

Middleborough Housing Production Plan: Appendices

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Appendix 1: Subsidized Housing Inventory and Chapter 40B Reference Information

A. Links to documents and resources

Housing Production Plan Guidelines

<http://www.mass.gov/hed/docs/dhcd/cd/pp/hpp-guidelines.pdf>

Comprehensive Permit Guidelines

<http://www.mass.gov/hed/docs/dhcd/legal/comprehensivepermitguidelines.pdf>

760 CMR 56.00

<http://www.mass.gov/hed/economic/eohed/dhcd/legal/regs/760-cmr-56.html>

DHCD applications (*these are fairly short and sometimes easier to fill out online*)

- Requesting new SHI units form
<http://www.mass.gov/hed/docs/dhcd/hd/shi/rnuf.doc>
- Requesting new rehabbed SHI units form
<http://www.mass.gov/hed/docs/dhcd/hd/shi/rehabunits.xls>

Local Initiative Program (LIP) and links to forms

<http://www.mass.gov/hed/community/40b-plan/local-initiative-program-lip.html>

- LIP Comprehensive Permit application
- LIP LAU application
- LIP LAU accessory apartment application
- LIP affordable housing deed rider
- 40B Design Review Handbook

<http://www.mass.gov/hed/economic/eohed/dhcd/fact-sheets/lip.html>

DHCD Program Facts and FAQ

<http://www.mass.gov/hed/economic/eohed/dhcd/fact-sheets/>

<http://www.mass.gov/hed/housing/affordable-rent/>

Compact Neighborhoods Zoning

<http://www.mass.gov/hed/docs/dhcd/cd/ch40r/compact-neighborhoodspolicy.pdf>

40R Smart Growth Zoning Overlay

<http://www.mass.gov/hed/economic/eohed/dhcd/legal/regs/760-cmr-59.html>

<http://www.mass.gov/hed/community/planning/chapter-40-r.html>

<http://www.chapa.org/pdf/Ch40RFinal0704.pdf>

B. Subsidized Housing Inventory Information and Procedures

The Department of Housing and Community Development (DHCD) maintains the Subsidized Housing Inventory (SHI) to track each municipality's stock of eligible affordable housing. The SHI includes housing units that are either:

- Developed through the issuance of a Comprehensive Permit
- Developed under G.L. c. 40A, c. 40R
- Developed by other statutes, regulations, and programs, so long as the units are subject to a use Restriction, an Affirmative Fair Marketing Plan, and the requirements of guidelines issued by DHCD.

For Regulatory Authority, see: G.L. C 40B, s. 20-23 and 760 CMR 56.00, particularly 760 CMR 56.03.

B.1. Process to add units to the Subsidized Housing Inventory

Communities must follow these steps to add units to the Subsidized Housing Inventory (SHI). More detail is available at <http://www.mass.gov/hed/docs/dhcd/legal/comprehensivepermitguidelines.pdf>.

1. The community may request for units to be added to the SHI at any time by submitting a “Requesting New Units Form” with supporting documentation.
2. For rehabilitation units, the party administering the grant locally submits the necessary information using the “Housing Rehab Units Only” form.
3. Requests to include new units or corrections are submitted by the municipality, a developer, or a member of the public to:
 - Department of Housing and Community Development
 - Office of General Counsel
 - 100 Cambridge Street, Suite 300
 - Boston, MA 02114-2524
 - Attention: Subsidized Housing Inventory
4. Every two years, the municipality must submit a statement to DHCD certified by the Chief Executive Officer stating the number of SHI eligible housing units besides those created in a Comprehensive Permit project.
5. DHCD updates the SHI every two years or more frequently if information is provided by the municipality and verified by the Department.

B.2. Criteria for SHI unit eligibility

1. The Applicant and the project must fulfill the following minimum conditions:
 - (a) The Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization who controls the site and proposes a project for which it has submitted or intends to submit an application for a Comprehensive Permit to a Board (unless the project is a Local Action Unit)
 - (b) The project receives a subsidy either receiving funding through one of the many State and Federal Eligible Subsidy Programs that administered through a Subsidizing Agency. If the federal or local programs are not administered through a Subsidizing Agency, the project must generally receive a Project Eligibility Letter through DHCD's Local Initiative Program (LIP) or receive LIP Local Action Unit (LAU) approval.
2. The dwelling unit must be affordable to a household whose income does not exceed 80% of the AMI (Subsidizing Agency may lower this threshold.)
3. Housing Costs are generally established by the housing program. If there are none, then the following apply:
 - (a) Rental: monthly housing costs (including utilities) shall not exceed 30% of monthly income for a household earning 80% of area median income, adjusted for HH size. [Note: if trash pick-up is not included then must include a trash allowance; if utilities are metered separately, they may be paid by the tenant and rent amount reduced to so reflect]
 - (b) Assisted Living Facility – same as rental housing
 - (c) Homeownership
 - i. Down payment: minimum 3% (1.5% of buyer's funds)
 - ii. Mortgage: 30-year for not more than 97% of purchase price with fixed interest rate, not more than 2 points above current MassHousing interest rate
 - iii. Monthly housing costs (principal, interest, property taxes, hazard insurance, condo/homeowner association fees): not to exceed 38% of monthly income for a household earning 80% of area median income, adjusted for household size.
 - (d) Continuing Care Retirement Communities – same as homeownership units.
4. Use Restriction
 - (a) Runs with land; recorded at Registry of Deeds or Land Court
 - (b) Identifies Subsidizing Agency, monitoring agent
 - (c) Restricts occupancy of restricted unit to Income Eligible Households.
5. Affirmative Fair Housing Marketing and Resident Selection Plan
6. Project must be in compliance with the Bedroom Mix Policy

B.3. Criteria for household eligibility

A household is deemed an Income Eligible Household if:

1. Household of one or more persons income does not exceed 80% of the AMI (or lower per Subsidizing Agency), adjusted for household size.
2. A Subsidizing Agency may limit household assets limited as follows, or in their absence:
 - a. Age-Restricted Homeownership units: not to exceed \$275,000 (includes dwelling to be sold)
 - b. Non-Age Restricted Homeownership units: not to exceed \$75,000
 - c. Rental Units: the greater of the two
 - i. Income derived from the assets
 - ii. Imputation of value calculated in a manner consistent with HUD requirements in place at time of marketing
 - d. If items are sold for less than market value, full market value shall be used.

B.4. Eligible units within a project

1. Rental & Assisted Living Facility (ALF)
 - (a) General: if at least 25% of units are restricted to Income Eligible Households earning 80% or less of AMI or, at least 20% of units are restricted to households earning 50% or less of AMI, then all of the units in the rental development are eligible for the SHI. If fewer, then only the restricted units will be eligible.
 - (b) Accessory Apartments: are eligible if they meet the requirements of the LIP.
 - (c) Tenants who become over-income: If there are no provisions in the affordability restriction, then the change in income shall not affect the treatment of the Project or the unit provided that either (1) the tenant's income does not exceed 140% of the maximum allowable income, or (2) the owner rents the next available unit as an affordable unit to an eligible tenant pursuant to the terms.
2. Homeownership: Only the units that meet the eligibility requirements are eligible.
3. Continuing Care Retirement Communities – Independent living units: only those that meet the requirements are eligible for inclusion in the SHI.
4. Group Homes as reported to DHCD by DMH and DDS shall be eligible to be included.
5. Housing Rehabilitation Units rehabilitated through a program funded through CDBG or HOME are eligible.

B.5. Timeframe for unit eligibility

A unit becomes eligible for the Subsidized Housing Inventory at the earliest of the following:

- For units that require either a Comprehensive Permit, a zoning approval under Chapter 40A, or completion of plan review under Chapter 40R:
 - a. The date when when the permit or approval is filed with the municipal clerk,
 - b. or, if there is an appeal, on the date when the last appeal by the Zoning Board of Appeals is fully resolved.
- When the building permit is issued
- When the occupancy permit is issued
- When the unit is occupied by an Income Eligible Household

Time Lapses: Unit becomes ineligible for the SHI if

- More than 1 year elapses before the issuance of a building permit. Unit is eligible again when building permit is issued.
- More than 18 months elapse between issuance of the building permits and issuance of certificate of occupancy (CO). Unit is eligible again when CO is issued.

If a Comprehensive Permit or zoning approval permits the project to be phased, the entire project remains eligible for the SHI so long as the phasing schedule set forth in the permit approval is adhered to and not more than one year elapses from the date of issuance of the permit, if:

- Each phase includes 150 units or more
- Each phase contains the same proportion of SHI Eligible Housing units as the overall project, and
- The projected average time period between the start of successive phases does not exceed 15 months

If construction authorized by a Comprehensive Permit has not begun within three years of the date on which the permit becomes final, except for good cause, the permit shall lapse. [760 CMR 56.05(12)(c)]

- This time period is tolled for the time period of any appeals.
- The ZBA may set a later date for lapse of the permit.
- The ZBA may extend the date for the lapse of a permit.

B.6. Process to certify a Housing Production Plan

Municipalities who have an approved HPP and who have met their annual affordable housing production goals (by creating SHI units amounting to .5% or 1% of the town's total year-round housing units) may apply for a certification of compliance, which grants a one or two year moratorium on 40B Comprehensive Permit projects. To apply, the municipality should send a brief letter seeking certification signed by the Mayor, Town Manager, or Chair of the Board of Selectmen to DHCD (copying Phil DeMartino and Margaux LeClair).

Requests for certification will be accepted by DHCD at any time during the calendar year in which the units are produced and up to January 10 of the following year. Units counted for certification must be produced after the date DHCD approved the Housing production Plan. They must remain on the SHI for the entire length of certification, or certification may be suspended. Certification is retroactive back to the date of initial SHI eligibility.

Please refer to DHCD's Guidelines for Housing Production Plans for more details.

Duties once a town is certified:

- ZBA needs to accept Comprehensive Permit applications and open the hearing even if certification is achieved
- The ZBA must notify a developer in writing within 15 days of opening a hearing
- Applicant can challenge ZBA's "safe harbor" claim within 15 days by requesting DHCD review
- DHCD will make determination with 30 days of complete submission and notify both parties

Things to remember:

- Cases already at HAC are not impacted by certification
- Developers can appeal to HAC even if the community is certified
- Certification is difficult to achieve without 40B development
- Timing is important – to maximize certification period, requests should be submitted to DHCD as soon as units are eligible for the SHI.

C. Comprehensive Permits

For Regulatory Authority see: G.L. C 40B, s. 20-23 and 760 CMR 56.00.

For Comprehensive Permit guidance refer to [GUIDELINES: G.L. C 40B Comprehensive Permit Projects; Subsidized Housing Inventory](#) :

<http://www.mass.gov/hed/docs/dhcd/legal/comprehensivepermitguidelines.pdf>

C.1. Summary of the process

[For complete information see 760 CMR 56.04-06]

STEP ONE: Application for Determination of Project Eligibility [760 CMR 56.04(2)]

The Applicant submits an application for Project Eligibility to the Subsidizing Agency, with a copy to the Chief Executive Officer of the municipality and written notice to the Department of Housing and Community Development (DHCD), which shall include:

- (a) The name and address of the Applicant;
- (b) The address of the site and site description;
- (c) A locus map identifying the site within a plan of the neighborhood, accompanied by photographs of the surrounding buildings and features that provide an understanding of the physical context of the site;
- (d) A tabulation of proposed buildings with the approximate number, size (number of bedrooms, floor area), and type (ownership or rental) of housing units proposed;
- (e) The name of the housing program under which Project Eligibility is sought;
- (f) Relevant details of the particular Project if not mandated by the housing program (including percentage of units for low or moderate income households, income eligibility standards, the duration of restrictions requiring Low or Moderate Income Housing, and the limited dividend status of the Applicant);
- (g) Conceptual design drawings of the site plan and exterior elevations of the proposed buildings, along with a summary showing the approximate percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas, the approximate number of parking spaces, and the ratio of parking spaces to housing units;
- (h) A narrative description of the approach to building massing, the relationships to adjacent properties, and the proposed exterior building materials;
- (i) A tabular analysis comparing existing zoning requirements to the Waivers requested for the Project; and
- (j) Evidence of control of the site.

STEP TWO: Review and Comment Process. [760 CMR 56.04(3)]

- (a) Upon receipt of the application, the Subsidizing Agency provides written notice to the Chief Executive Officer of the municipality where the Project is located
- (b) 30-day review period of Project begins with written notice to municipality.
- (c) The Subsidizing Agency shall conduct a site visit, which Local Boards may attend.
- (d) Local Boards and other interested parties submit written comments to Subsidizing Agency.
- (e) The Subsidizing Agency issues a determination of Project Eligibility after the 30-day review period.

STEP THREE: Findings in Determination. [760 CMR 56.04(4)]

After the 30-day review period, the Subsidizing Agency will make a determination of Project Eligibility based upon its review of the application, and taking into account information received during the site visit and from written comments. Copies of the written determination of Project Eligibility will be provided to the Department, the Chief Executive Officer of the municipality, and the Board.

Issuance of a determination of Project Eligibility shall be considered by the Zoning Board of Appeals (ZBA) or the Housing Appeals Committee (HAC) to be conclusive evidence that the Project and the Applicant have satisfied the project eligibility requirements of 760 CMR 56.04(1).

STEP FOUR: Applicant Files an Application with the Local Zoning Board of Appeals [760 CMR 56.05(2)]

The applicant files a Comprehensive Permit Application and a complete description of the proposed project with the municipality's ZBA.

STEP FIVE: Conduct of Zoning Board of Appeals Hearing. [760 CMR 56.05(3)-(4)]

- (a) The ZBA has seven days, after the receipt of a complete application, sends a notice of the application and a copy of the list of Waivers required by 760 CMR 56.05(2)(h) and invite the Local Boards to participate in the hearings.
- (b) The Board shall open a hearing within 30 days of its receipt of a complete application, and it shall thereafter pursue the hearing diligently.
- (c) A hearing shall not extend beyond 180 days from the date of opening the hearing, presuming that the Applicant has made timely submissions of materials in response to reasonable requests of the Board that are consistent with its powers under 760 CMR 56.05, except with the written consent of the Applicant.
- (d) If the Board wishes to deny an application on one or more of the grounds set forth in 760 CMR 56.03(1), it must do so in accordance with the procedure set forth in 760 CMR 56.03(8), or it shall be deemed to have waived its rights.
- (e) A Board may stay the commencement of a hearing if three (3) or more Comprehensive Permit applications are concurrently undergoing hearings before the Board, and the total number of housing units in those pending Projects exceeds the numerical threshold for a large project within that municipality, as set forth in 760 CMR 56.03(6).

C.2. Consultant review

[760 CMR 56.05(5)]

- (a) If, after receiving an application, the Board determines that in order to review that application it requires technical advice in such areas as civil engineering, transportation, environmental resources, design review of buildings and site, and (in accordance with 760 CMR 56.05(6)) review of financial statements that is unavailable from municipal employees, it may employ outside consultants. Whenever possible it shall work cooperatively with the Applicant to identify appropriate consultants and scopes of work and to negotiate payment of part or all of consultant fees by the Applicant. Alternatively, the Board may, by majority vote, require that the Applicant pay a reasonable review fee in accordance with 760 CMR 56.05(b) for the employment of outside consultants chosen by the Board alone. The Board should not impose unreasonable or unnecessary time or cost burdens on an Applicant. Legal fees for general representation of the Board or other Local Boards shall not be imposed on the Applicant.
- (b) A review fee may be imposed only if:
 1. the work of the consultant consists of review of studies prepared on behalf of the Applicant, and not of independent studies on behalf of the Board;
 2. the work is in connection with the Applicant's specific Project; and
 3. all written results and reports are made part of the record before the Board.
 4. a review fee may only be imposed in compliance with applicable law and the Board's rules.

C.3. Review of financial statements

[760 CMR 56.05(6)]

- (a) A Board may request to review the *pro forma* or other financial statements for a Project only after the following preconditions have been met:
 1. Other consultant review has been completed;
 2. The Applicant has had an opportunity to modify its original proposal to address issues raised;
 3. the Board has had an opportunity to propose conditions to mitigate the Project's impacts and to consider requested Waivers; and
 4. The Applicant has indicated that it does not agree to the proposed condition(s) or Waiver denial(s) because they would render the Project uneconomic. A Board may not conduct review of a *pro forma* in order to see whether a Project would still be economic if the number of dwelling units were reduced, unless such reduction is justified by a valid health, safety, environmental, design, open space, planning, or other local concern

that directly results from the size of a project on a particular site, consistent with 760 CMR 56.07(3).

- (b) If the Applicant does not agree to some or all of the proposed permit conditions or Waiver denials because they would render the Project Uneconomic, the Board may ask the Applicant to submit its *pro forma*, in form satisfactory to the Subsidizing Agency, and revised as necessary to reflect the additional cost of meeting these conditions and/or denials. The revised *pro forma* may be subjected to the same consultant review as any other technical information submitted to the Board, in accordance with 760 CMR 56.05(5) and the Board's rules.

The Board may then use this information to decide whether to adopt or modify its originally proposed conditions and/or denials. *Pro forma* review should conform to recognized real estate and affordable housing industry standards, consistent with the policies of the Subsidizing Agency and guidelines adopted by the Department.

- (c) Related financial issues, including related-party transactions, the estimated sales price or rental rates of market-rate units, and land acquisition costs, shall be addressed in accordance with the Department's guidelines. Disagreements between the Applicant and the Board's consultant should be resolved in accordance with the Department's guidelines. The Subsidizing Agency has the sole responsibility to establish and enforce reasonable profit and distribution limitations on the Applicant, as set forth in 760 CMR 56.04(8).

C.4. Waivers from local requirements and regulations

[760 CMR 56.05(7)]

The Applicant may request Waivers, solely from the "as-of-right" requirements of the zoning district where the project site is located, as listed in its application or as may subsequently arise during the hearing, and the Board shall grant such Waivers as are Consistent with Local Needs and are required to permit the construction and operation of the Project.

If a Project does not request a subdivision approval, waivers from subdivision requirements are not required (although a Board may look to subdivision standards, such as requirements for road construction, as a basis for required project conditions, in which case the Applicant can seek Waivers from such requirements).

STEP SIX Board Decisions. [760 CMR 56.05(8)]

- (a) Forty-five days after the close of the public hearing, the Board shall render a decision, based on a majority vote of the Board, taking into consideration the recommendations of Local Boards.

- (b) The Board shall file its decision within 14 days in the office of the city or town clerk, and it shall forward a copy of any Comprehensive Permit to the Applicant or its designated representative and to DHCD when it is filed.
- (c) The Board may:
1. approve a Comprehensive Permit on the terms and conditions set forth in the application;
 2. approve a Comprehensive Permit with conditions with respect to height, site plan, size, shape or building materials that address matters of Local Concern; or
 3. deny a Comprehensive Permit as not Consistent with Local Needs if the Board finds that there are no conditions that will adequately address Local Concerns.
- (d) Uneconomic Conditions. The Board shall not issue any order or impose any condition that would cause the building or operation of the Project to be Uneconomic, including a requirement imposed by the Board on the Applicant:
1. to incur costs of public infrastructure or improvements off the project site that:
 - a. are not generally imposed by a Local Board on unsubsidized housing;
 - b. address a pre-existing condition affecting the municipality generally; or
 - c. are disproportionate to the impacts reasonably attributable to the Project; or
 2. to reduce the number of units for reasons other than evidence of Local Concerns within the purview of the Board (see 760 CMR 56.05(4)(e); see also 760 CMR 56.07(3)(c – h) regarding evidence that would be heard by the Committee on an appeal), such as design, engineering, or environmental deficiencies that directly result from the impact of a Project on a particular site.

If a proposed nonresidential element of a Project is not allowed by-right under applicable provisions of the current municipal zoning code, a condition shall not be considered Uneconomic if it would modify or remove such nonresidential element.

STEP SEVEN Appeals from Board Decisions [760 CMR 56.05(9)]

- (a) If the Board approves the Comprehensive Permit, any person aggrieved may appeal within the time period and to the court provided in M.G.L. c.40A, §17.
- (b) If the Board denies the Comprehensive Permit or approves the permit with unacceptable conditions or requirements, the Applicant may appeal to the Housing Appeals Committee as provided in M.G.L. c.40B, §22 and 760 CMR 56.06.
- (c) If the Board takes action adverse to the Applicant under 760 CMR 56.03(8), 760 CMR 56.05(11), or a similar provision of 760 CMR 56.00, or otherwise violates or fails to implement M.G.L. c.40B, §§20 through 23, the Applicant may appeal to the Housing Appeals Committee as provided in M.G.L. c.40B, §22 and 760 CMR 56.06.

For Procedural Regulations for Appeals to the Housing Appeals Committee see 760 CMR 56.06.

D. The Local Initiative Program (LIP): “Friendly 40Bs” and Local Action Units

For Regulatory Authority see: G.L. C 40B, s. 20-23 and 760 CMR 56.00.

For LIP LOCAL ACTION UNIT guidance refer to GUIDELINES: G.L. C 40B Comprehensive Permit Projects; Subsidized Housing Inventory, section VI. Local Initiative Program (LIP):

<http://www.mass.gov/hed/docs/dhcd/legal/comprehensivepermitguidelines.pdf>

LIP is a state housing program established in 1989 to give cities and towns more flexibility. Units developed through LIP are eligible for the SHI. The **subsidy** for this program is technical assistance and services provided to municipalities and developers for the creation, maintenance, and preservation of Low or Moderate Income Housing.

There are two means of creating affordable housing under LIP:

- 1) Local Initiative Projects “Friendly 40B”: go through the Comprehensive Permit process
- 2) Local Action Units: developed through local zoning, such as Inclusionary Zoning bylaws, or permit issue process.

DHCD reviews for:

- 1) Consistency with State Sustainable Development Principles
- 2) Consistency with Local Housing Needs. Note that LIP approval for age-restricted housing needs to show actual need and marketability within the municipality. DHCD will examine whether other age-restricted units created with a Comprehensive Permit are unbuilt or unsold, and whether the proposed age-restricted units, in context with other housing efforts, are unresponsive to needs for family housing.

E. “Friendly 40Bs” (Local Initiative Program Comprehensive Permits)

For Regulatory Authority see: G.L. C 40B, s. 20-23 and 760 CMR 56.00.

For LIP Comprehensive Permit guidance refer to GUIDELINES: G.L. C 40B Comprehensive Permit Projects; Subsidized Housing Inventory, section VI. Local Initiative Program (LIP)

E.1. Summary of the process

[For complete information see GUIDELINES, section VI]

STEP ONE: Project must meet requirements of 40B

STEP TWO: Receive written support of Chief Executive Officer

STEP THREE: Complete Local Initiative Program Application for Comprehensive Permit Projects as Word Fillable Form [*LIP Guidelines* pg. VI – 3]: <http://www.mass.gov/hed/housing/affordable-own/local-initiative-program-lip.html> Include:

- (a) Letter of support signed by the Chief Executive Officer of the municipality.
- (b) Signed letter of interest from a construction lender
- (c) Site plan showing contours of the site and the footprint of all proposed buildings, roads, parking and other improvements
- (d) Front and rear elevations for each building and sample floor plans for each unit type
- (e) Description of proposed units by size, type, number of bedrooms, location within the project, and proposed rents or sales prices.

APPLICATION FEE: \$1,500 per project plus an additional \$20 per unit with checks payable to Department of Housing and Community Development. [Reduced by one-half for non-profit developers; waived for public agencies and municipalities.] Application fee is refunded if the application is not accepted or is rejected. One-half of the fee is refunded if application not approved.

STEP FOUR: Determination of Project Eligibility. [GUIDANCE, p. VI-9]

Upon receipt of the application, DHCD reviews the LIP Comprehensive Permit Application.

- (f) The Determination of Project Eligibility is a prerequisite to application for a Comprehensive Permit for the Project from the municipality’s Zoning Board of Appeals.
- (g) DHCD makes the following findings in order to issue a Determination of Project Eligibility.
 1. The application meets the requirements specified in 760 CMR 56.04(4).
 2. The proposed project appears generally eligible under the requirements of the LIP, subject to final program review and approval.

3. The proposed site plan is appropriate in the context of the surrounding area and taking into account previous municipal action to meet affordable housing needs, and the housing design is appropriate for the site.
 4. The proposed project appears financially feasible in the context of the local housing market.
 5. The initial pro forma for the project appears financially feasible on the basis of estimated development costs and revenues.
 6. The applicant is a public agency, a non-profit organization, or a Limited Dividend Organization.
 7. The applicant controls the site.
 8. For age-restricted housing, that the market study demonstrates need and marketability within the municipality.
- (h) A Determination of Project Eligibility will be effective for two years from date of issuance unless otherwise stated therein.

STEP FIVE Comprehensive Permit Application and Zoning Board of Appeals Hearing

See G.L.C. 40B COMPREHENSIVE PERMIT INFORMATION SHEET, starting with STEP FOUR.

STEP SIX Regulatory Agreement and Use Restrictions

The Regulatory Agreement memorializes the rights and responsibilities of the parties and provides for monitoring of the project throughout the term of affordability. DHCD has model regulatory agreements for ownership and rental projects and a model Local Initiative Program Affordable Housing Deed Rider.

- (a) The Developer forwards a copy of the final Comprehensive Permit to the LIP staff at DHCD.
- (b) DHCD prepares a Regulatory Agreement, which also serves as the final written approval for the Project.
- (c) A Regulatory Agreement for each project will be executed by DHCD, the municipality, and the Developer
- (d) The Regulatory Agreement is filed with the Registry District of the Land Court.
- (e) The term of affordability for the Project generally should be the longest period permitted by law (in perpetuity).

F. Local Action Units

Local Action Units (LAUs) are built without a Comprehensive Permit but meet LIP criteria and are suitable for inclusion in the SHI. They meet the following standards:

1. Built pursuant to one of the following local actions:
 - a. Zoning-based approval
 - i. Inclusionary Zoning, Accessory Apartment Bylaw meeting the LAU criteria
 - ii. Condition of a variance or special permit; agreement between town and a Developer to convert and rehabilitate municipal buildings into housing;
 - b. Substantial municipal financial assistance: Funds raised, appropriated, administered by city or town.
 - c. Provision of land or buildings that are owned or acquired by the city or town and conveyed at a substantial discount from their fair market value.
 - iii. donation of municipally-owned land
 - iv. use of local funds to develop or write down housing units
2. Must meet requirements for SHI eligibility (see above)

Maximum LIP rents are calculated at what is affordable to a household earning 80% of the area median family income adjusted for household size. E.g.:

2 BR unit Household size = (#BR +1) = 3 80% of AMFI = \$58,000 Monthly Income = \$4,875 Max Rent (30% of monthly income) = \$1,462

F.1. Process to implement

STEP ONE. Discuss the Local Action Unit projects with DHCD LIP staff *prior* to submitting an application.

STEP TWO. File a MEPA Environmental Notification Form, for new construction only.

STEP THREE. Complete a Regulatory Agreement for Ownership Developments, or a Regulatory Agreement or Rental Developments, or a HOME Covenant/Deed Restriction

STEP FOUR. Submit a complete, signed copy of the Local Initiative Program Application for Local Action Units to DHCD, attention LIP Program Coordinator; including:

- (a) Documentation of the municipal action
- (b) Submit a copy of the Regulatory Agreement for Ownership or Rental Developments or the HOME covenant/deed restriction, redlined to reflect any proposed changes.
- (c) MEPA environmental notification form (ENF) for new construction only
- (d) Affirmative Fair Marketing and Lottery Plan.

STEP FIVE. DHCD expects to review and process the application within 60 days. To receive LAU approval, DHCD reviews for location action or approval. LAUs cannot be developed with a Comprehensive Permit.

F.2. Accessory apartments

In order for Accessory Apartments to be added to the Subsidized Housing Inventory, they must receive Local Action Unit (LAU) approval:

- Resulted from city or town action or approval
- Subject to a recorded use restriction approved by DHCD, that has a term of not less than 15 years
- Meet the requirements for LIP units, with the exception of receiving a Comprehensive Permit.

Process

1. Municipality adopts an Accessory Apartment zoning bylaw or ordinance that permits the creation of accessory apartments that are affordable to Income Eligible Households.
 - a. *Submit a draft to DHCD for compliance review prior to local approval – DHCD’s review will be limited to noting any provisions that might conflict with LIP requirements.*
 - b. Units to be submitted to DHCD will have received zoning approval under the bylaw or ordinance.
 - c. There shall be no provisions that conflict with the LIP requirements
 - i. Allowing affordable accessory dwelling units to be rented to family members.
 - ii. Allowing affordable accessory apartments to be rented to households earning more than 80% of AMI
 - iii. A requirement that all accessory dwelling units shall be restricted to residents of the municipality
 - iv. Any provision in conflict with applicable fair housing laws.
2. Complete a Local Initiative Program Application for Accessory Apartments.
 - a. Letter of Support signed by the Chief Executive Officer
 - b. An Affirmative Fair Housing Marketing Plan
 - c. Designation of a Local Project Administrator (LPA) for all accessory apartments – responsible for oversight of all accessory apartments
 - i. Local Official
 - ii. Local Housing Partnership board member or staff member
 - iii. Director of an area housing non-profit organization
 - iv. Another appropriate person meeting DHCD approval
 - d. Schedule of maximum rent for each accessory apartment
 - e. Proposed tenant application form and plan for processing of applications
 - f. Plan for annual verification of tenants’ income
3. Submit a letter of support from the local housing partnership, if any.
4. Meet the Local Action Requirements:
 - a. Municipality has a local zoning bylaw or ordinance that permits the creation of accessory apartments.
 - b. Received approval under the bylaw
5. Tenant Eligibility

- a. Family Members Prohibited
 - b. Household income shall not exceed 80% of the AMI adjusted for actual household size, as determined by HUD. Limits may be lower.
 - i. Certification of income eligibility made by the Local Project Administrator (documentation may include recent tax returns, pay stubs, affidavits, etc.). Any post-occupancy changes must be reported to the owner and the LPA.
6. Affirmative Fair Housing Marketing
- a. Affirmative Fair Housing and Marketing and Resident Selection Plan
 - i. Outreach
 - ii. Minimum Advertising Period – 60 days
 - iii. Wait List: “Ready Renters List”
 - b. Annual Data Collection: the LPA shall collect data annually regarding the number of minority households renting accessory apartments.
 - c. DHCD may suspend/revoke the eligibility of units if a Failure to Apply Good Faith Efforts is found.
 - d. Tenant Selection
 - i. Owner gives written notice to LPA that a unit is available and requests referral of applicants.
 - ii. Within 5 business days, the LPA refers the top appropriately-sized household(s), no more than 3 at a time.
 - iii. The owner meets the referred applicant(s) and show the unit. The referred applicant has a *minimum* of 10 business days to view the unit. Owner may select one of the applicants or request additional referrals. Non-selected applicants return to the top of the Ready Renters List.
 - iv. Owner enters into a 1-year lease with selected applicant.
 - v. Upon request of the LPA, the owner shall specify in writing a substantial nondiscriminatory reason for having rejected an applicant.

Appendix 2: Supplemental Tables

Population and Growth for Middleborough and its Neighbors							
	1990 Population	Growth 1990-2000		2000 Population	Growth 2000-2010		2010 Population
		Rate	Number added		Rate	Number added	
Massachusetts	6,016,425	5.5%	332,672	6,349,097	3.1%	198,532	6,547,629
Plymouth County	435,276	8.6%	37,546	472,822	4.7%	22,097	494,919
Bridgewater	21,249	18.5%	3,936	25,185	5.5%	1,378	26,563
Carver	10,590	5.4%	573	11,163	3.1%	346	11,509
Halifax	6,526	14.9%	974	7,500	0.2%	18	7,518
Lakeville	7,785	26.2%	2,036	9,821	8.0%	781	10,602
Middleborough	17,867	11.6%	2,074	19,941	15.9%	3,175	23,116
Plympton	2,384	10.6%	253	2,637	6.9%	183	2,820
Raynham	9,867	19.0%	1,872	11,739	14.0%	1,644	13,383
Rochester	3,921	16.8%	660	4,581	14.2%	651	5,232
Taunton	49,832	12.3%	6,144	55,976	-0.2%	-102	55,874
Wareham	19,232	5.7%	1,103	20,335	7.3%	1,487	21,822

Source: US Census

Population Projections			
	Projected Growth 2010-2020		Projected 2020 Population
	Number	Rate	
Carver	515	4.5%	12,024
Lakeville	479	4.5%	11,081
Middleborough	2,291	9.9%	25,407
Raynham	1,511	11.3%	14,894
Rochester	150	2.9%	5,382
Taunton	883	1.6%	56,757
Wareham	625	2.9%	22,447

Source: SRPEDD Projections

Population by Age Group in 1990, 2000, and 2010								
	1990		2000			2010		
	Number	%	Number	%	Change since 1990	Number	%	Change since 2000
Total	17867	100.0%	19941	100.0%		23116	100.0%	
Under 5	1447	8.1%	1391	7.0%	-3.9%	1325	5.7%	-4.7%
5 to 17	3627	20.3%	4127	20.7%	13.8%	4046	17.5%	-2.0%
18 to 24	1715	9.6%	1382	6.9%	-19.4%	1749	7.6%	26.6%
25 to 44	6200	34.7%	6532	32.8%	5.4%	5812	25.1%	-11.0%
45 to 64	2912	16.3%	4456	22.3%	53.0%	6783	29.3%	52.2%
65 to 79	1447	8.1%	1417	7.1%	-2.1%	2558	11.1%	80.5%
80 years+	518	2.9%	636	3.2%	22.7%	843	3.6%	32.5%
Median age	31.8		35.6			41.2		

Source: US Census

Race and Hispanic or Latino Origin								
	Middleborough				Massachusetts			
	2000		2010		2000		2010	
	#	%	#	%	#	%	#	%
Total population	19,941	100.0%	23,116	100.0%	6,349,097	100.0%	6,547,629	100.0%
White	19,168	96.1%	22,010	95.2%	5,367,286	84.5%	5,265,236	80.4%
Black or African American	252	1.3%	361	1.6%	343,454	5.4%	434,398	6.6%
American Indian or Alaska Native	51	0.3%	56	0.2%	15,015	0.2%	18,850	0.3%
Asian	87	0.4%	170	0.7%	238,124	3.8%	349,768	5.3%
Native Hawaiian or Pacific Islander	7	0.0%	4	0.0%	2,489	0.0%	2,223	0.0%
Some other race	114	0.6%	147	0.6%	236,724	3.7%	305,151	4.7%
Two or more races	262	1.3%	368	1.6%	146,005	2.3%	172,003	2.6%
Hispanic or Latino (of any race)	156	0.8%	367	1.6%	428,729	6.8%	627,654	9.6%
Not Hispanic or Latino	19,785	99.2%	22,749	98.4%	5,920,368	93.2%	5,919,975	90.4%

Source: US Census 2000, 2010

Median Sales Price of Single Family Homes, 2000-2014

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Carver	\$177,000	\$216,000	\$240,000	\$282,500	\$319,900	\$340,000	\$319,000	\$306,500	\$270,000	\$269,900	\$250,000	\$219,900	\$218,500	\$247,950	\$275,000
Lakeville	\$211,650	\$221,500	\$269,750	\$309,900	\$347,500	\$359,500	\$345,000	\$366,500	\$308,500	\$260,000	\$265,000	\$293,000	\$248,250	\$260,000	\$297,500
Middleborough	\$176,350	\$224,000	\$242,000	\$279,900	\$315,000	\$339,900	\$325,100	\$313,000	\$247,000	\$254,950	\$229,900	\$211,000	\$225,000	\$259,900	\$272,500
Raynham	\$219,500	\$239,000	\$277,000	\$297,500	\$348,900	\$359,900	\$376,250	\$335,000	\$299,750	\$299,750	\$265,000	\$260,450	\$264,000	\$270,550	\$307,500
Rochester	\$215,000	\$240,500	\$250,000	\$320,000	\$365,000	\$422,500	\$365,000	\$390,000	\$357,000	\$315,500	\$299,000	\$298,500	\$335,000	\$319,000	\$340,500
Taunton	\$172,400	\$188,000	\$226,250	\$260,000	\$289,900	\$305,900	\$300,000	\$277,000	\$249,000	\$225,000	\$219,500	\$175,000	\$215,000	\$224,950	\$229,700
Wareham	\$129,900	\$154,450	\$182,950	\$220,000	\$259,900	\$270,000	\$260,000	\$262,500	\$216,500	\$207,000	\$169,000	\$170,000	\$170,000	\$200,000	\$199,450
SRPEDD region (estimated)	\$177,000	\$215,000	\$240,000	\$279,900	\$319,900	\$340,000	\$335,625	\$325,000	\$280,000	\$260,000	\$255,000	\$233,960	\$248,250	\$266,750	\$275,000
Massachusetts	\$215,000	\$239,325	\$276,500	\$305,000	\$337,500	\$355,000	\$345,000	\$345,500	\$305,000	\$285,000	\$295,000	\$273,000	\$290,000	\$320,000	\$330,000

Source: The Warren Group (Town statistics as of 2/5/2015)

Trends in Home Sales (All Types), 2000-2014

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Carver	185	192	189	219	222	200	169	155	141	121	105	117	125	158	140
Lakeville	261	246	209	194	196	181	157	189	121	98	151	122	161	175	149
Middleborough	438	447	410	442	449	434	378	330	231	247	224	226	295	300	191
Raynham	206	227	254	251	289	315	218	182	142	136	142	152	177	177	176
Rochester	90	102	107	114	137	88	86	72	46	48	62	76	61	78	85
Taunton	959	926	940	934	1,128	1,020	897	682	558	593	592	588	604	631	526
Wareham	608	657	639	592	694	626	538	355	318	367	387	342	405	389	437
SRPEDD	9,936	10,306	9,862	10,002	11,398	10,657	8,893	7,525	6,224	6,231	6,238	6,077	6,329	6,748	6,682
Massachusetts	112,806	108,170	110,878	113,372	128,282	126,652	103,663	90,722	78,082	77,008	76,804	72,418	85,818	89,690	89,202

Source: CHAS Report based on 2008-2012 ACS

TABLE OF DIMENSIONAL REGULATIONS

DIMENSION	RA	RB	RR	B	I	GU*	GUA*	GUX*	CD
Min. Lot Area (s.f.)	60,000	20,000	80,000	-	-	-	-	-	43,560
Min. Lot Frontage (ft.)	175	125	200	-	-	75	75	75	150
Min. Lot Width (ft.)	157.5	112.5	180	-	-	-	-	-	120
Upland Circle (s.f.) (See Section 4.2.4)	12,000	12,000	12,000	-	-	-	-	-	
Min. Front Yard (ft.)	25	25	50	-	150	35	35	35	40
Min. Side Yard (ft.)	10	10	10	-	150	25	25	25	25
Min. Rear Yard (ft.)	10	10	10	10	150	25	25	25	25
Building Height (ft.)	-	-	-	65'	-	42'	42'	42'	42'
Impervious Cover (%)	-	-	-	-	-	60%	60%	60%	65%
Open Space (%)	-	-	-	-	-	40%	40%	40%	35%

* GU, GUX and GUA – Dimensions shown are for commercial uses. See Section 4.5.2 for single family residential uses and Section 7.1 for multi-family uses.

4.2 RA, RB AND RR DISTRICT REQUIREMENTS

4.2.1 One Structure per Lot. Not more than one dwelling or building with accessory structures having a permitted use shall hereafter be erected, placed or converted on any lot.

Appendix 3: Subsidized Housing Inventory

Middleborough DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
1960	n/a	Archer Court	Rental	28	Perp	No	DHCD
1961	n/a	Frank/Park/Sprout	Rental	40	Perp	No	DHCD
1962	n/a	Off Sprate & Maple	Rental	50	Perp	No	DHCD
1963	n/a	8 Benton St.	Rental	64	Perp	No	DHCD
1964	n/a	Woodland Ave.	Rental	8	Perp	No	DHCD
1965	12 South Main St	12 South Main St	Rental	7	2022	No	DHCD
1966	15 Centre St	15 Centre St	Rental	7	2021	No	DHCD
1967	ARC of Greater Fall River	Perce Lane	Rental	4	2026	No	EOHHS
1969	Middlebury Arms	89 East Grove St.	Rental	64	2018	No	MassHousing
1972	Windsor Village	23 Taunton Street	Ownership	3	Perp	Yes	DHCD
3808	Greystone Estates	Plymouth St	Ownership	8	perp	Yes	FHLBB
4367	DDS Group Homes	Confidential	Rental	48	N/A	No	DDS
5112	The Groves	136 West Grove St	Mix	49	Perp	Yes	MHP MassHousing
5113	South Main Street	South Main Street	Rental	7	2023	No	DHCD
6656	Tispaquin Farms	Tispaquin Street	Ownership	20	perp	Yes	MassHousing
6663	Habitat for Humanity	Oak Street	Ownership	1	perp	No	DHCD
7931	Cranberry Village	West Grove St	Rental	0	perp	YES	MassHousing
7932	Eastwood Estates	Purchase St	Ownership	7	perp	YES	MassHousing

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This data is derived from information provided to the Department of Housing and Community Development (DHCD) by individual communities and is subject to change as new information is obtained and use restrictions expire.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Middleborough

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
9022	Cinnamon Ridge	Highland St	Ownership	6	Perp	YES	MassHousing
9023	Keith Street Condominiums	Keith Street Extension	Ownership	5	Perp	YES	MassHousing
9719	The Residences at Star Mill	33 East Main Street	Rental	69	Perp	NO	DHCD
9720	Shoe Shop Place	151 Peirce Street	Rental	0	Perp	YES	DHCD MassHousing MHP
9721	Crimson Estates	Spruce St	Ownership	14	Perp	YES	MassHousing
Middleborough Totals				509	Census 2010 Year Round Housing Units		8,921
					Percent Subsidized		5.71%

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This data is derived from information provided to the Department of Housing and Community Development (DHCD) by individual communities and is subject to change as new information is obtained and use restrictions expire.