

# A Municipality's Role in Chapter 40B



**Norfolk, MA**  
**February 27, 2018**

# Who we are

MHP is a quasi-public agency started in 1985

MISSION: Use private investment to bring more affordable housing to Massachusetts

Massachusetts  
Housing  
Partnership

# What does MHP do?

- ▶ **Permanent financing for affordable rental housing**
- ▶ **ONE Mortgage program**
- ▶ **Community Assistance**
- ▶ **Research on housing data and supporting policy efforts**

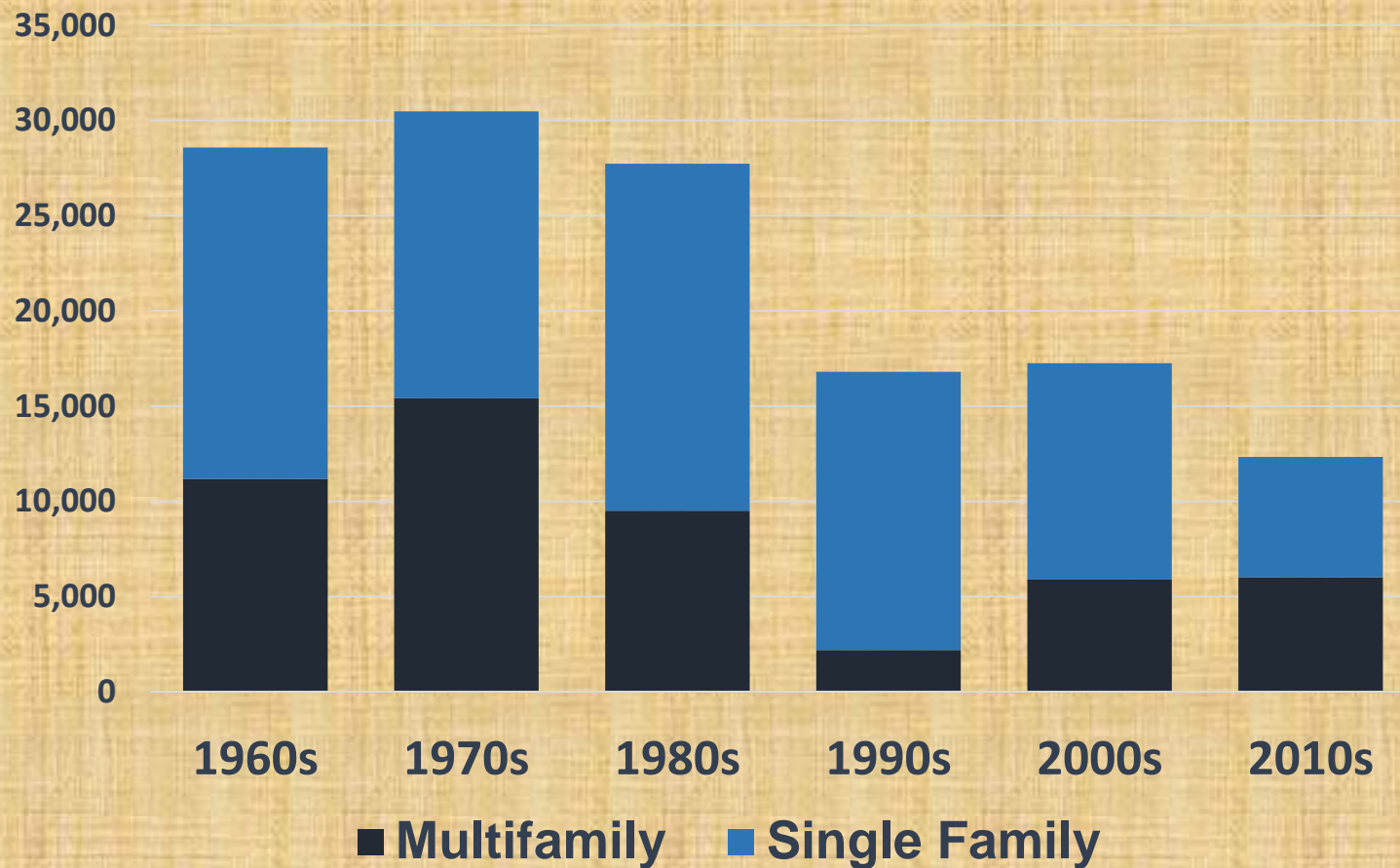
# Goals for the evening

- ▶ **Recent 40B activity**
- ▶ **Municipality's role in the 40B process**
- ▶ **Proactive approaches, additional resources and best practices**



# Supply < Demand

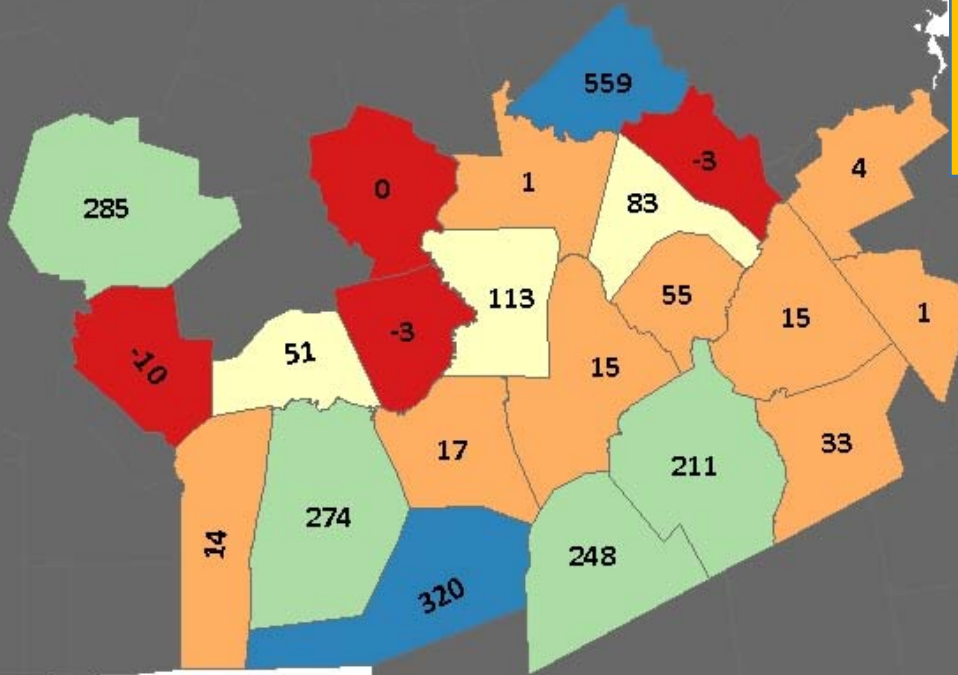
## Annual Housing Production in Massachusetts by Decade



# What has been accomplished?

- ▶ **Created or preserved over 10,000 homes since 2014**
- ▶ **65 towns have met their 10% obligation**
- ▶ **45 towns have adopted or updated their Housing Production Plan**

# SHI units added since December 2014



Data source: DHCD CH. 40B Subsidized Housing Inventory 09/14/17

# TRIC changes to SHI

	<u>2014</u>	<u>2017</u>	<u># units to 10%</u>
Canton	12.3%.....	12.5%	
Dedham	10.9%.....	10.9%	
Foxborough	8.9%.....	12.5%	
Medfield	4.5%.....	7.2%.....	118
Needham	7.6%.....	12.6%	
Norwood	7.9%.....	8.3%.....	209
Randolph	10.7%.....	10.7%	
Sharon	7.4%.....	10.7%	
Stoughton	11.2%.....	11.5%	
Walpole	5.2%.....	5.4%.....	413
Westwood	9.1%.....	10.7%	



# SWAP changes to SHI

	<u>2014</u>	<u>2017</u>	<u># units to 10%</u>
Bellingham	8.5%.....	8.7% .....	83
Dover	0.9%.....	0.9%.....	177
Franklin	9.5%.....	11.9%	
Hopkinton	8.6%.....	14.2%	
Medway	5.1%.....	6.2%.....	177
Milford	6.3%.....	6.2%.....	430
Millis	3.8%.....	3.7%.....	197
Norfolk	3.6%.....	4.1%.....	184
Sherborn	7.4%.....	10.7%	
Wrentham	11.2%.....	11.5%	

# What happens to SHI in 2020?

1. The Subsidized Housing Inventory is updated every 2 years to verify the number of affordable units to be “counted” (the numerator)
2. The total number of units (the denominator) is only updated with the decennial Census.



# What happens to SHI in 2020?

**Example: Westwood**

**2014: SHI units: 493**

**Total units: 5,389 = 9.1%**

**2017: SHI units: 576**

**Total units: 5,389 = 10.7%**

**If no SHI units are added and 10% growth since 2010:**

**2021: SHI units: 576**

**Total units: 5,928 = 9.7%**



## What happens to SHI in 2020?

**Result:** Towns that have not kept up with affordable housing units but have added market units will see a decrease in their SHI percentage.

**Solution:** Calculate the number of units added since 2010 and plan to add SHI units to get to or maintain 10% after 2020 Census.

# Chapter 40B PEL

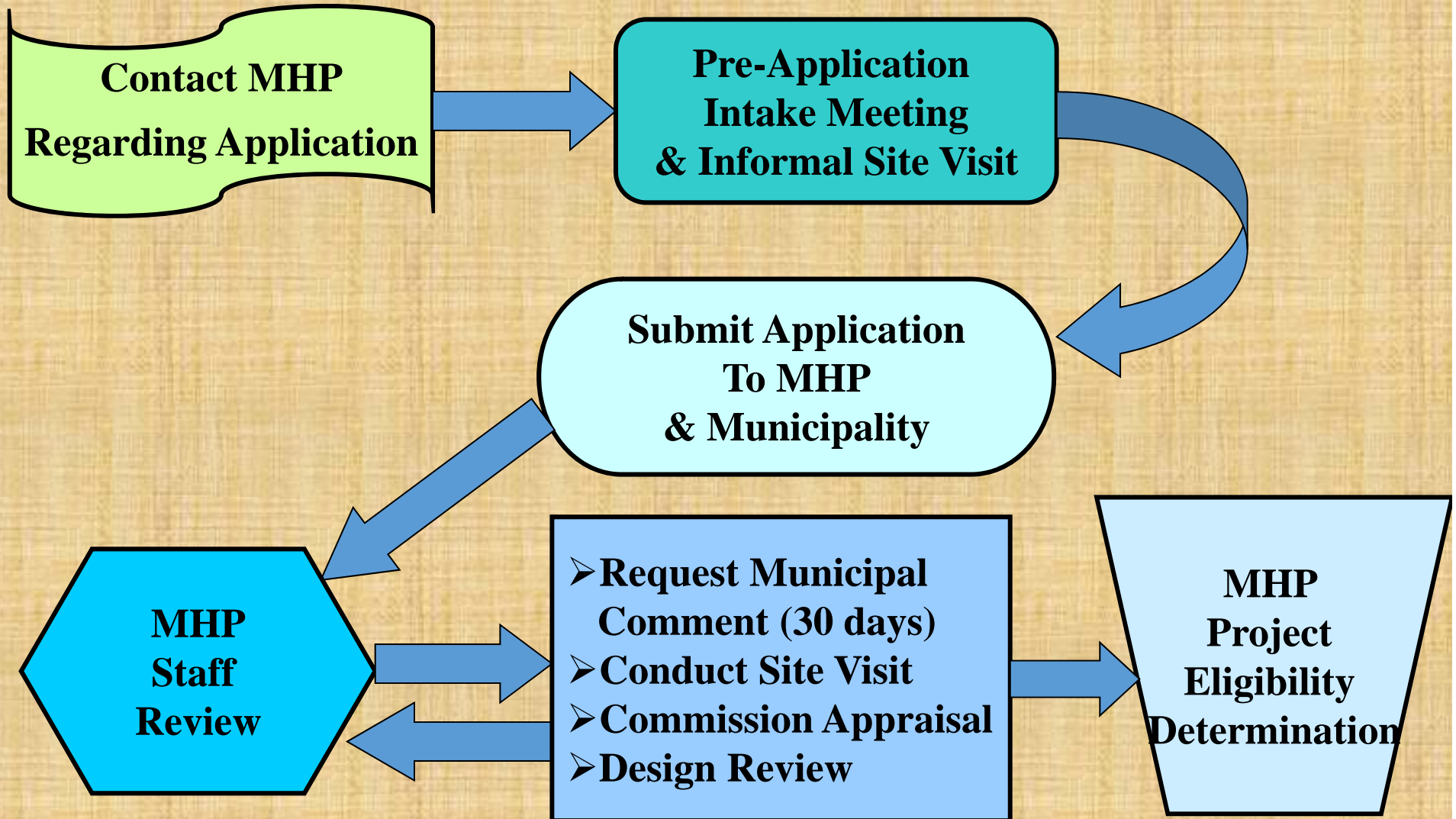
## Project Eligibility Letter

- Issued by Subsidizing Agency: DHCD, MassHousing, MHP, or MassDevelopment
- Developers must have PEL to apply to town for a Comprehensive Permit

**Ticket to ZBA**



# Chapter 40B PEL



# Chapter 40B PEL- site visit

- Subsidizing Agency notifies developer and town officials of date and time of site visit. Other interested parties are welcome to attend
- Any comments should be addressed in writing to the Subsidizing Agency
- Less productive site visit:



# Municipal input

- 30-day Notice to town
  - The town has 30 days to comment on the application



## **Best Practice:**

Town invites department heads and Board chairs to a meeting to gather comments on the proposed development, which are synthesized into one comment letter.



# Municipal input

- **Comments** should be based on the development: design, access, relationship to neighborhood, wetlands, open space, etc.
- **Fiscal Impact** (including school costs) is **not** a factor in approving a PEL or a 40B
- **Do** include actions the municipality has taken to increase affordable and multi-family housing including 40R districts, multi-family zoning, Housing Production Plan progress, Inclusionary zoning, etc.

# Municipal input

- Many PELs acknowledge concerns of the town that should be addressed at the ZBA
- Typical areas addressed at ZBA vs PEL stage
  - Traffic
  - Stormwater
  - Utility capacity
  - Septic design





# Subsidizing agency findings

- **760 CMR 56.00 – Comprehensive Permit Regulations**

## **56.04** Project Eligibility; Other Responsibilities of Subsidizing Agency

### (4) Findings in Determination (after 30 day review/comment)

- (a) that the project is generally eligible under the **subsidy program**. . .
- (b) that the **site** of the proposed development is **generally appropriate** for residential development. . . Taking into consideration..**prior municipal actions**
- (c) that the **conceptual project design** is generally **appropriate** for the site on which it is located. . .

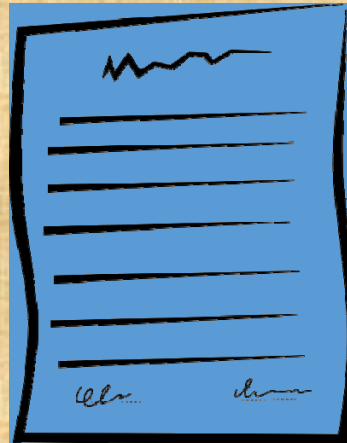
# Subsidizing agency findings

(d) That the proposed Project is **financially feasible within** the housing market. . .

(e) That the **initial pro forma & land value** are **consistent** with cost certification guidelines. . .

(f) That the applicant is a **public agency, non profit, or Limited Dividend Organization**. . .

(g) That the applicant **controls the Site**. . .



# ZBA Hearing



## Best Practice

- The ZBA should distribute the 40B application to departments and boards that are affected
- Departments and Boards should submit their comments to the ZBA and/or appear at the hearing to give their comments.
- Board of Health & Conservation Commission
  - separate hearings only if waivers to state law are requested

# ZBA Hearing

- **ZBA:**
  - Do get **Peer Reviews** on technical aspects of proposals
  - Do get **Design Review**, if that's a concern
  - Do **plan** the 6 months (or less) of hearings
    - Pencil out the peer reviews needed and schedule hearings on those topics after reports are due
  - **Reports and Studies.** ZBA cannot initiate any independent studies or reports, only peer review reports and studies submitted by applicant.
  - **Use MHP's 40B technical assistance program** to get a consultant to assist the ZBA



# Life after the hearing

- Typical post-approvals prior to issuance of building permit with the addition of Final Approval Letter from SA
- Review of cost certification and SA's report
- Monitoring and compliance, if LIP or LAU





# “Friendly” 40B

Typically a Local Initiative Program (LIP) 40B, but can be any municipally supported 40B

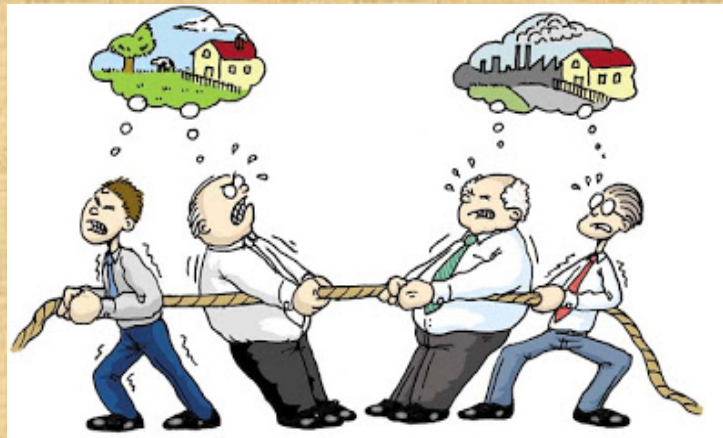
## What’s different about a LIP?

- No \$ subsidy. Subsidy is technical assistance from DHCD. DHCD is the subsidizing agency.
- Must be supported by Board of Selectmen or Chief Elected Official in a city
- Municipality has shared responsibility with DHCD for monitoring and compliance of affordable housing

# “Friendly” 40B

**If Municipally supported, why not use LIP?**

- **The project needs actual \$ subsidies**
- **Majority of Board of Selectmen or the Town Manager doesn't want to “officially” support**
- **Municipality doesn't have capacity or resources to effectively monitor compliance**
- **Developer wary of a “no” vote with no appeal**



# What is an LAU?

**LAU (Local Action Unit) is a unit that is approved for the SHI but was not created under 40B.**

- **Local Action can be a Special Permit or other zoning approval, funding (CPA, Trust, etc.), donation of land or buildings, inclusionary, etc.**
- **Must be priced, marketed and sold/rented according to DHCD's guidelines**





# West Barnstable Communities

Best Practice

**Kimber Woods**  
**Barnstable, MA**  
**28 family rental homes**  
**Opened in 2009**  
**Developer: Housing**  
**Assistance Corporation**



**Lombard Farm**  
**Barnstable, MA**  
**12 senior rental homes**  
**Opened in 2009**  
**Developer: Housing**  
**Assistance Corporation**



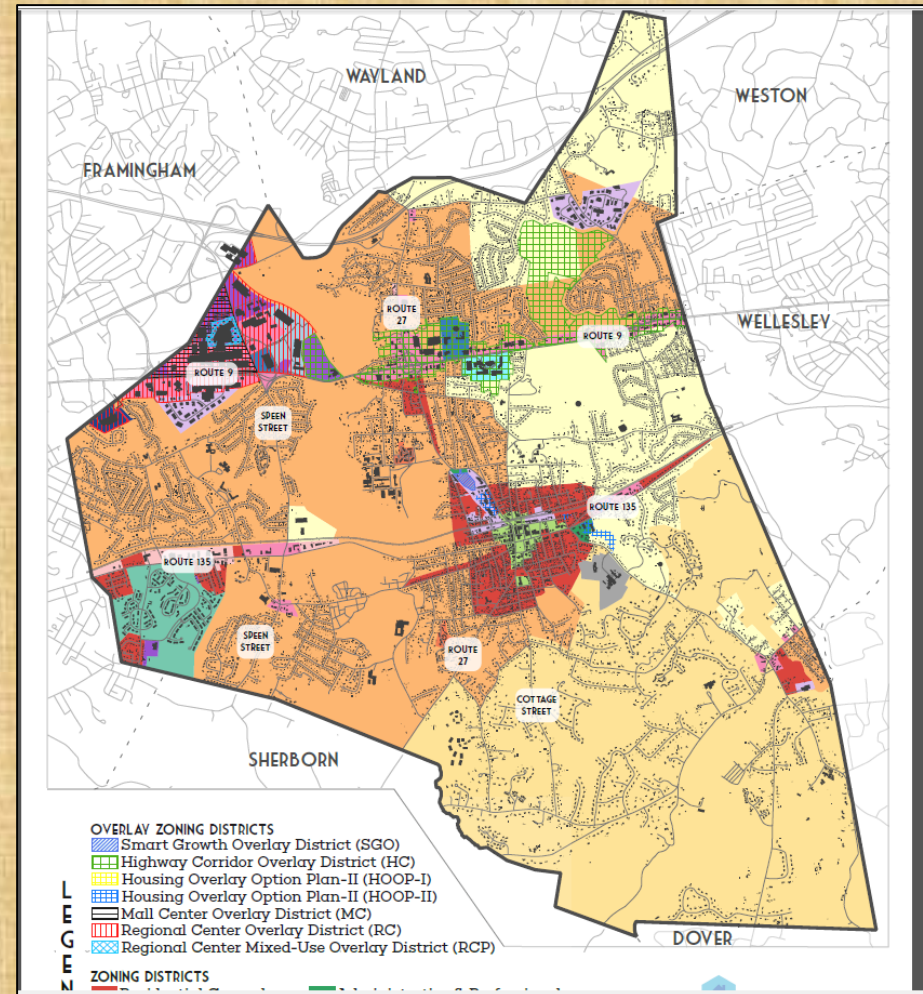
# Proactive Zoning, Natick

Best Practice

- ▶ Has used zoning districts and Ch. 40B to create over 1,000 homes since 2000

How:

- ▶ Housing Opportunity Overlay Districts
- ▶ 40R District



Data source: Current Zoning Map, Natick, Natick 2030+ Plan



# Thankful Chase, Harwich

Best Practice



- ▶ **“Friendly 40B”**
- ▶ **12 affordable rental homes**
- ▶ **Used renewable energy grants for solar panels**
- ▶ **Town-donated land**



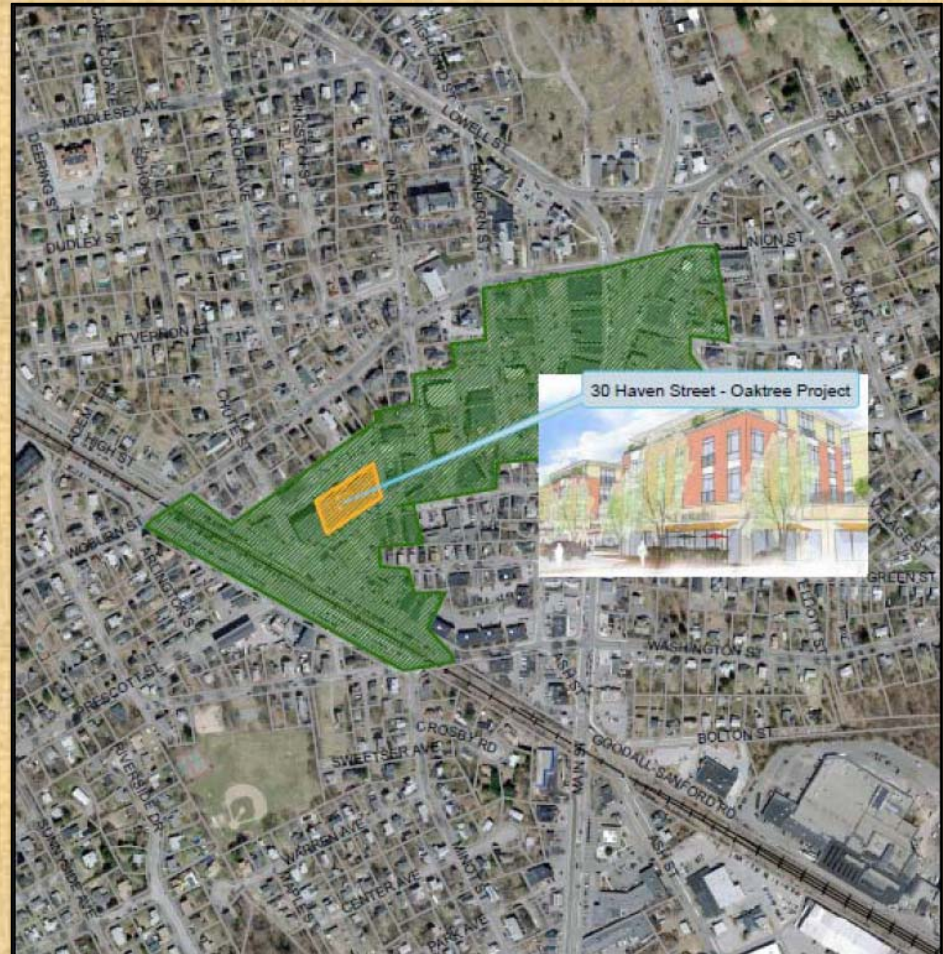
# Proactive Zoning, Reading

Best Practice

- ▶ Has added over 400 SHI units since 2000
- ▶ A majority of new housing is walkable and close to transit

## How:

- ▶ Planned Unit and Residential Districts
- ▶ 40R Districts



# Housing Choice Initiative

The Baker-Polito Housing Choice Initiative provides tools for communities to meet its goal of 135,000 new units by 2025.

## Program elements:

- Housing Choice Designation
- Small Town capital grant funding
- Technical Assistance – New grants and better coordination
- Housing Goal and improved data to track performance
- Legislation – **An Act to Promote Housing Choices**





## Know what you're looking for?

SEARCH

Strategies and best practices for the creation and preservation of affordable housing, with guides, tools and resources for local boards & committees, planners, municipal staff, developers, and volunteers.

### Just getting started?

- Overview >
- For Local Boards & Committees >
- For Planners & Municipal Staff >
- For Developers >

### Questions?

- Frequently Asked Questions >
- Ask us a Question >



# Additional tools for towns

- ▶ **MHP's 40B Technical Assistance Program**
- ▶ **Chapter 40B Handbook for Zoning Boards of Appeal**
- ▶ **MHP workshops and trainings**
  - ▶ **12<sup>th</sup> Annual Housing Institute, June 6 & 7**

# Community Assistance



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