoning district we create must satisfy several variables:

- At least 50 acres
- Zoned capacity of at least 2,461 units
- Overall density of 15 units per acre

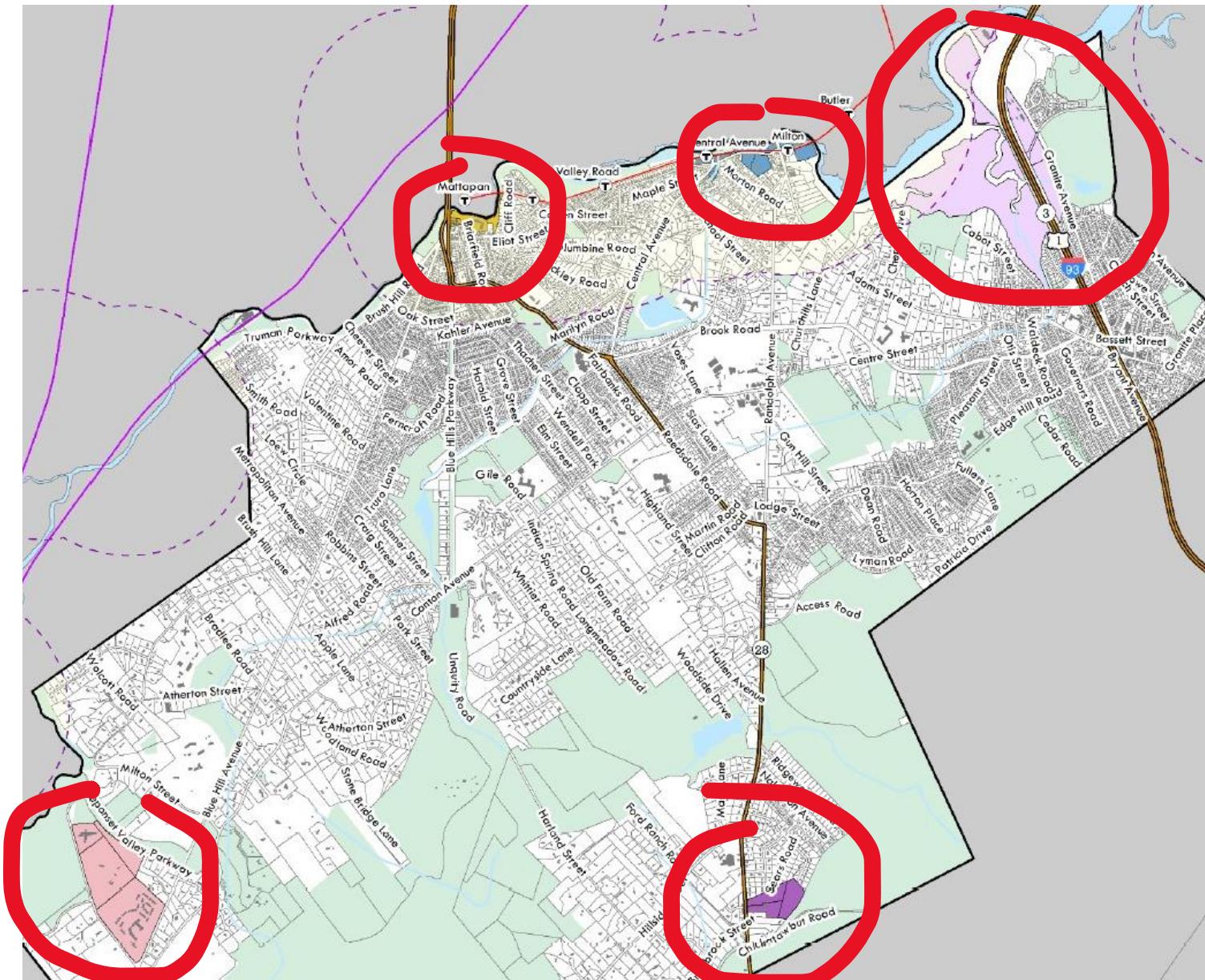
With the help of our technical assistance providers, we have tested several options for subdistricts with the state's Compliance Model, a software tool designed to evaluate proposed zoning districts for compliance with all the requirements of the law and the HLC guidelines.



# Large Parcel Tests

MAPC tested five sets of larger parcels in various locations in Town.

- Milton Village
- Curtis Road
- Brush Hill Road/Neponset Valley Parkway
- Randolph Avenue
- Granite Avenue

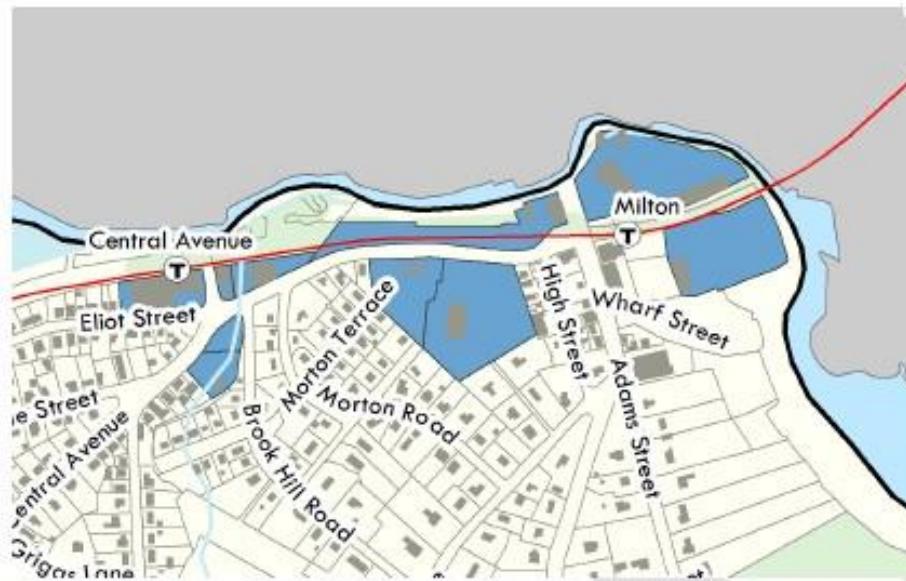


# Large Parcel Tests

## ZONING INPUTS - DISTRICT 1

### Transit Subdistrict 3 (Res-C & Bus)

Model Inputs for Calculating Unit Yield	
	Input
Minimum Lot Size	21,780
Additional Lot Square Feet per Dwelling Unit	0
Open Space %	0%
Excluded Land Counted Toward Open Space	
Parking Spaces per Dwelling Unit	1.00
Building Height	5
Maximum Lot Coverage %	70%
Floor Area Ratio	1.73
Zoning Restrictions that Cap Unit Counts	
	Input
Lot Area per Dwelling Unit	0
Maximum Dwelling Units per Acre	40.00
Cap on Maximum Dwelling Units per District	0.00



### District 1 Transit Subdistrict 3 Summary Calculations

Metric	Number	Metric	Number	% of Total
District Acreage Denominator	8	Non-Conforming Parcels	2	20.0%
Total Parcels	10	Units within Half-Mile of Transit	597	100.0%
Parcel Acreage	15	Total Excluded Land	114,747	17.0%
Total Built Square Feet	1,148,650	Open Space Removed/Set Aside	249,365	37.0%
Multi-family Unit Capacity	597	Total Parking Area	187,961	27.9%
DU/AC	74.6	Units Forgone due to Unit Cap in Zoning	0.00	0.0%



# Large Parcel Tests

## ZONING INPUTS - DISTRICT 2

### Transit Subdistrict 4 (Res-C)

Model Inputs for Calculating Unit Yield		Input
Minimum Lot Size		21,780
Additional Lot Square Feet per Dwelling Unit		0
Open Space %		0%
Excluded Land Counted Toward Open Space		
Parking Spaces per Dwelling Unit		1.00
Building Height		5
Maximum Lot Coverage %		70%
Floor Area Ratio		1.73
Zoning Restrictions that Cap Unit Counts		Input
Lot Area per Dwelling Unit		0
Maximum Dwelling Units per Acre		40.00
Cap on Maximum Dwelling Units per District		0.00



### District 2 Transit Subdistrict 4 Summary Calculations

Metric	Number	Metric	Number	% of Total
District Acreage Denominator	4	Non-Conforming Parcels	6	75.0%
Total Parcels	8	Units within Half-Mile of Transit	161	100.0%
Parcel Acreage	6	Total Excluded Land	111,341	39.6%
Total Built Square Feet	282,504	Open Space Removed/Set Aside	167,602	59.6%
Multi-family Unit Capacity	161	Total Parking Area	46,228	16.4%
DU/AC	38.7	Units Forgone due to Unit Cap in Zoning	0.00	0.0%



# Large Parcel Tests

## ZONING INPUTS - DISTRICT 3

Brush Hill Road Subdistrict (Res-D2)	
Model Inputs for Calculating Unit Yield	Input
Minimum Lot Size	217,800
Additional Lot Square Feet per Dwelling Unit	0
Open Space %	0%
Excluded Land Counted Toward Open Space	
Parking Spaces per Dwelling Unit	1.00
Building Height	5
Maximum Lot Coverage %	0%
Floor Area Ratio	0.00
Zoning Restrictions that Cap Unit Counts	
Zoning Restrictions that Cap Unit Counts	Input
Lot Area per Dwelling Unit	0
Maximum Dwelling Units per Acre	20.00
Cap on Maximum Dwelling Units per District	0.00



## District 3 Brush Hill Road Subdistrict Summary Calculations

Metric	Number	Metric	Number	% of Total
District Acreage Denominator	62	Non-Conforming Parcels	0	0.0%
Total Parcels	3	Units within Half-Mile of Transit	0	0.0%
Parcel Acreage	66	Total Excluded Land	206,647	7.2%
Total Built Square Feet	5,781,896	Open Space Removed/Set Aside	783,936	27.2%
Multi-family Unit Capacity	1,324	Total Parking Area	946,128	32.8%
DU/AC	21.5	Units Forgone due to Unit Cap in Zoning	0.00	0.0%



# Large Parcel Tests

## ZONING INPUTS - DISTRICT 4

### Randolph Avenue Subdistrict (Res-B)

Model Inputs for Calculating Unit Yield	
Minimum Lot Size	130,680
Additional Lot Square Feet per Dwelling Unit	0
Open Space %	0%
Excluded Land Counted Toward Open Space	
Parking Spaces per Dwelling Unit	1.00
Building Height	2.5
Maximum Lot Coverage %	0%
Floor Area Ratio	0.00
Zoning Restrictions that Cap Unit Counts	
Lot Area per Dwelling Unit	0
Maximum Dwelling Units per Acre	20.00
Cap on Maximum Dwelling Units per District	0.00



### District 4 Randolph Avenue Subdistrict Summary Calculations

Metric	Number	Metric	Number	% of Total
District Acreage Denominator	9	Non-Conforming Parcels	0	0.0%
Total Parcels	3	Units within Half-Mile of Transit	0	0.0%
Parcel Acreage	14	Total Excluded Land	32,733	5.4%
Total Built Square Feet	625,125	Open Space Removed/Set Aside	154,575	25.4%
Multi-family Unit Capacity	280	Total Parking Area	204,586	33.6%
DU/AC	32.2	Units Forgone due to Unit Cap in Zoning	0.00	0.0%



# Large Parcel Tests

## ZONING INPUTS - DISTRICT 5

### Granite Avenue Subdistrict (Res-C)

Model Inputs for Calculating Unit Yield	
	Input
Minimum Lot Size	0
Additional Lot Square Feet per Dwelling Unit	0
Open Space %	0%
Excluded Land Counted Toward Open Space	
Parking Spaces per Dwelling Unit	1.00
Building Height	6
Maximum Lot Coverage %	0%
Floor Area Ratio	1.50

Zoning Restrictions that Cap Unit Counts	
	Input
Lot Area per Dwelling Unit	0
Maximum Dwelling Units per Acre	0.00
Cap on Maximum Dwelling Units per District	0.00



### District 5 Granite Avenue Subdistrict Summary Calculations

Metric	Number	Metric	Number	% of Total
District Acreage Denominator	20	Non-Conforming Parcels	0	0.0%
Total Parcels	5	Units within Half-Mile of Transit	248	51.3%
Parcel Acreage	133	Total Excluded Land	5,511,310	95.3%
Total Built Square Feet	685,440	Open Space Removed/Set Aside	6,667,923	115.3%
Multi-family Unit Capacity	483	Total Parking Area	93,469	1.6%
DU/AC	24.3	Units Forgone due to Unit Cap in Zoning	0.00	0.0%



# Large Parcel Tests

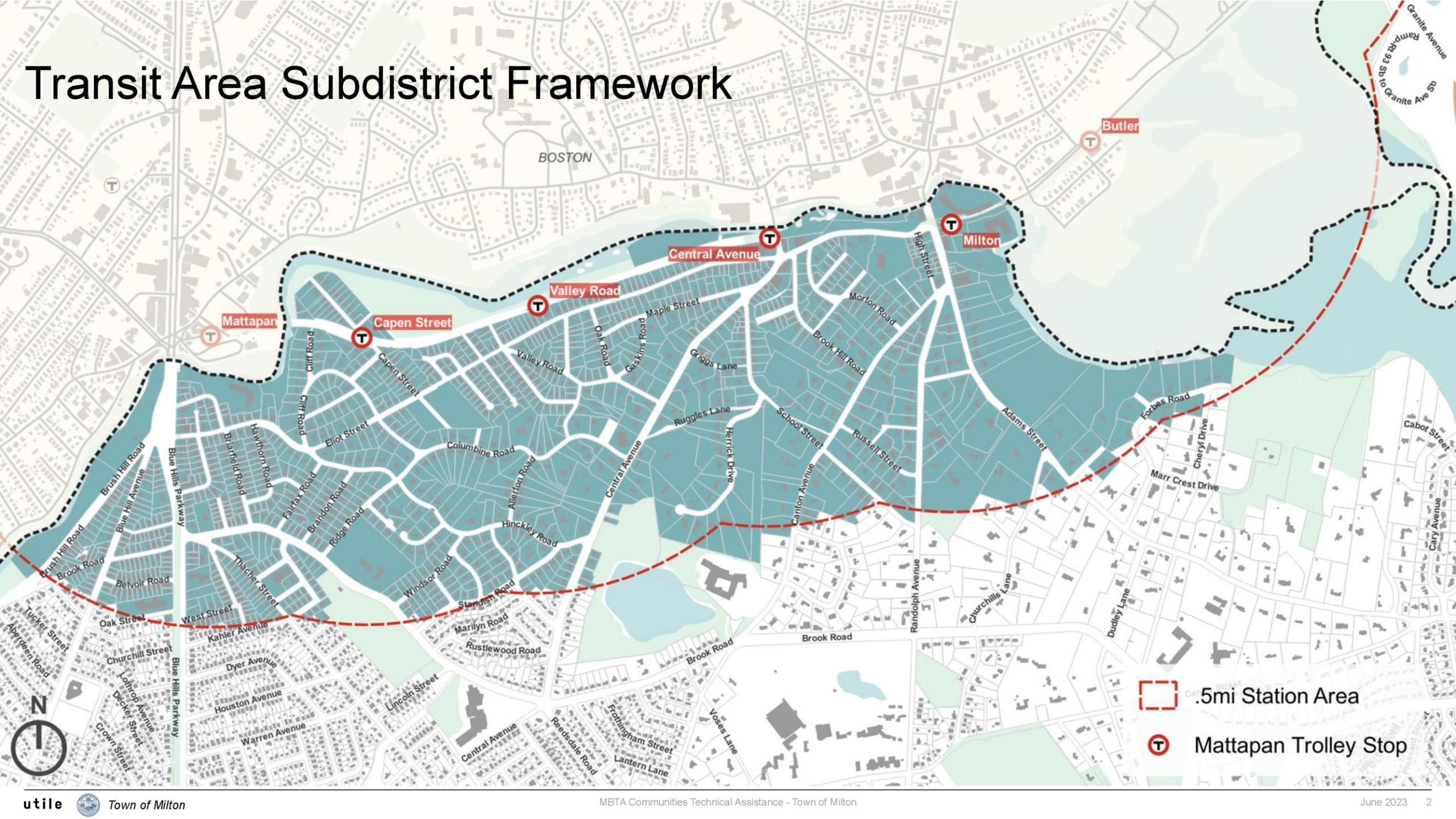
Figure 5: Checking Key Compliance Criteria

Test Subdistrict (Existing Zoning District)	Modeled Multifamily Unit Capacity	District Size (acres)	District Density Denominator* (acres)	Modeled District Density
Transit Subdistrict 3 (Res-C & Bus)	597 units	15.5 acres	8 ac.	74.6 Units/Acre = 597 Units/8 Acres
Transit Subdistrict 4 (Res-C)	161 units	6.5 ac.	4.2 ac.	38.7 Units/Acre = 161 Units/4.2 Acres
Brush Hill Road Subdistrict (Res-D2)	1,324 units	66.3 ac.	61.6 ac.	21.5 Units/Acre = 1,324 Units/61.6 Acres
Randolph Avenue Subdistrict (Res-B)	280 units	14 ac.	8.7 ac.	32.2 Units/Acre = 280 Units/8.7 Acres
Granite Avenue Subdistrict (Res-C)	483 units	132.8 ac.	19.9 ac.	24.3 Units/Acre = 483 Units/19.9 Acres
<b>TOTAL</b>	<b>2,845</b> units	<b>234.9</b> ac.	<b>102.3</b> ac.	<b>23.8</b> Units/Acre = 2,433 Units/102.3 Acres
<b>Complaint ?</b>	<b>YES.</b> Minimum 2,461 units required.	<b>YES.</b> Minimum 50 acres required	<b>N/A</b>	<b>YES.</b> Minimum 15 Units/Acre required.

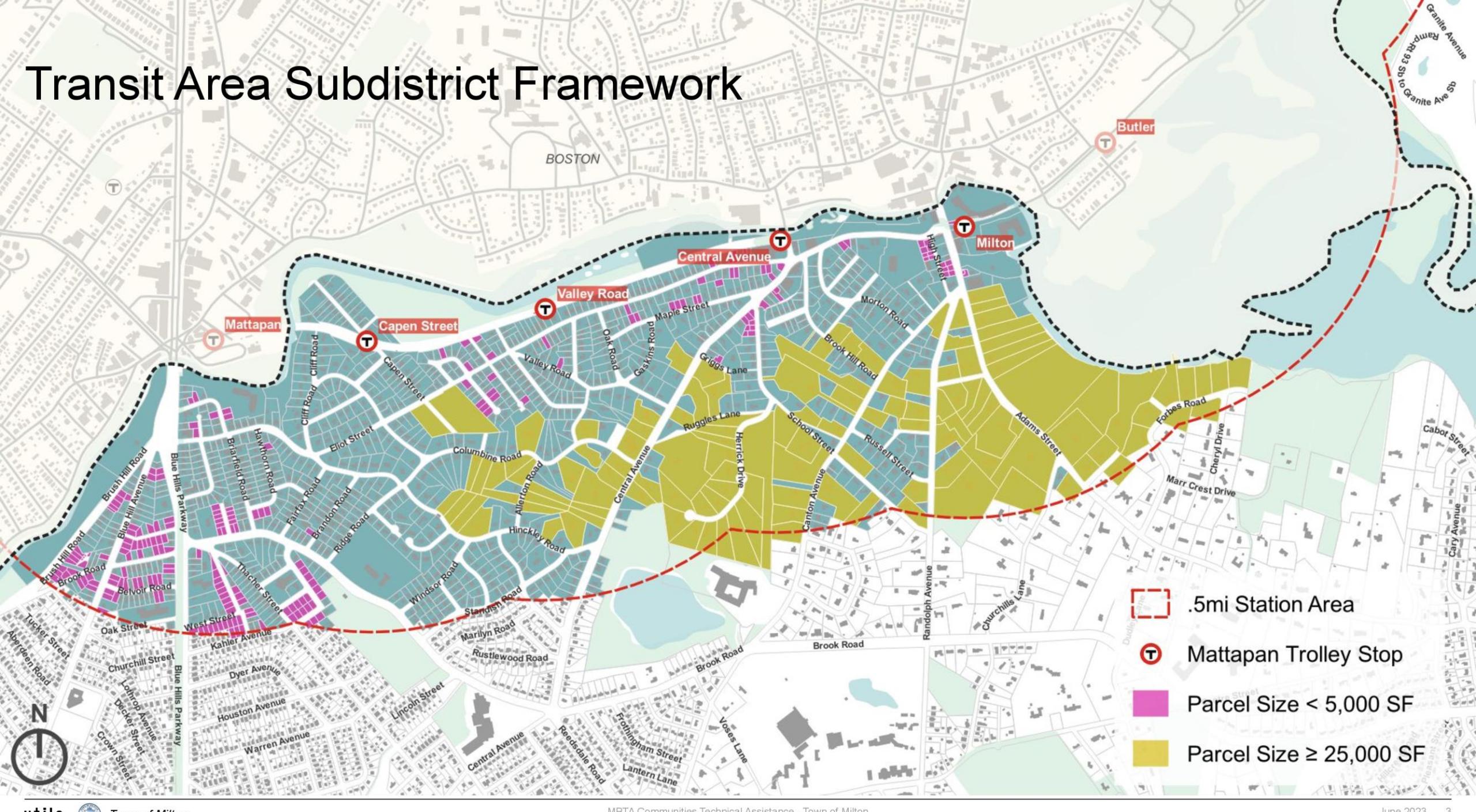
\* "District Density Denominator" is the district size MINUS any areas containing: wetlands, water bodies, Title V setbacks, Surface Water Protection Zone A, and Wellhead Protection Zone 1.



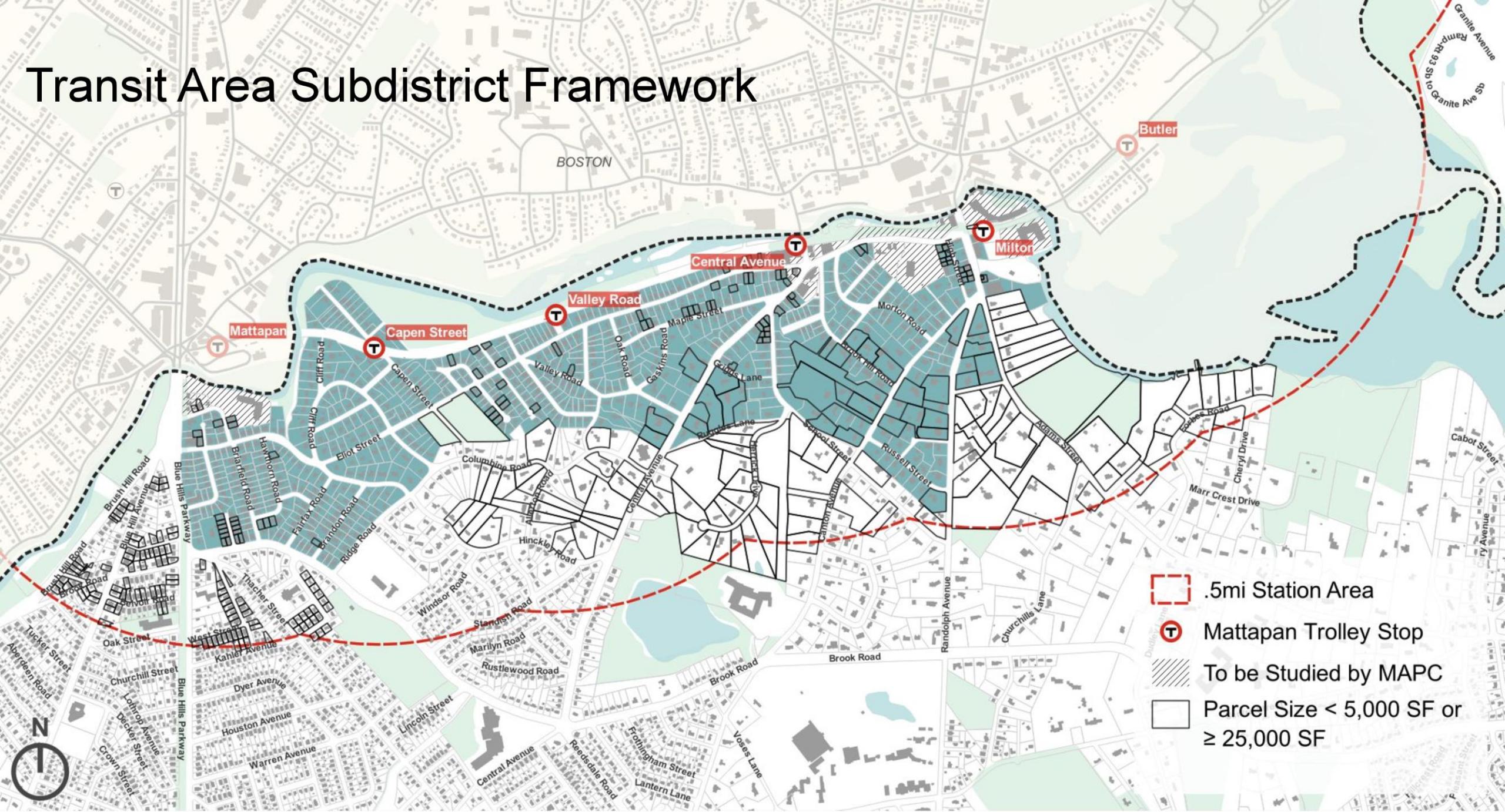
# Transit Area Subdistrict Framework



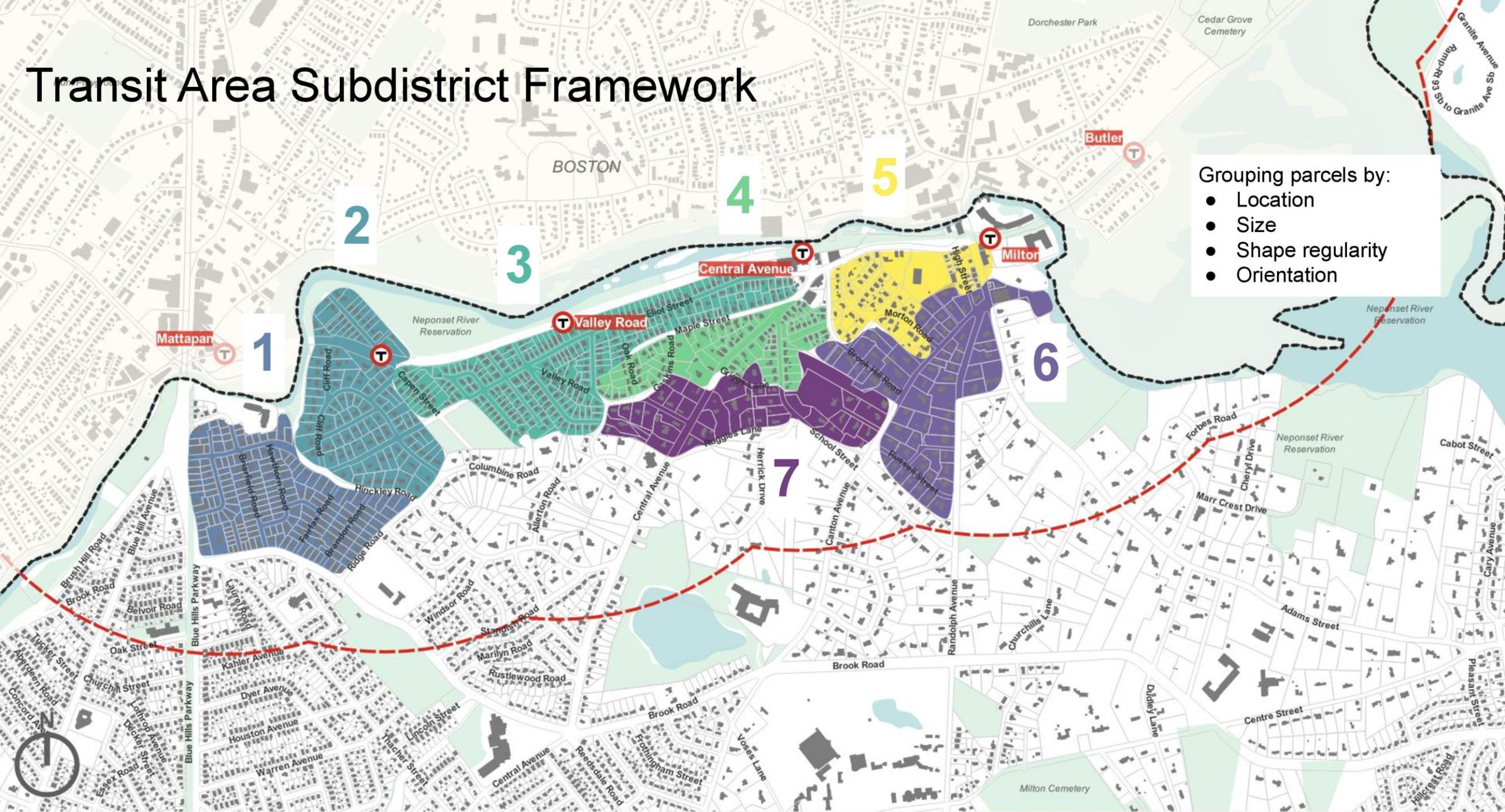
# Transit Area Subdistrict Framework



# Transit Area Subdistrict Framework



# Transit Area Subdistrict Framework



# Effect of Noncompliance

- If at any point DHCD determines that an MBTA community is not in compliance with Section 3A, that MBTA community will not be eligible for funds from the following grant programs:
  - Housing Choice Initiative
  - Local Capital Projects Fund
  - MassWorks

HLC and other state agencies may, in its discretion, **take noncompliance into consideration** when making other discretionary grant awards.



# Effect of Noncompliance

- MassWorks at a glance
  - “The MassWorks Infrastructure Program is a competitive grant program that provides the largest and most flexible source of capital funds to municipalities and other eligible public entities primarily for public infrastructure projects that support and accelerate housing production, spur private development, and create jobs throughout the Commonwealth.”
  - \$66 to \$95 million distributed annually
  - Milton has received one MassWorks grant since 2011
    - 2012: \$1 million for Central Ave./Milton Village public realm improvements
  - Similar-sized towns (within 10% of Milton’s population) have averaged two awards worth \$2.2 million since 2011



# Effect of Noncompliance

It is still unknown what other consequences for noncompliance there may be, but both Governor Healey and Attorney General Campbell have indicated that housing is a priority for their offices.



Matt Stout   
@MattPStout

...

@maura\_healey reacts to @andrewnbrinker story on Middleborough resisting state's new multifamily housing law. "Opting out is not an option," Healey said. "We've got to do this across the state. This administration . . . is really going to lean in here."



bostonglobe.com

Most towns are going along with the state's new multifamily housing law. Not...  
The South Coast town is emerging as an early holdout against a new law requiring communities served by the MBTA to zone for more dense housing.

11:26 AM · Feb 15, 2023 · 1,622 Views





THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
[www.mass.gov/ago](http://www.mass.gov/ago)

**Advisory Concerning Enforcement of the MBTA Communities Zoning Law**

All MBTA Communities must comply with the Law. Communities that do not currently have a compliant multi-family zoning district must take steps outlined in the DHCD guidelines to demonstrate interim compliance. Communities that fail to comply with the Law may be subject to civil enforcement action.<sup>8</sup> Non-compliant MBTA Communities are also subject to the administrative consequence of being rendered ineligible to receive certain forms of state funding.<sup>9</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>10</sup>

MBTA Communities that fail to comply with the Law’s requirements also risk liability under federal and state fair housing laws. The Massachusetts Antidiscrimination Law<sup>11</sup> and federal Fair Housing Act<sup>12</sup> prohibit towns and cities from using their zoning power for a discriminatory purpose or with discriminatory effect.<sup>13</sup> An MBTA Community may violate these laws if, for example, its zoning restrictions have the effect of unfairly limiting housing opportunities for families with children, individuals who receive housing subsidies, people of color, people with disabilities, or other protected groups.



# Town Finances

The Planning Board has commissioned a fiscal impact analysis of new zoning, taking into account potential costs such as increased demand on public safety, infrastructure, and schools, and potential increases in tax revenue.

We have existing data on how land use regulation affects revenue.

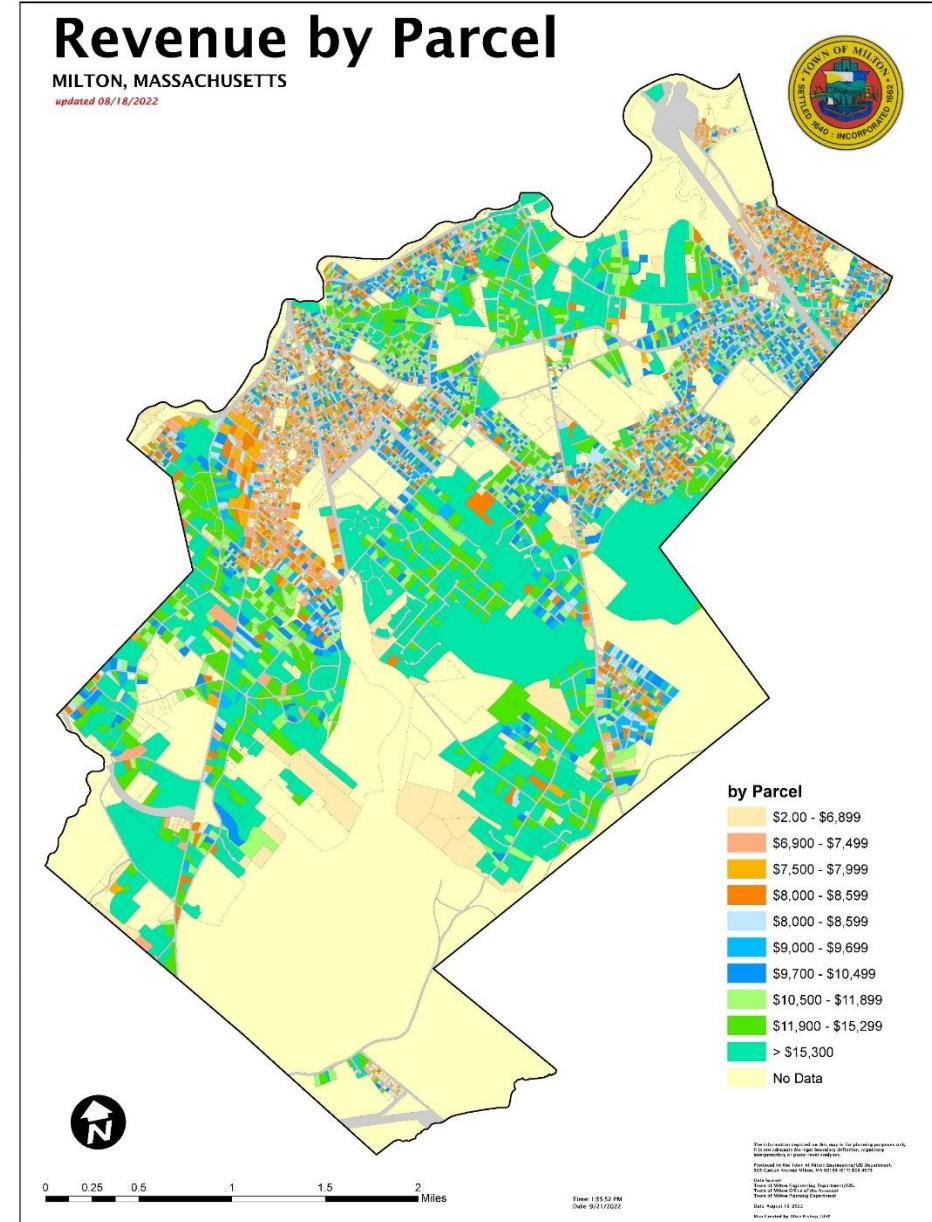


# Town Finances

This map shows how much revenue each parcel in Town generates as of January 2022.

The map shows two types of high-revenue parcels:

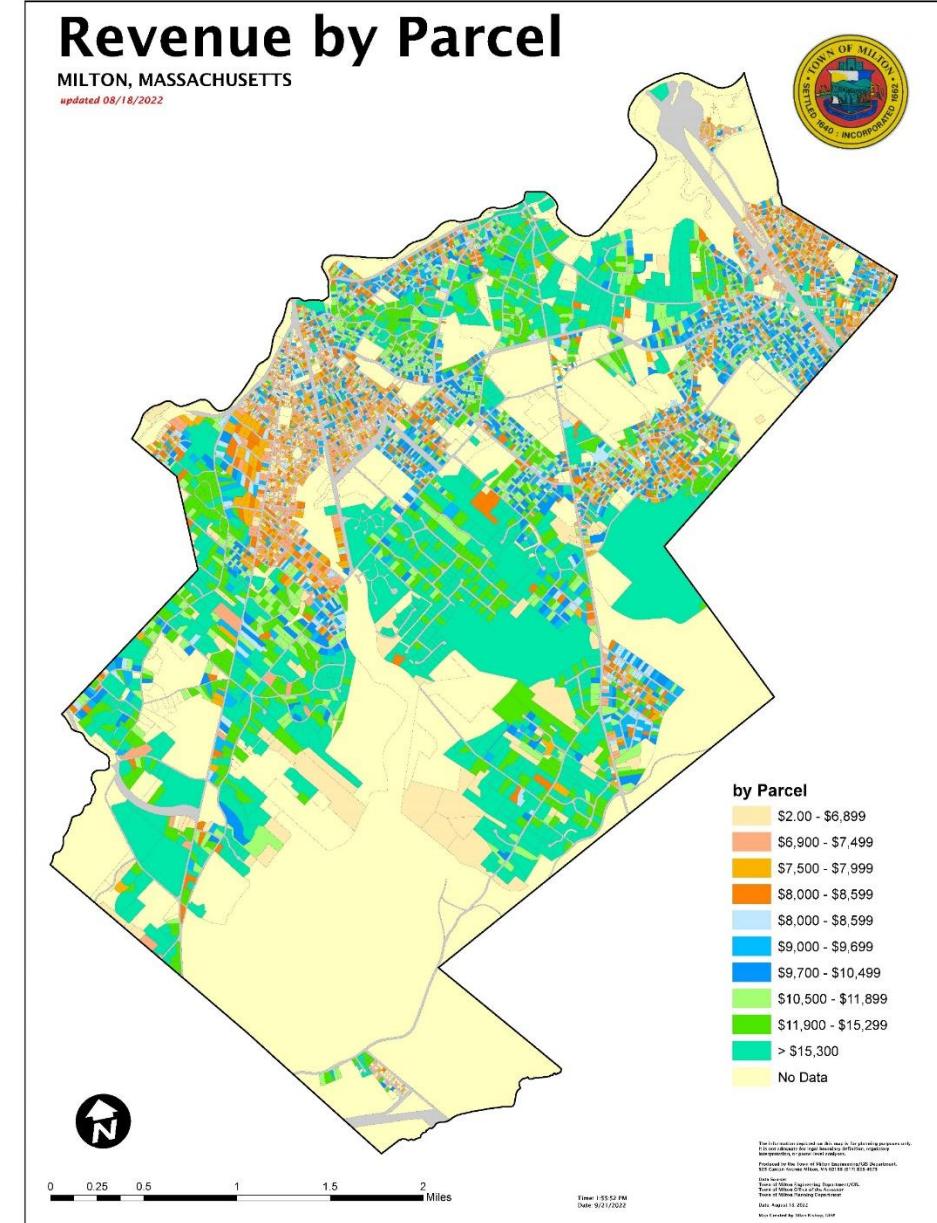
- Mostly larger parcels with larger homes (more land and more house to tax)
- Some parcels with higher-value uses (multifamily and commercial)



# Town Finances

Problem: Land in Milton is constrained, and we tend to not create new large parcels. Eventually, we will run out of parcels on which to build single family houses.

The means by which Milton generates most of its revenue today is not a tenable path toward revenue growth.



# Town Finances



2022 Ford F150

Gallons per tank: **26**



2022 Toyota Corolla

Gallons per tank. **13.2**



# Town Finances



2022 Ford F150

Miles per gallon: **26**



2022 Toyota Corolla

Miles per gallon: **40**

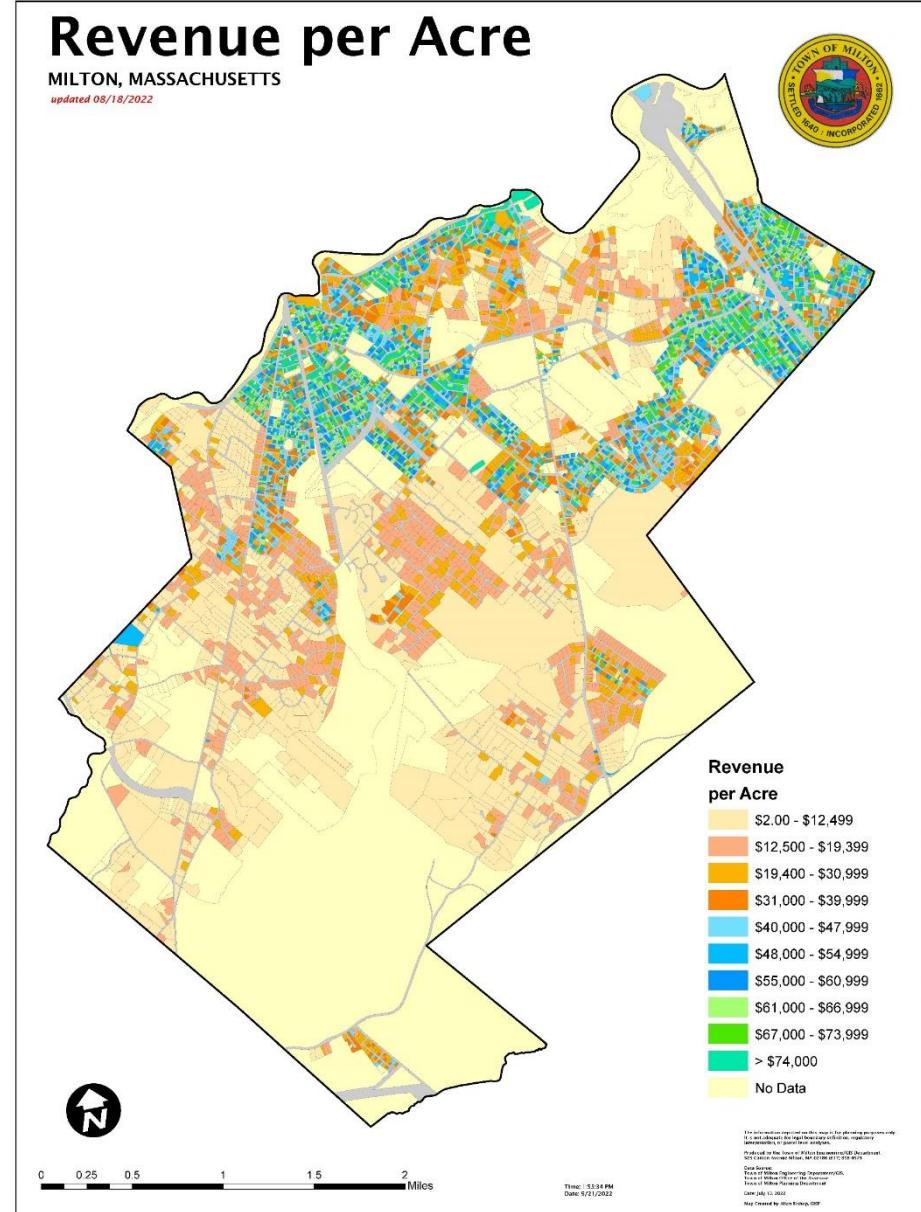


# Town Finances

This map shows how much revenue per acre each parcel in Town generates as of January 2022.

The map shows several types of high-revenue parcels:

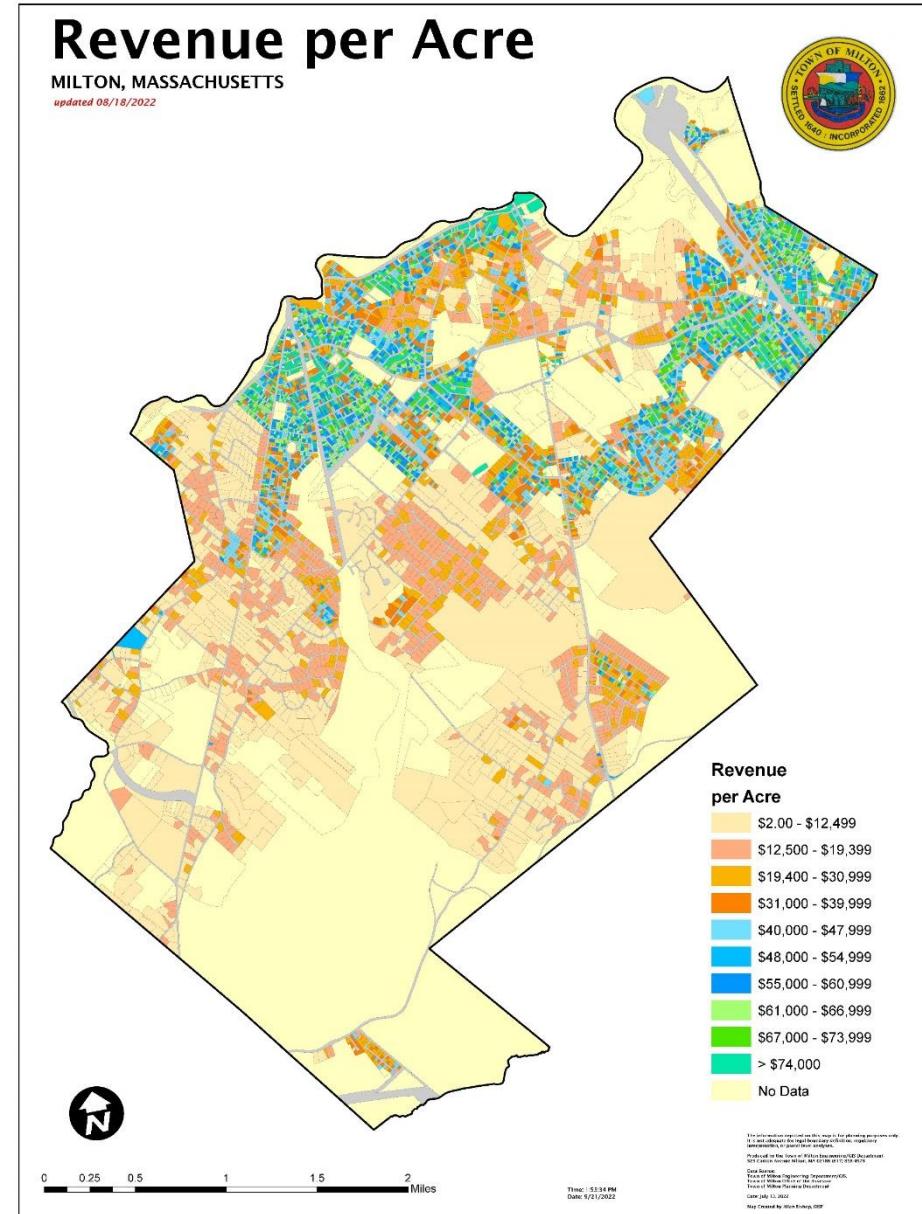
- Small parcels
- Parcels with more than one housing unit (multifamily and townhouse)
- Commercial and mixed-use parcels



# Town Finances

Milton's highest performing parcels are:

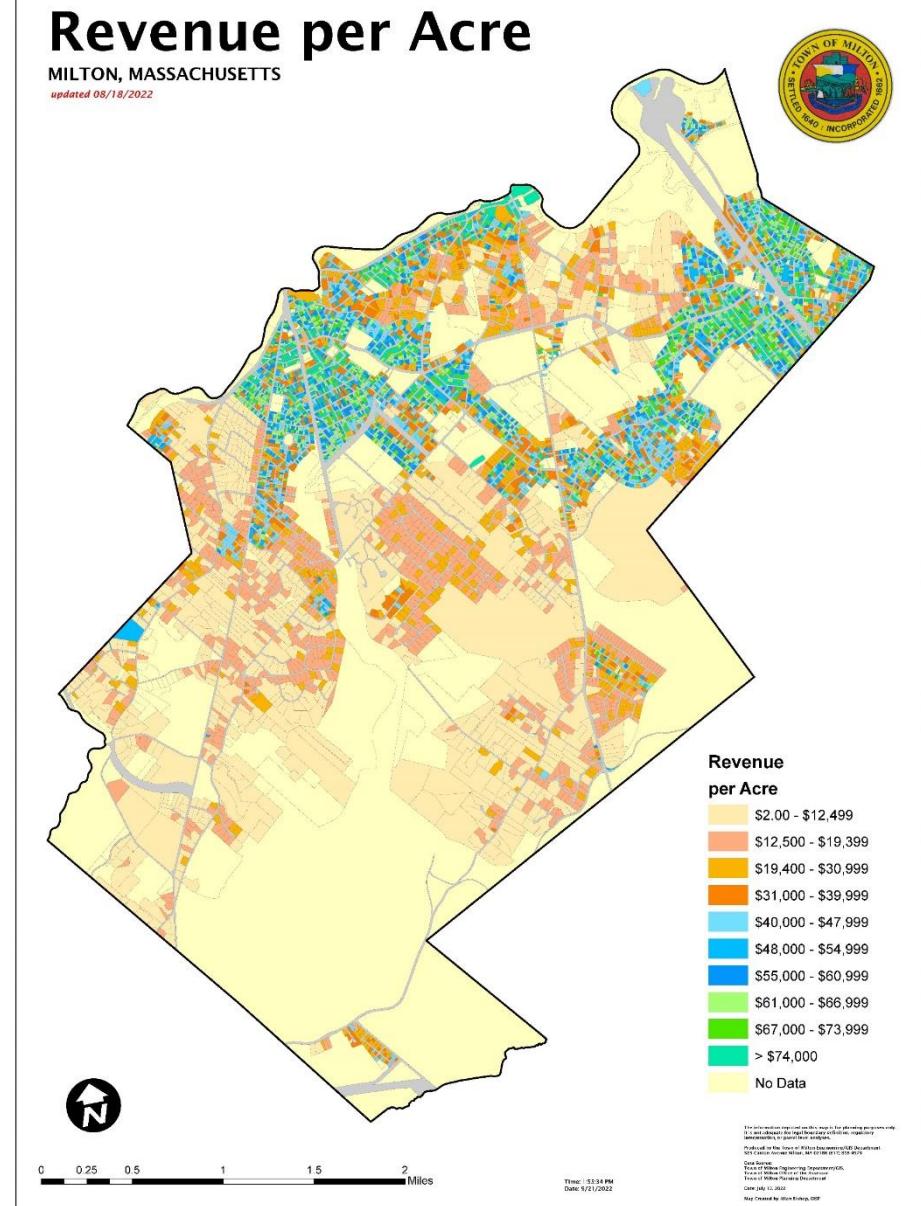
- Small parcels
- 2-family parcels
- Commercial parcels
- Dense multifamily



# Town Finances

Unlike Milton's current unsustainable model of revenue generation—depending on large parcels with high individual tax bills—there are many opportunities to increase revenue with a growth model via:

- Smaller lot sizes
- More units per parcel
- Expanding commercial zones



# Town Finances

MBTA communities zoning offers opportunity to allow for this type of incremental growth that will increase the efficiency of the Town's parcels without putting a strain on municipal services

- Infill development through rezoning means new units go where utilities and infrastructure already exist
- Multifamily housing generates fewer school-aged children than single-family housing



# Town Finances

We have Milton-specific data on how many Milton Public Schools students live in multifamily housing.

- Excluding the various age-restricted developments like Winter Valley and Fuller Village, there are 252 multifamily units in Town.
- Only 27 MPS students lived at multifamily addresses in the most recent school year.

Address	Total Units	1 BR	2 BR	3+BR	MPS Students <sub>1</sub>
175 Milton Street	20	3	10	7	4
333 Brush Hill Road	17	2	5	10	8
36 Central Avenue	18	2	16	0	0
36 Eliot Street	38	20	14	4	6
50 Eliot Street	30	14	16	0	2
88 Wharf Street	73	19	41	13	0
Quisset Brook Road <sub>4</sub>	24	0	20	4	1
Preacher Road <sub>4</sub>	14	0	14	0	1
Farmer Road <sub>4</sub>	8	0	4	4	0
Blacksmith Road <sub>4</sub>	6	0	2	4	0
Powder Mill Road <sub>4</sub>	4	2	1	1	0
Woodmere Road	36	0	16	20	5
Totals	252	62	159	67	27



# Next Steps

A Special Town Meeting has been called for December 4, 2023.

We are working with technical assistance providers and the state's model bylaw to draft zoning language in time for the Select Board's warrant closing date.

We have commissioned a fiscal impact analysis of potential new zoning, the results of which will be shared as soon as they're available.

MBTA Communities is the subject of monthly public forums (the next is tomorrow evening) and is a standing item on the Planning Board agenda.

