

# Beyond Common Concerns

Investigating 40B Developments  
in Massachusetts



**Tufts**  
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GRADUATE SCHOOL  
OF ARTS AND SCIENCES

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*Cover photo: View of downtown Hingham, MA. (Courtesy of Evan McNamara, Unsplash.com)*

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## Executive Summary

Through interviews, analysis of recent town planning documents, and a close examination of social connectivity, this investigation uncovered the story of four 40B projects in affluent communities in Massachusetts. The findings will not only support the work of practitioners with practical recommendations for increasing affordable housing, but also probe deeper questions about the lived experience of residents and whether affordable housing is truly synonymous with the ability to afford to live in a community.

This study builds upon a growing body of research that seeks to assess the impact of 40B developments on communities in Massachusetts. Chapter 40B has been lauded by housing advocates in Massachusetts and across the country as an exemplary model of state legislation that addresses local zoning practices hindering the development of affordable housing. Nonetheless, affordable housing development remains a controversial topic at the local level. Across the state, proposed 40B projects continue to be met with opposition. Three key questions guided the research to uncover new knowledge regarding community responses to 40B development projects, both before and after construction.

- 1 What concerns do town and city residents and officials raise around proposed 40B development projects?
- 2 How does the final development match expectations and concerns held among town and city residents and officials?
- 3 How connected are 40B residents to the community?

The approach taken to answer these research questions followed three main phases: (1) literature review, (2) site selection, and (3) site research and interviews. The site selection process yielded four 40B development projects to study:

- Windsor at Hopkinton, Hopkinton;
- Modera, Needham;
- Shaw Farm Village, Concord; and
- Craftsman Village, Hingham.

Each case study leveraged interviews with key stakeholders, review of primary sources, and quantitative and GIS analysis. The findings illuminated

community concerns prior to and following development, spatial and social connectivity, and the lived experience of residents at each selected site. Four major themes emerged in synthesizing the similarities and differences in the local context, community, and narratives of each case study. These themes, explained below, effectively address the guiding research questions while also expanding the conversation around the impacts of Chapter 40B on communities in Massachusetts.

**Reactions to Change:** As communities are forced to rethink their past, present, and future with evolving needs and shifting demographics, changing hearts and minds will be critical to equitably addressing the housing crisis in Massachusetts.

**Power and Process:** The stakeholders involved in the 40B process, the timing of their engagement, and the power dynamics between them play an important role in any 40B project's success.

**Real and Perceived Connectivity:** The most commonly cited statistics about 40B's success focus on the quantity of affordable housing produced. In moving beyond the numbers, a more nuanced story emerges

about residents' sense of inclusion or welcome.

**Expectations of Opportunity:** Purchasing or renting an affordable 40B home has not guaranteed that residents have access to the American Dream—many other economic and cultural barriers remain.

While acknowledging the notable production of affordable housing in Massachusetts communities through Chapter 40B, this research suggests there is still more work to do. This work begins with improved data collection and reporting, as well as education and capacity building. Several concluding recommendations within these two work streams seek to further CHAPA's work to advocate for opportunity, expand access to housing, and develop the field of professionals around Chapter 40B.



# *Project* Background

## History and Mission of CHAPA

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Citizens' Housing and Planning Association (CHAPA), established in 1967, works to encourage the production and preservation of affordable homes for low- and moderate-income families and individuals and to foster diverse and sustainable communities through planning and community development in Massachusetts. In pursuit of these goals, CHAPA actively engages and equips CHAPA members, Massachusetts cities and towns, and other key stakeholders to advocate for the production and preservation of diverse housing types. CHAPA also plays a direct role in expanding access to housing by connecting people with affordable rental and homeownership opportunities. More broadly, CHAPA contributes to the development of professionals and organizations working in the fields of affordable housing and community development by fostering information-sharing and building local capacity.

## Context of Chapter 40B

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Of particular interest to CHAPA is Chapter 40B, also known as the Comprehensive Permit Law. Chapter 40B is a state statute that was enacted in Massachusetts in 1969 to help address the shortage of affordable housing statewide by reducing barriers to development created by zoning and other approval processes. Under Chapter

40B, Zoning Boards of Appeals (ZBAs) can approve affordable housing developments under more flexible standards than local zoning by-law requirements, if either a minimum of 25% of units that are affordable to persons earning 80% or less of the Area Median Income (AMI) or 20% of units affordable to persons earning 50% or less of AMI. The developer may appeal an adverse local decision to the Housing Appeals Committee (HAC), and effectively bypass local zoning, should less than 10% of the municipality's year-round housing meet certain affordability standards. (Other ways to reach "safe harbor" include designating at least 1.5% of land area to affordable housing or developing a Housing Production Plan.)

The state captures each municipality's progress towards this 10% threshold in the Subsidized Housing Inventory (SHI), which tracks housing developed under 40B as well as other types of housing that qualify as affordable. To qualify for inclusion on the SHI, housing units must have received some form of public subsidy and have deed-restrictions for long-term affordability. To date, many communities have used Chapter 40B to successfully negotiate and approve quality affordable housing, and the level of housing production is higher under 40B than under any other single housing program available in Massachusetts.

However, more than 50 years after the passage of Chapter 40B, Massachusetts

continues to suffer from a severe affordable housing crisis that impacts low- and moderate-income residents, particularly those of color. As demand for housing outstrips supply, rents and home prices are soaring: Greater Boston housing prices increased by 53% from 2009 to 2020,<sup>1</sup> and the rental market has become one of the most expensive in the country.<sup>2</sup> In many municipalities, local land use and zoning requirements stymie the production of housing that would alleviate the crisis, through requiring large minimum lot sizes, single-family-only dwellings, and other regulations that limit density and affordability. By limiting the production of affordable housing, these local zoning codes can perpetuate the region's racial segregation. As a result, multi-family development is concentrated in just a few municipalities, while zoning codes that prevent the development of a diverse housing stock in many communities lead to a lack of diversity in residents' income levels, race, ethnicity, and family type.<sup>3</sup>

Today, the COVID-19 pandemic is further compounding the affordable housing crisis, causing additional housing instability due to dramatic spikes in unemployment and general economic uncertainty. The confluence of these two crises highlights the considerable racial inequities in housing that still manifest in Massachusetts due to historic practices like redlining and current exclusionary zoning regulations. Chapter 40B raises important

questions about racially equitable access to housing. Specifically, when housing is built, who is it for and where is it located? Current conditions highlight the role that zoning and access to housing play in systemic racism, de jure segregation, and how essential affordable housing is for the well-being of all residents now more than ever.

## Project Goals

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This study builds upon a growing body of research that seeks to assess the impact of 40B developments on communities in Massachusetts. Chapter 40B has been lauded by housing advocates in Massachusetts and across the country as an exemplary model of state legislation that addresses local zoning practices that hinder the development of affordable housing. By establishing a state-mandated housing goal, Chapter 40B initiated a proliferation of affordable homes in communities that otherwise exhibit exclusionary practices. To date, the Massachusetts Department of Housing and Community Development (DHCD) reports that the Chapter 40B program has produced more than 53,000 homes in over 850 developments, with nearly 20,000 affordable homes in 197 communities.<sup>4</sup>

Nonetheless, in Massachusetts, the arguments both for and against Chapter 40B housing developments are well trod. Affordable housing development remains



Figure 1. Our Homes, Our Voices rally. (CHAPA)

a controversial topic at the local level, and across the state, proposed 40B projects continue to be met with opposition. Opponents commonly take issue with 40B as a means to increase affordable housing, expressing that 40B developments are not subject to local control, and that communities therefore lose their ability to regulate both desirable and undesirable land uses. Community members also raise concerns over the change in neighborhood character with both coded and outright discriminatory language (including comments expressed by local residents such as, “if you can’t afford to live here, you don’t deserve to”<sup>5</sup> and “we bought in Concord and woke up in Dorchester,”<sup>6</sup> as reported by interlocutors.) Finally, fears of increased traffic, detrimental environmental impacts, additional burdens upon municipal services, overcrowded schools, and decreased property values

can slow or even stymie the process of project approval.

Therefore, community support can make or break proposed 40B development projects. Proactive efforts to build and broaden informed coalitions of on-the-ground supporters, like CHAPA’s Municipal Engagement Initiative (MEI), have the potential to change local conversations about affordable housing. By building trust and relationships with local leaders, the MEI team works with residents on the ground to change the often hostile conversation around affordable housing and support existing local efforts to build homes for low- and moderate-income residents.<sup>7</sup> Key to the MEI team’s work is a deep understanding of a community’s character and what its residents prioritize. Through an inclusive dialogue with the community, MEI seeks to identify which concerns are rooted in reality and which

concerns are coded messages alluding to a negative perception of 40B developments and their residents. While the MEI team prioritizes relational work, this project will provide qualitative and quantitative data to support their dialogues.

Three key questions guided the research to uncover new knowledge regarding community responses to 40B development projects, both before and after construction. These three key questions capture CHAPA’s expressed interests to gauge the origins, validity, and legacy of concerns around 40B projects. Additionally, they reflect a shared commitment to better understanding how common community concerns may be rooted in prejudiced opposition or exclusionary tendencies, thus applying a racial and social justice lens to the research.

## Key Research Questions

- 1 What concerns do town and city residents and officials raise around proposed 40B development projects?
- 2 How does the final development match expectations and concerns held among town and city residents and officials?
- 3 How connected are 40B residents to the community?

To address the key research questions, we used a rigorous selection process to select four 40B development sites, considering two independent variables (type of community and housing tenure)

and several project criteria further outlined in the Methods section. At each site, we investigated concerns pre- and post-development, spatial and social connectivity, and the lived experience of residents. Data-driven qualitative and geospatial results inform the research findings. It is our hope that results will further inform and support CHAPA’s proactive engagement initiatives at the local level.

## Endnotes

- 1 Crump et al., “Fixing Greater Boston’s Housing Crisis Starts with Legalizing Apartments near Transit.”
- 2 “Greater Boston Housing Report Card 2019: Supply, Demand and the Challenge of Local Control.”
- 3 “Greater Boston Housing Report Card 2019: Supply, Demand and the Challenge of Local Control.”
- 4 Crossen, “Analysis of the Chapter 40B Subsidized Housing Inventory as of December 21, 2020, Department of Housing and Community Development,” March 18, 2021; This information comes from the DHCD 40B tracking spreadsheet and is missing some units monitored by municipalities directly as well as units built prior to 2000.
- 5 Rasmussen, Interview by authors.
- 6 Anonymous abutter, “Student Research Inquiry on 2013 Concord 40B Project”
- 7 “Municipal Engagement Initiative | Citizens’ Housing And Planning Association.”



# *Methodology*

The team's approach to answering the research questions follows three main phases: (1) literature review, (2) site selection, (3) site research and interviews.

## Literature Review

### Understanding Our Context

The research process began with a review of the literature on affordable housing in Massachusetts, the history of Chapter 40B, and the discourse around these topics. The objective of this stage was to develop familiarity with existing scholarship on the impact of the Chapter 40B legislation and identify areas that are open for further research. In addition to reviewing available literature, we conducted initial conversations with key informants in support of and in critique of Chapter 40B as a regulatory instrument for producing affordable housing in Massachusetts. Key informants engage with Chapter 40B as scholars and practitioners, each offering additional insights into the design and impact of the controversial policy. Results and findings from this step in the research are presented in the "Literature Review" section.

## Site Selection

### Focusing the Scope

With the context of the literature review in mind, we identified 40B projects to profile in subsequent case studies that would answer the key research questions.

We uncovered two variables that were not addressed adequately in the existing

literature: 1) the type of community in which the 40B project is located and 2) the housing tenure of the development. During interviews and discussions with CHAPA staff, we understood that these variables would also be most useful for advancing CHAPA's work. Using these two variables, we identified four 40B developments to feature as case profiles in this study (Table 1).

We used Metropolitan Area Planning Council's (MAPC) housing submarkets typology to determine community type and a comprehensive list of 40B developments provided by CHAPA to identify housing tenure. The MAPC's housing submarkets analysis was

Table 1. Illustration of case study selection variables.

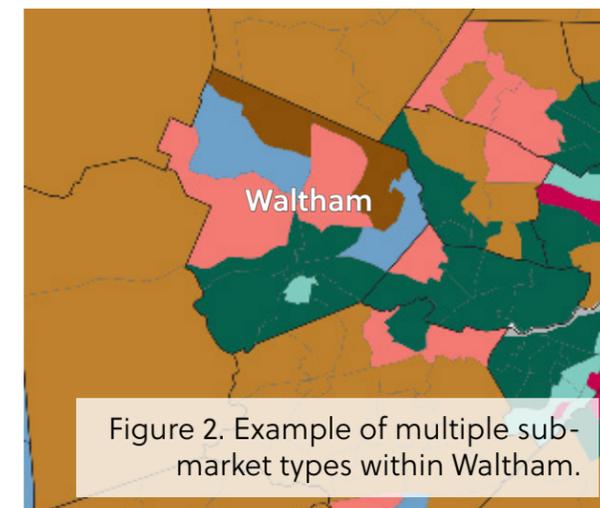
		Variable 1: Community Type	
		Submarket 5	Submarket 7
Variable 2: Housing Tenure	Ownership	Shaw Farm Concord	Craftsman Village Hingham
	Rental	Modera Needham	Windsor Hopkinton

conducted at the census tract level, so individual cities and towns may contain multiple submarkets. Submarket 5 census tracts are low-density suburban areas with the highest prices (e.g., some areas of Marblehead, Winchester, and Newton). Submarket 7 census tracts are low-density suburban areas with moderate prices (e.g., some areas of Wilmington, Framingham, and Wrentham). The characteristics of these submarkets align with neighborhoods where affordable housing development is most scrutinized.

The second variable, housing tenure, was identified in the list of 40B developments provided by CHAPA. We split the comprehensive list of 40B developments from CHAPA into two, one for ownership and one for rental.

The following criteria were held constant during site selection:

- 1 All selected sites had Project Eligibility Letters (PEL) issued between January 1, 2010 and January 1, 2018. Limiting PEL issue dates to 2010-2018 ensured selected sites were built recently enough for our team to find stakeholders that could speak to the project during research. The upper limit of 2018 was used as a proxy for ensuring sites had been completed and occupied for at least three years.
- 2 All selected sites have been completed and occupied for at least three years. This ensured sufficient information would be available for our team to analyze the impact of the 40B development after it was built and occupied.
- 3 No selected sites are in municipalities with pending Comprehensive Permit applications. This criterion was included to avoid stoking controversy about 40B in communities with a Comprehensive Permit application currently under consideration.
- 4 The number of homes in each selected project must be equal to or greater than eight for ownership and sixty for rental developments. These numbers are the respective modes (the number that occurs most often) of the number of homes in 40B ownership and rental projects in the state. This criterion ensured the selected sites were representative of 40B developments in size and brought a significant number of new residents to the community.
- 5 All selected sites are located within the MAPC region. At the outset of the study we hoped to select a more geographically distributed set of sites and considered extending the MAPC submarket types across the state to



account for sites outside of the region. Ultimately, we decided to forego this process as most of the resulting sites after filtering for Criteria 1-4 fell within the MAPC region already. Instead, we chose to add this final criterion to the project.

### MAPC Submarket Typology

A housing submarket is a collection of neighborhoods. The neighborhoods in each submarket share common needs and challenges. MAPC's study revealed seven distinct housing submarkets in the Greater Boston region.

We then proceeded with a three-step selection process to arrive at the final sites for further research and analysis. First, we filtered the two 40B rental and homeownership lists to remove developments that did not align with criteria listed above. Next, we used ArcGIS Pro to identify developments within

Submarkets 5 and 7. In the final step, we selected several sites from each list based on team interest and investigation of local news reports and public meeting notes relevant to the development's construction, and worked with the CHAPA team to narrow these options to the final four sites. Our team and partners at CHAPA considered the amount of information and controversy that would be available for us to research, including whether the developments were built through the Local Initiative Program (LIP), which designates them informally as "friendly 40Bs." See more detailed steps, outputs, and figures in Appendix G: Mapping Methodology.

At the conclusion of the site selection phase, we identified four 40B development projects with ample information to analyze, ranging across medium- to high-priced suburban neighborhoods and including both rental and ownership developments. This prepared us to move into in-depth research and case study development of selected sites. The selected sites are shown in Table 2.

Table 2. Selected 40B developments

	Address	Town	Year Built	Total Homes	Affordable Homes	Tenure	Sub-market
<b>Windsor at Hopkinton</b>	5 Constitution Court	Hopkinton	2018	280	70	Rental	7
<b>Modera</b>	700 Greendale Avenue	Needham	2018	136	34	Rental	5
<b>Shaw Farm Village</b>	10-60 Shaw Farm Road	Concord	2014	8	2	Ownership	5
<b>Craftsman Village</b>	1-8 Taylor Lane	Hingham	2013	8	2	Ownership	7

## Site Research and Interviews

### Unpacking the Narratives

#### Interviews with Key Stakeholders

We conducted interviews with stakeholders who played a key role in the development of the 40B project. We set out to interview at least five stakeholders from each development.

Most interviewees were a part of the following stakeholder groups:

- 1 Municipal official
- 2 Developer/Project consultant
- 3 ZBA member\*
- 4 Community member in opposition to the project
- 5 40B development resident

\* and other volunteer committees as applicable

Further information about the interview process is found in Appendix B, including the Interview Protocol (Appendix C) and an Interview Guide (Appendix D).

#### Review of Primary and Secondary Sources

We reviewed primary and secondary sources that document the development process for each 40B project. Examples of such sources include meeting minutes, documentation of key decisions, and records of testimony in public hearings. We also reviewed secondary sources, including local newspaper articles, when available. The information gathered through these sources helped to advance our understanding of the site-specific and community context.

#### Quantitative and GIS Research

To examine 40B's effectiveness at furthering racial and economic equity through affordable housing, the spatial analysis focused on answering the third research question: How connected are 40B residents to the community? To investigate this question through a spatial analysis, we used data from the American Community Survey (ACS), MassGIS, and EPA Smart Locator Database to construct a Connectivity Score.

The Connectivity Score was calculated by using network analysis methods to examine 40B residents' ease of access to community support services, employment opportunities, and transit. These variables attempt to capture a holistic set of measurable municipal and regional resources that—if accessible—would contribute to a welcoming experience for a community member. The spatial analysis provides a quantitative measure to complement the stories and perspectives highlighted in the case studies.

The results of the spatial analysis informed the study findings, and are also encapsulated in a StoryMap accessible at the link (<https://bit.ly/3y9ljo1>). Further details on the mapping approach can be found in the StoryMap as well as the Appendix G: Mapping Methodology. The combination of interviews, primary and secondary source review, as well as quantitative and GIS analysis helped answer the three research questions.

#### Project Eligibility Letter

Developers must submit a PEL application to a Subsidizing Agency, which will allow the subsidizing agency to determine if the project is eligible under the subsidy program.

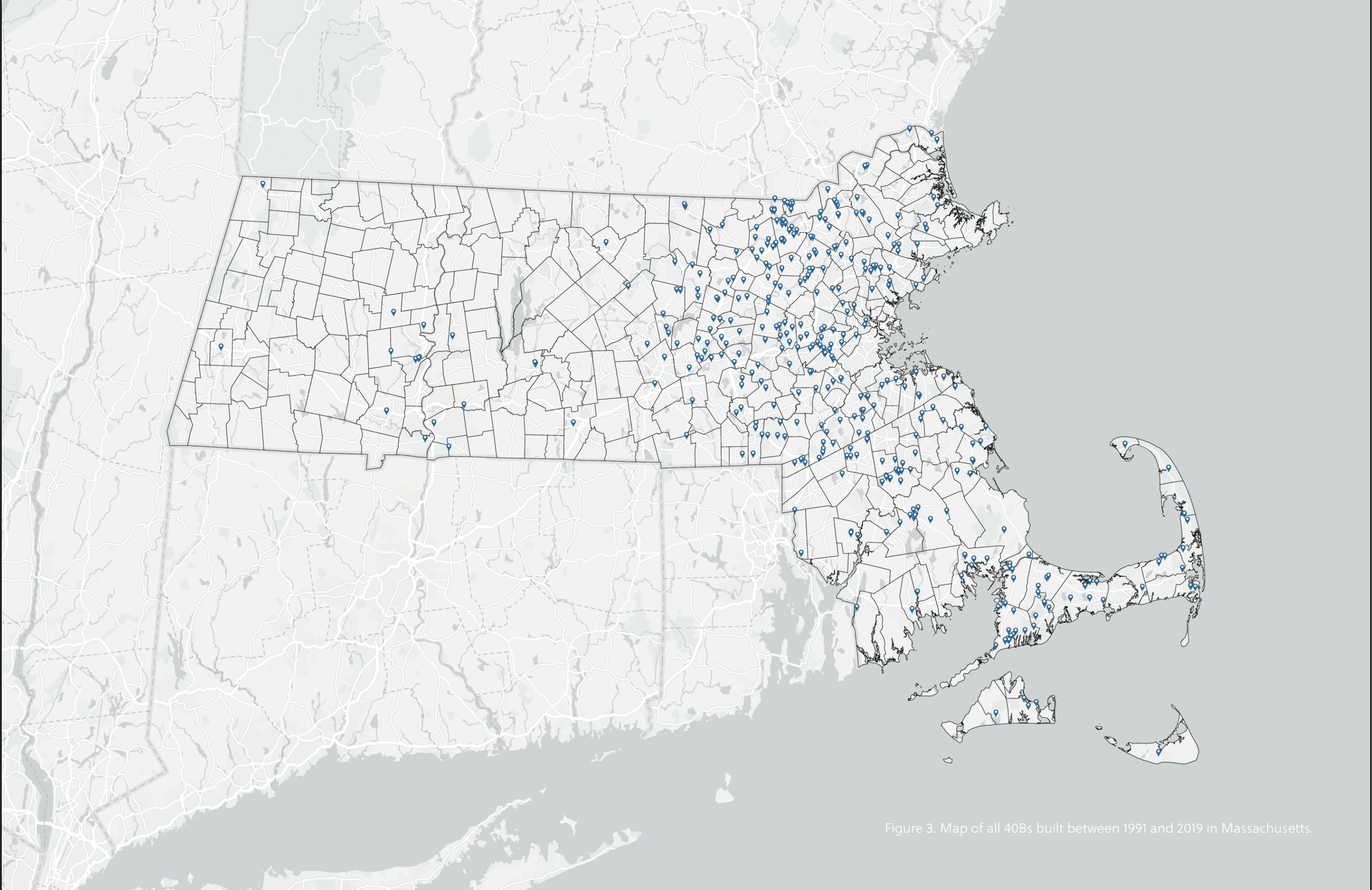


Figure 3. Map of all 40Bs built between 1991 and 2019 in Massachusetts.



# *Literature* Review

Initial informant conversations and research conducted illuminated critiques of 40B and illustrated the values and goals that proponents of 40B developments seek to uphold through its administration. These discussions surfaced a central question: do people have a right to live anywhere they want? Conversely, do people have a right to decide who should and should not live near them, either in their neighborhood or within their town? In considering this question, two perspectives arise in the literature that are in tension with each other:

- 1 40B is a racial justice-oriented policy that seeks to correct planning errors of the past in communities where forces of real estate capital and public policy created segregation and exclusion. The objective of 40B is, in part, increasing the affordable housing stock to provide housing for vulnerable populations.
- 2 40B is an anti-planning policy that subverts local control. By its nature, 40B is undemocratic, as the Comprehensive Permit process empowers the state-appointed Housing Appeals Committee (HAC) to overrule local zoning regulations by allowing developers to waive such regulations.

This tension runs through the themes that arose in our literature review.

#### **Housing Appeals Committee (HAC)**

A quasi-judicial body within DHCD, which hears appeals by developers, local zoning boards on Comprehensive Permit (Chapter 40B) decisions by local Zoning Boards of Appeal.

### **History of 40B** *Balancing Local and State Power*

Massachusetts' Chapter 40B statute was passed in 1969 to encourage communities to build affordable housing through state-level incentives. While the statute has not changed since 1969, the regulations around how the law is implemented have evolved to give more authority back to local governments. In the face of local opposition and the introduction of bills to repeal 40B, the 1989 Grace Commission report recommended modifications that would make it easier for cities and towns to reach the 10% threshold.<sup>1</sup>

One such recommendation was the creation of the Local Initiative Program (LIP), run by DHCD, which encourages communities to proactively develop affordable housing by providing technical assistance to those who work in partnership with developers.<sup>2</sup> DHCD technical assistance qualifies as a subsidy and enables locally supported developments, which do not require other financial subsidies, to qualify for inclusion on the SHI. LIP projects may be

referred to as "friendly 40Bs" because by working cooperatively, the developer and municipality move more quickly through the review process. With the exception of a spike in housing construction in the mid-2000s, LIPs have made up about half of all constructed 40Bs since the 1990s when the program was first introduced. In fact, most of the 40B developments built today are through the LIP, meaning only the minimum number of homes and level of affordability required by the 40B statute is being met, with 70% of affordable units being reserved for current residents and municipal employees.<sup>3</sup>

Another program that has given local authorities more power is the Housing Production Plan (HPP), introduced in 2008.<sup>4</sup> When a city or town has a DHCD-approved HPP, the local ZBA decision regarding a Comprehensive Permit application will not be overturned by the HAC. A community's HPP sets out a strategy and plan for developing affordable housing and a timeline by which it will implement the plan. As long as the community is following the schedule it has set out, it can claim immunity (or "safe harbor") from unwanted 40B developments.

#### **Local Initiative Program (LIP)**

A state program under which communities may use local resources and DHCD technical assistance to develop affordable housing that is eligible for inclusion on the Subsidized Housing Inventory (SHI).

#### **Zoning Board of Appeals (ZBA)**

The Zoning Board of Appeals is a municipality's permit granting authority that is responsible for reviewing and approving applications for relief by special permit and by variance from the requirements of the Zoning By-Law.

### **Criticisms of 40B** *Subverting Local Autonomy*

Together, these and other modifications to the regulations surrounding Chapter 40B's implementation have resulted in a decrease in the percent of local denials of Comprehensive Permits by the HAC and a decrease in the proportion of affordable to total units being built through 40B.<sup>5</sup>

The primary complaint that opponents raise against 40B is its alleged subversion of local control. Under Chapter 40B, Zoning Boards of Appeals (ZBAs) can approve affordable housing developments under more flexible standards than local zoning by-law requirements. The developer may appeal an adverse local decision to the HAC, and effectively bypass local zoning, should less than 10% of the municipality's year-round housing meet certain affordability standards. This state preemption is a major cause for concern among legal scholars of planning. Additionally, critics claim that 40B arbitrarily

### 10% Threshold

The percentage of year-round housing stock that must be affordable, per Massachusetts General Law Chapter 40B. A community's percentage is monitored by DHCD and published as the SHI.

prioritizes housing over the breadth of local needs that a town may have (e.g., environment, open space, education). According to planner and legal scholar Jon Witten, the problem with 40B is that the “means” by which it encourages affordable housing development do not justify the “ends” or results that it achieves.<sup>6</sup>

Meanwhile, some critics also question the effectiveness of 40B in its goal of furthering racial justice through housing production. Multiple sources noted that wealthier towns or abutters are able to hold up projects in litigation based on concerns over local needs.<sup>7</sup> However, less affluent municipalities take the path of least resistance, allowing more 40B projects to proliferate in places with fewer resources, which often furthers separation and inequity.<sup>8</sup> It also raises the question of whether individuals have the right to decide who their neighbors should be. Some people want to live in areas with single-family zoning and don't think they are “signing up” for neighborhoods with multi-family developments.<sup>9</sup>

## Counter-Criticism Fighting Exclusion

In response to 40B's critics, housing scholars and advocates focus on the statute's effectiveness at combating exclusionary zoning and providing much-needed, affordable housing in the Commonwealth.<sup>10</sup> While they admit 40B is wrapped up in much complexity, it has in fact increased the housing stock in Massachusetts and the amount of affordable housing in particular, as cities and towns work toward the 10% threshold. Internal debate across the Commonwealth may make 40B seem like a minefield of controversy, but it is important to note that this statute is seen as an example that other states follow. In a study by Rachel Bratt comparing different approaches to combating exclusionary zoning, interviewees from other states expressed admiration of 40B as a model program.<sup>11</sup>

To scholars like Katherine Einstein, the fact that affluent communities will always find a way to exclude low-income people of color is no reason to give up on 40B, but rather more reason to challenge the racist origins of exclusionary zoning.<sup>12</sup> Einstein's research on the demographics of attendees of public meetings demonstrates that prioritizing local control does not necessarily enhance democracy as 40B critics argue.<sup>13</sup> Historical exclusionary zoning has created segregated communities, from which full public participation often serves to perpetuate

past patterns. Anti-exclusionary zoning advocates want fair and equitable land use, not the elimination of all regulations, and see 40B as part of a broader housing agenda to increase the supply of housing in places that need it most.

## Spatial Analysis Evaluating Claims of Racial Justice

In support of a rich exploration of the impact 40B developments have on communities, we also collected information that would direct our thinking on the spatial analysis portion of the report. The spatial analysis examines Chapter 40B's potential influence on racial equity in housing. We identified only two major contributions to the spatial analysis of 40B so far: a thesis written by Hana Migliorato and a report by Amy Dain.

Migliorato's thesis, “Accessing Social and Economic Opportunity in Massachusetts: The Spatial Consequences of State Statute Chapter 40B,” examined 40Bs located in

### Department of Housing and Community Development (DHCD)

The state agency responsible for promulgating housing regulations, overseeing completed developments and units, and offering programs and funding targeted at income eligible households.

the Boston Core Based Statistical Area (CBSA) and whether they were built in “areas that offer high opportunity to residents.”<sup>14</sup> The author created an index to measure opportunity, using seven indicator variables: poverty level, school proficiency, proximity to jobs, labor market engagement, transportation costs, environmental health hazards, and access to public transportation. Migliorato found that there is no significant indication or correlation in the locations where 40B developments are built and areas of higher opportunity. There is room for further research that extends this analysis across the entire state of Massachusetts, in addition to incorporating additional factors that could indicate how well 40B developments are integrated into their communities and comparing across various points in time.

Dain's 2019 report, “The State of Zoning for Multi-Family Housing in Greater Boston,” while not entirely focused on 40B or spatial analysis, identified relevant trends about where multi-family housing is built across Massachusetts cities and towns.<sup>15</sup> Dain concludes that while there is a great deal of local interest in building multi-family housing in town centers, most has been permitted on the peripheries of cities and towns due to a confluence of historic development and current housing demand. Additionally, building multi-family housing in low-density areas may require higher-cost infrastructure changes, compared to areas that are

already serviced by sewers, sidewalks, transit, etc. Finally, as municipalities reach the 10% threshold for housing affordability, methods other than 40B will need to be leveraged to encourage building multi-family housing. There is an opportunity to build upon this work by using spatial analysis to assess these findings and provide quantitative and visual resources to bolster qualitative insights.

## Endnotes

- 1 Hananel, "Can Centralization, Decentralization and Welfare Go Together?"
- 2 "Local Initiative Program | Mass.Gov."
- 3 Reid, Galante, and Weinstein-Carnes, "Addressing California's Housing Shortage"; Krefetz, "The Impact And Evolution Of The Massachusetts Comprehensive Permit And Zoning Appeals Act: Thirty Years Of Experience With A State Legislative Effort To Overcome Exclusionary Zoning." The definition of local preference is found, among other places, on p. 60 of Mass Housing's Third-Party Affordability Monitoring Handbook, 2021. Also, note slide 38 of Judi Barrett's 2018 presentation Chapter 40B Handbook for Zoning Boards of Appeal. A necessary clarification because some municipalities interpreted local preference to mean long-term residents only (i.e. townies), excluding both employees and recent residents.
- 4 "Chapter 40 B Housing Production Plan | Mass.Gov."
- 5 Hananel, "Can Centralization, Decentralization and Welfare Go Together?"
- 6 Imbroscio, "Rethinking Exclusionary Zoning or: How I Stopped Worrying and Learned to Love It"; Witten, Interview by authors.
- 7 Kauppila, "Town Residents Clash with Developers over Chapter 40B Housing Law"; Jaffe, "Score One For Affordable Housing: Chapter 40B Trumps Vague Local Environmental Concerns"; Olson, "Town Must Pay Fees over 40B Opposition."
- 8 Imbroscio, "Rethinking Exclusionary Zoning or: How I Stopped Worrying and Learned to Love It"; Kauppila, "Town Residents Clash with Developers over Chapter 40B Housing Law"; Einstein, "The Privileged Few."
- 9 Witten, Interview by authors.
- 10 Bratt and Vladeck, "Addressing Restrictive Zoning for Affordable Housing."
- 11 Bratt and Vladeck.
- 12 Einstein, "The Privileged Few."
- 13 Einstein, Glick, and Palmer, Neighborhood Defenders.
- 14 Migliorato, "Assessing Social and Economic Opportunity in Massachusetts the Spatial Consequences of State Statute Chapter 40B."
- 15 Dain, "The State of Zoning for Multi-Family Housing In Greater Boston."

Case studies serve as a coherent, standardized framework to integrate and weave together analysis across key themes at each selected site. Each case study contains five key elements: (1) Community Profile, (2) Project Description, (3) Pre-development, (4) Post-development, and (5) Conclusions.

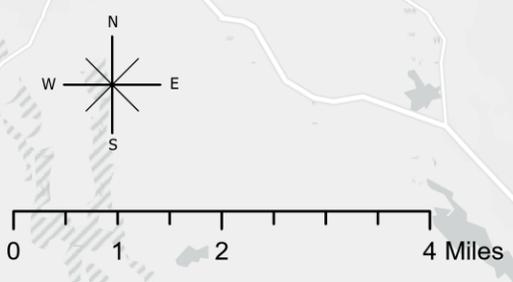
These key elements integrate qualitative findings and analysis from interviews, press articles, public meeting minutes, and other relevant background research to illuminate a narrative from the beginning of the project to the present day. To provide relevant context, data included in the Community Profiles are drawn from the time of the project's development, rather than the present day. Each case study uses 2006-2010 5-year American Community Survey Data to build a demographic profile of each community before development. Subsequently, each case study uses 2015-2019 5-year American Community Survey Data when describing the current community profile, as applicable. In addition, each case study integrates findings from the spatial analysis to describe how connected 40B residents are to their community, spatially and socially.

# Case Studies



# *Hopkinton* **Windsor**

**W**indsor at Hopkinton, a 280-unit rental housing development, successfully brought Hopkinton over the 10% affordable housing threshold. This project provides great insight into the rental sphere of Chapter 40B projects in a newly suburban town that is resistant to changes in community character, development density, and demographics. While some believe that the concerns held by community members and town officials materialized, in large part they did not, demonstrating that pre-development concerns often do not come to fruition with the completion of the project.



# Hopkinton Community Profile

Incorporated in 1715, Hopkinton is located 26.2 miles west of Boston, making it most notable for being the starting line for the Boston Marathon. This proximity also makes it a bedroom community of Boston.<sup>1</sup> Hopkinton prides itself on being a vibrant and welcoming town that honors its past, engages in its present, and actively prepares for its future.<sup>2</sup> Hopkinton seeks to encourage new growth and redevelopment that is consistent with its values through

the stewardship of the town’s open space, historic architecture, and rural character. A vision statement adopted by Hopkinton in 2015 articulates the town’s aspirations to expand employment, housing, and revenue opportunities, while also increasing local transportation options—both automotive and bicycle transportation—to enhance mobility and connectedness for residents.<sup>3</sup>

Hopkinton is a predominantly white and rural community that has experienced significant population growth in recent decades. Of the total population in 2010, 94.9% of residents were White, 3.3% were Asian, 1% were Hispanic/Latinx, and less than 1% were Black or African American.<sup>4</sup> Hopkinton experienced the predominance of its growth around the turn of the century, with its population increasing by 57% between 1990 and 2010. Growth largely reflected Hopkinton’s orientation towards family—a cornerstone of the town’s self-described community character.<sup>5</sup> This trend is best represented by the fact that in 2010, 80% of all households were families, almost half of which had children under the age of 18.

2015, Hopkinton experienced a 58% increase in housing units.<sup>7</sup> Collectively this development contributed to and proliferated Hopkinton’s single-family development pattern such that today, 90% of all land zoned for residential use consists of detached single family homes.<sup>8</sup>

While the town’s land use regulations favor single-family detached housing above other development types, rental apartment and condominium-type development did increase between 2010 and 2020. This notable yet comparatively small amount of land dedicated to multi-family use came in large part from development of 240 multi-family rental homes at Legacy Farms in 2012, 25% of which are affordable.<sup>9</sup> An additional 260 condominium units and 15 single family homes have since been added to the Legacy Farms development.<sup>10</sup> In recent years, Hopkinton has also permitted multi-family housing development in zoning by-laws through special permit or conversion of older homes into multi-family dwellings.<sup>11</sup> The Open Space Mixed Use Development District (OSMUD) established in 2008 and later amended in 2012 and 2014, permits the clustering of single-family and multi-family dwellings with commercial development. These local initiatives and regulatory changes demonstrate the town’s incremental progress towards a stated goal to provide for a variety of housing types that are within the rural residential character of Hopkinton.

Table 3. Hopkinton Demographics

	2010	2019		2010	2019
<b>Population</b>	14,474	17,598	<b>Percentage owner occupied</b>	91.9%	83%
<b>Area (sq miles)</b>	26.2	26.2	<b>Percentage renter occupied</b>	8.1%	17%
<b>Percentage population age 65+</b>	7.7%	14.1%	<b>Median home value</b>	\$543,300	\$577,600
<b>Median household income</b>	\$120,240	\$157,353	<b>Median gross rent (monthly)</b>	\$1,099	\$1,889
<b>Total housing units</b>	4,965	6,513	<b>Homes counted to SHI</b>	3.7% (2007)	14.2% (2017)
<b>Race (2010)</b>	White: 94.9% Asian: 3.3% Black: 0% Hispanic/Latinx: 1% Other race: 0.1%		<b>Race (2019)</b>	White: 81.6% Asian: 11.4% Black: 1.8% Hispanic/Latinx: 3.2% Other race: 0.1%	

HOPKINTON  
DEMOGRAPHICS

The population growth that started in the 1990s resulted in a transformation of previously vacant and forested land into residential development. Hopkinton’s zoning by-laws lay the regulatory framework for the low-density development of detached single-family housing units for new residents of the town. Any development in the Agricultural District, a large-lot zone that accounts for 67% of land in Hopkinton, requires a minimum lot size of 60,000 square feet.<sup>6</sup> Additional single-family residential development in the Residential A, Residential B, and Residence Lake Front Districts follow requirements for minimum lot sizes no less than 15,000 square feet. Over the 22-year period from 1993 to

**Sources:** American Community Survey 5-Year Estimates 2006-2010; American Community Survey 5-Year Estimates 2015-2019; Town of Hopkinton Master Plan 2007; Town of Hopkinton 2017 Master Plan

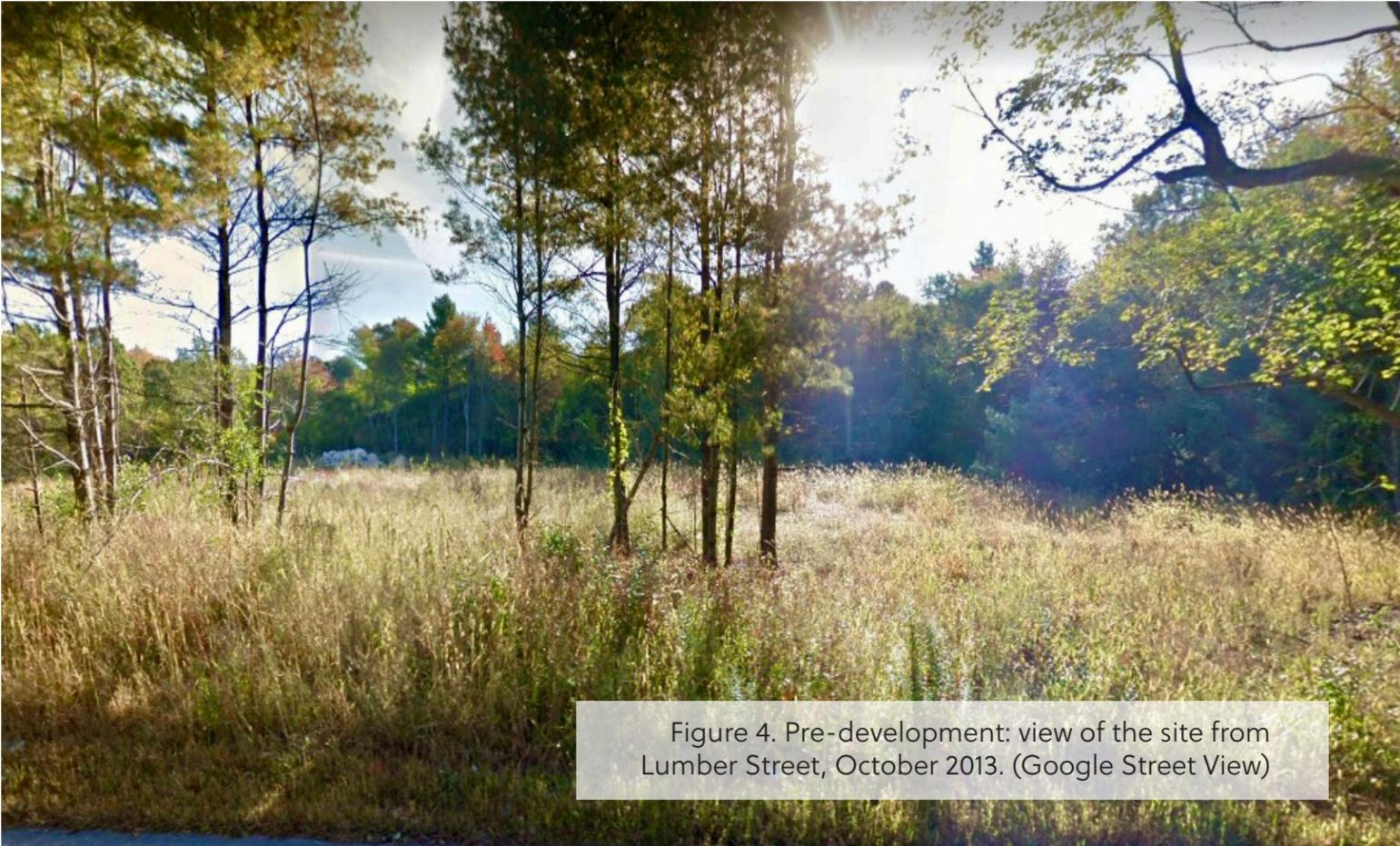


Figure 4. Pre-development: view of the site from Lumber Street, October 2013. (Google Street View)



Figure 5. Post-development: view of Windsor from Lumber Street, November 2019. (Google Street View)

While Hopkinton maintains the goal to provide sound and affordable housing for all ages and income levels, several barriers hinder deep progress. Broadly, the high demand for and cost of land, combined with engineering challenges, costs associated with limited water resources, complications with sewer infrastructure, steep slopes, and wetlands pose roadblocks to development. Collectively, these barriers create challenges for proposed development designs to meet Hopkinton’s housing demand and remain financially feasible.<sup>12</sup> With respect to Chapter 40B, Hopkinton’s ability to meet the SHI 10% threshold has been challenged by the pace of market-rate

development in the last few decades.

In recognition of these tensions, Hopkinton has pursued several initiatives and programs to produce and preserve affordable housing. These initiatives and programs are guided by four priority areas for future development identified in the town’s 2007 Housing Production Plan: (1) affordable rental units for lower-income families, (2) affordable rental units that are suitably designed for senior citizens and persons with disabilities, (3) affordable home ownership units for moderate-income families and elders, and (4) home ownership units at below-market prices, affordable to middle-income homebuyers.<sup>13</sup> Execution of these priorities

is buttressed by the presence of additional funding and stakeholders dedicated to the production of affordable housing outside of Chapter 40B. Hopkinton’s Affordable Housing Trust Fund, founded in 2009, supports the creation and preservation of affordable homes from revenue generated by affordable homes sold off the SHI in exceptional cases, when there is no qualified buyer the town receives excess proceeds, and from payments in lieu of providing affordable housing units pursuant to the Town’s Flexible Community Development Bylaw.<sup>14</sup> The Hopkinton Housing Authority also works to provide safe, affordable homes for low-income families, elderly, and disabled residents.

## Project Description

Windsor at Hopkinton is located on Constitution Court and Lumber Street, on land that was largely wooded prior to the construction of this development. The land was once an agricultural parcel as part of the former 900-acre Weston Nurseries, which filed for bankruptcy in 2005 and sold over 700 acres of the property. A large part of the former nursery was master planned for Legacy Farms, a mixed development of apartments, condominiums, and single-family houses in separate developments, expected to total 1,200 units at its full

buildout. REC Hopkinton LLC owned approximately 96 acres of land on the former Weston Nurseries property—ultimately, 35.54 of which would be used in the development of Windsor at Hopkinton.

The design and approval process for Windsor at Hopkinton took place over several years as the town sought to take a deliberate and holistic approach to the large-lot development. In 2012, REC Hopkinton LLC initially approached the Planning Board with a concept plan for the undeveloped 96 acres that included both residential and commercial components.<sup>15</sup> The concept plans, as presented, required a zoning change. The Planning Board, therefore, directed the owner to work with the Zoning Advisory Committee (ZAC) to make required zoning changes that

would permit residential and commercial development on the site. Over the course of the full 2013 calendar year, the town and the ZAC drafted zoning by-law changes ultimately brought before the Town Meeting. In May of 2014, Town Meeting approved the addition of a Neighborhood Mixed-Use District (NMU) to the zoning by-laws, in which multi-family residential use was expressly permitted. According to the zoning by-laws, residential uses within the NMU District are limited to 280 dwelling units in multi-family buildings, with a maximum of 472 bedrooms and no more than 20 three-bedroom units.

Concurrently, the Planning Board advocated for a comprehensive planning effort for the parcel that could yield similar results to the process undertaken in the development of Legacy Farms. This approach would allow the Town of Hopkinton and Board of Selectmen to “lock down” characteristics of a larger parcel proposed for development and ensure that in time, the developer would provide satisfactory mitigation to the town.<sup>16</sup> In time, when the owner of the parcel joined with a developer, Mill Creek Residential LLC (operating through the subsidiary Hopkinton Mews LLC) both parties subsequently worked with the Board of Selectmen to develop a Host Community Agreement. The Host Community Agreement allowed the Board of Selectmen to negotiate the residential and commercial components of the plan, in addition to project mitigation. This fulfilled the Planning Board’s desire to see development approached holistically and through mutual understanding.

With the zoning change and Host Community Agreement underway, the developer applied for a Comprehensive Permit to develop 250 units on the parcel in April of 2014. (The Host Community Agreement was signed in November, 2014 after the first Comprehensive Permit application.) Subsequent to the Host Community Agreement, the town requested that the developer increase the number of proposed units to 280, leading them to update the Comprehensive Permit application to reflect this request. This increased density and the inclusion of additional units, particularly three-bedroom units, raised concerns around the impact on the school system and

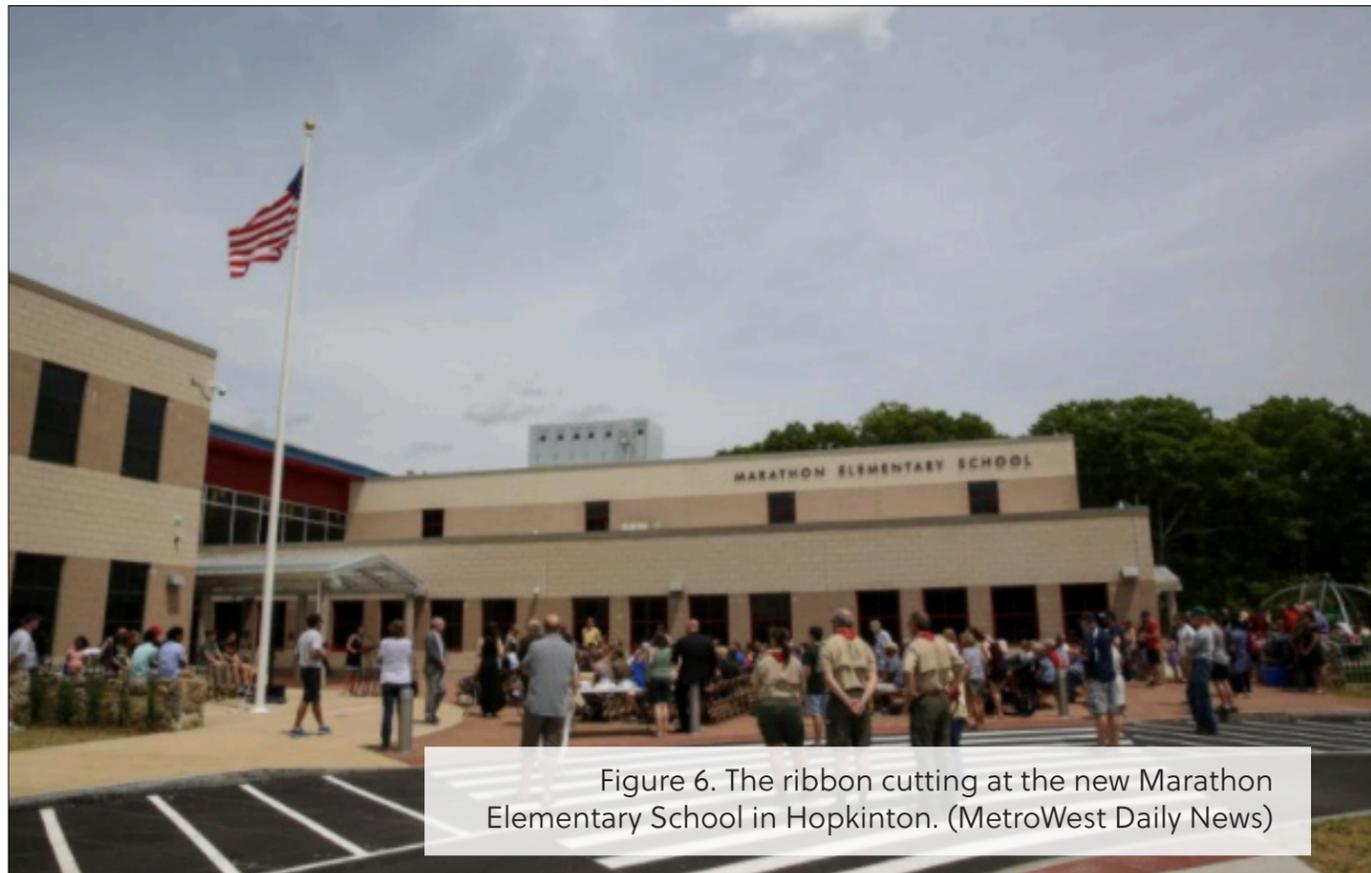


Figure 6. The ribbon cutting at the new Marathon Elementary School in Hopkinton. (MetroWest Daily News)

## WINDSOR BY THE NUMBERS

5 CONSTITUTION COURT  
HOPKINTON, MA 01748

**35.54** SITE SIZE  
(ACRES)

PEL February 11,  
ISSUED **2014**

**2018** BUILT AND  
OCCUPIED

TOTAL HOMES

**280**

AFFORDABLE  
HOMES

**70**

**787-1,388** UNIT SIZE  
(SQFT)

**84** THREE-BEDROOMS

**160** TWO-BEDROOMS

**36** ONE-BEDROOMS

### AMENITIES

- SWIMMING POOL
- BIKE STORAGE
- FITNESS CENTER
- OTHER GATHERING SPACES

traffic.<sup>17</sup> Nonetheless, the larger project size assured the town, Board of Selectmen, and Zoning Board of Appeals that Hopkinton would exceed the threshold for safe harbor from future 40B development and prevent future 40B development— for potentially up to 30 years.<sup>18</sup>

The ZBA ultimately approved the Comprehensive Permit for 280 units following 11 public hearings and little public comment. In approving the application, the ZBA granted a total of 24 waivers, among which the most notable

exceptions permitted an additional 16 three-bedroom units, an additional 40 total units, and an exceedance of the maximum building height by ten feet. The ZBA explained approval of the waivers and the permit largely on the grounds of adding significantly to the town’s Subsidized Housing Inventory. In fact, the ZBA’s finding and decision on the Comprehensive Permit directly stated the fact that a purely rental, 280-unit development would bring the town into compliance with the statutory minima of Chapter 40B—and the former Chair of

the Planning Board expressed a similar sentiment that this decision would be effective in “getting the state off [their] backs.”<sup>19</sup>

The approved design for Windsor at Hopkinton includes 84 one-bedroom units, 160 two-bedroom units, and 36 three-bedroom units. Units are spread across townhouse-style apartments, six three-story buildings, and one four-story building. A playground, saltwater swimming pool, and clubhouse/recreational area were also included. The final development, completed and occupied in 2015, did not include commercial and retail development.

- Increased traffic: more congestion following development
- Public safety risk: worry that the development would burden the police department

### Burden on School System

At the time of the approval process for Windsor at Hopkinton, the public school system was highly ranked. This standing in the Commonwealth had not always been the case. However, perceived improvements at the high school level over the last two decades contributed to the perception of Hopkinton as a desirable place to live for families.<sup>21</sup> Indeed, the developer was interested in building in Hopkinton because the school system was highly ranked. Including three-bedroom units would be, in the developer’s view, good for attracting parents and children to Windsor.

Hopkinton residents connected the proposed increase in housing stock to an increased number of children enrolled in the Hopkinton schools.<sup>22</sup> Specifically, the three-bedroom units included in the proposed development heightened concerns around the potential impact on schools. This concern extended from the development of Legacy Farms—another subsidized housing development down the road—that had also contributed to a large increase in housing opportunities for families in Hopkinton. In this context of ongoing residential development, the

## Pre-Development

Community members expressed few objections to Windsor’s construction. There were no public comments made at the ZBA meeting approving the Comprehensive Permit.<sup>20</sup> Meanwhile, town officials who voiced their commitment to approving this “friendly 40B” raised a range of concerns and issues that arose during the review process. Opponents of the development expressed their opinions on an individual basis, and did not identify themselves as part of an organized effort. The most significant concerns were centered on:

- Burden on the school system: the impact of additional school children, particularly due to the number of three-bedroom units

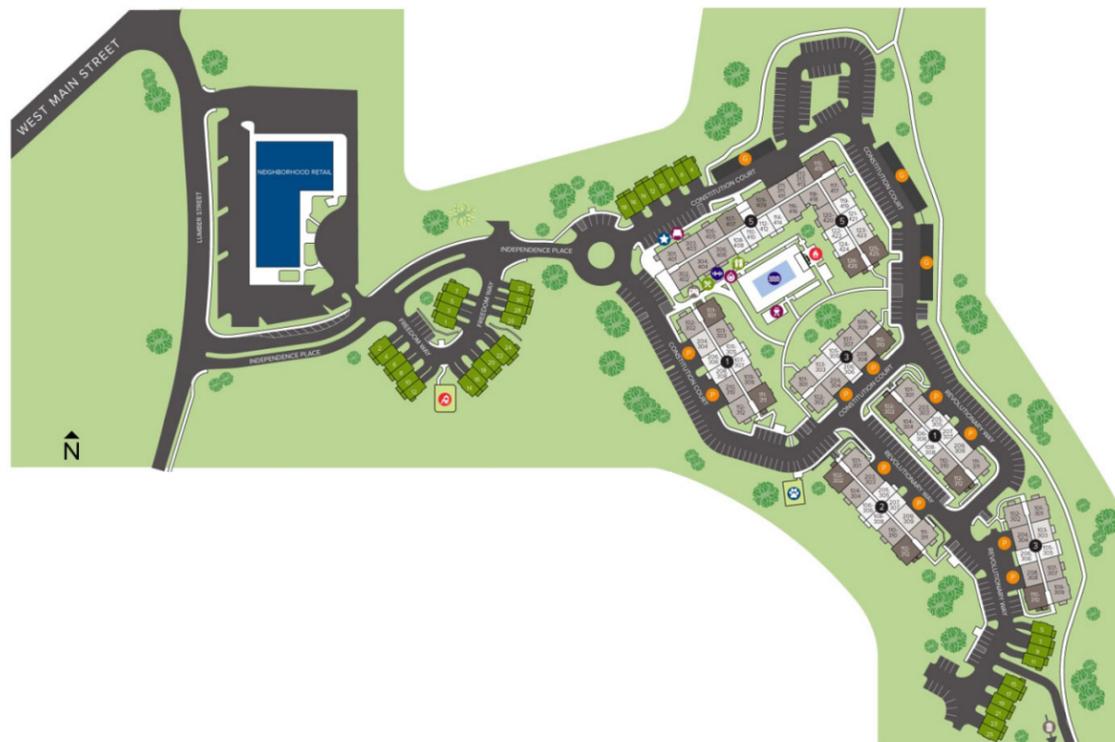


Figure 7. Site Plan of Windsor at Hopkinton. (Windsor at Hopkinton Photo Gallery, 2021)

planning board responded to the initial site plan with concern that “the sudden addition of 250 additional units could have significant impacts on the schools.”<sup>23</sup> The Planning Board Chair conveyed that community members opposing the project saw it as “revenue negative to the town when you look at the cost of educating kids.”<sup>24</sup> Community members also worried about the burden more children would place on the school system’s existing resources.<sup>25</sup> Those involved with the review noted that this concern was largely vocalized by community members after the development had been approved.

In an effort to understand the potential impact, one ZBA member requested a study to determine the number of children projected to live in Windsor at Hopkinton. This request was not fulfilled on the grounds that it would be deemed inappropriate by MassHousing.<sup>26</sup> Per DHCD’s stipulations, neither planning boards nor ZBAs can consider the development’s impact on the school system as part of the comprehensive permitting process.<sup>27</sup>

### Increased Traffic

ZBA and Planning Board members were also concerned about the impact of the new development on traffic, particularly at the intersection of West Main Street and Lumber Street. In addition to this intersection, town officials were worried about “the traffic mess when you exit the highway” onto West Main Street from the

I-495 interchange.<sup>28</sup> Because there was a commercial element planned for the parcel adjacent to the residential development at Windsor, there were discussions among ZBA officials around how the two projects would interact, including a concern that people would use the Windsor access road to enter the commercial development. However, the commercial element was on a slower timeline than Windsor. Therefore, ZBA members agreed to table their questions related to the interaction between Windsor and the commercial development until the commercial project site plan was available.<sup>29</sup> Beyond town officials’ concerns, one interlocutor mentioned that residents from Lumber Street attended some of the hearings because they were concerned about traffic as well.<sup>30</sup>

To estimate traffic impacts and plan for improvements, the developer commissioned a traffic study from MDM Transportation Consultants in April 2014 detailing existing and future traffic considerations pertaining to the Windsor development. The report analyzed traffic volumes, speeds, sight lines, and public transportation amenities in order to recommend access and off-site improvements. The Traffic Access and Impact study found that the proposed development of 250 units was expected to generate approximately 1,638 vehicle trips on an average weekday, with approximately 126 vehicle trips expected during the weekday morning peak hour

and 155 vehicle trips during the weekday evening peak hour.<sup>31</sup> These predictions indicated that the signalized intersection at West Main Street at Lumber would continue to operate with the same level of service as existing conditions at weekday peak hours, although left turns from Lumber Street would generally experience longer delays.<sup>32</sup>

### Public Safety Risk

Town officials were apprehensive that more police services would be required by such an increase in rental housing.<sup>33</sup> One member of the development team cited town officials as worrying that “these 40Bs will have all sorts of domestic incidents and police departments will be all tied up.”<sup>34</sup> He characterized this concern as rooted in the assumption that lower-income residents in the Windsor development would be involved in more disputes with neighbors and would cause a strain on the police department.

## Post-Development

Once built and occupied, Windsor at Hopkinton was largely considered a successful project that effectively moved the town over the state’s 10% affordable housing threshold. In conversations with key stakeholders, the original concerns of residents and town officials largely did not come to pass. Whether the specific

“ [The project] is net negative to the town when you look at the cost of educating kids. ”

— Former Planning Board Member

concerns were realized or not after the development was completed is highlighted below.

### Burden on School System

There are differing perspectives around the impact or additional burden that Windsor at Hopkinton placed on the schools. According to the former chairman of the Planning Board, “its [impact on schools] was significantly more than what they forecasted during the [initial public] meeting.”<sup>35</sup> However, the Superintendent of Hopkinton Public Schools presented a contrasting opinion, holding to the conclusion that enrollment of 58 children living at Windsor did not have a tangible effect on the public school system. It is worth noting, however, the school department had to reroute buses to accommodate the additional 58 students from Windsor.<sup>36</sup> In comparison, the Superintendent mentioned the 572 additional children that entered the public school system as a result of the neighboring Legacy Farms development, and added that its continued expansion would, in her opinion, have an even

greater impact on the school system than Windsor.<sup>37</sup> Therefore, the relative impact on the schools from Windsor was minimal within a broader landscape of residential development in town. As the Superintendent described, “we are chasing our tails trying to catch up with the growth.”<sup>38</sup>

Through the Host Community Agreement, the developer committed to a mitigation payment commensurate with the anticipated burden that 280 new homes at Windsor would place on town services, schools, and infrastructure. According to the agreement, the developer paid \$1,000,000 into a gift account that could be used at the discretion of the town.<sup>39</sup> It is unknown how this mitigation payment was distributed across municipal services. Nonetheless, this mutual understanding recognized concerns around direct impacts to the town from the development of Windsor.

Though the school system was prominently white only 10 years ago, according to the Superintendent, “it will only be a couple of years before our elementary schools are majority minority.”<sup>40</sup> The minority students in Hopkinton are predominantly Chinese-American and Indian-American, many of whom speak a second language at home. One anonymous interviewee pointed out that there were more Indian names on the honor roll now than there were in previous years. To this interviewee, fewer white names on the

honor roll exemplified the shift in the racial and ethnic backgrounds of the highest academic achievers. While not an isolated impact from the development of Windsor, the Superintendent reflected on how Hopkinton residents might react to this broader demographic shift, “we have a stairwell where the names of all the Hopkinton High School valedictorians are posted year after year. At some point there will be interruptions, if you will, to the historically long list of American names, and I wonder what that visual will feel like for people.”<sup>41</sup>

### Increased Traffic

Based on the traffic impact and access study, MDM Transportation Consultants developed recommendations for roadway improvements to address the projected traffic increases associated with Windsor. Several of these recommendations were implemented, including adding a median to the access road.<sup>42</sup> There has not been a follow up traffic study performed to understand the impacts of the Windsor development. While one town official asserted that traffic in the area has gotten worse, he attributed this more to the new commercial center adjacent to Windsor which includes several popular restaurants, a Starbucks, and a medical building.<sup>43</sup> Other interlocutors noted that traffic in Hopkinton is a more general problem and should be attributed to people traveling through the town.<sup>44</sup>

### Public Safety Risk

In terms of what impact Windsor might have on the number of calls made to the Hopkinton Police Department, one member of the development team maintained that “I don’t think generally 40Bs increase that number.”<sup>45</sup> A review of local news articles did not yield any mention of a connection between the development and increased rates of crime. The expenditures for the Hopkinton Police Department have remained consistent in the years after Windsor was built, with even a slight decrease in “Personal Services” (which makes up over 90% of the department budget) occurring between 2015 and 2017.<sup>46</sup> We reached out to the Hopkinton Police Department several times to attempt to seek information on this topic, but did not receive a response.

## Conclusion

The development of Windsor took place against a backdrop of great change in Hopkinton. The sizable population growth and increased development have brought positive changes as perceived by interlocutors, such as a greater investment in the school system and more amenities and vibrancy in town. However, many expressed that the development and changing demographics were also impacting the community character of Hopkinton. In particular, the loss of open space and the shift from a rural town with

extensive forestlands, agricultural fields, and an abundance of vacant land has been uncomfortable for some community members.

Some interlocutors who shepherded development projects through as municipal officials expressed tensions with their perspective as long-time residents of the town. One municipal official mentioned that he and his wife were moving out of Hopkinton because the town had changed so much from the way it had been when he was growing up. Explaining a common position of community members, he said, “Residents of Hopkinton are generally anti-development as soon as their house is completed. I agree with them—I think it’s time to stop. All we have to build on now is the beautiful open space we have—forest, field, wildlife habitat.”<sup>47</sup> Windsor is a key example of development in Hopkinton that encroaches on open space and supports a growing population and school system, demonstrating the tensions involved in the town’s stated goal to provide a variety of housing types that complement the rural residential character of Hopkinton. However, as one town official expressed, Hopkinton’s “rural character was gone a long time ago” and Windsor was not “the final stake in the heart.”<sup>48</sup>

## *How connected are 40B residents to the community?*

One of the primary reasons that residents did not oppose the development of Windsor was because of the remote nature of the site at the time and the fact that there were no residential abutters within a half mile. While this lack of community opposition supported a smooth and non-contentious review and approval process and allowed the town to surpass the 10% SHI threshold, developing housing in an area that was so removed from the rest of town can impact the lived experience of residents and their connection to the community. Some town officials expressed a concern that low-income residents without a car could “feel trapped out in the woods” because traveling through the town is not convenient for residents without a car.<sup>49</sup> While the immediate area around Windsor has since been developed

and now includes restaurants, banks, medical clinics, and other services, the spatial analysis found that the site is still limited in some aspects of connectivity, particularly access to employment and transit. Windsor is over a four-mile walk from the nearest transit stop, and the limited public transportation in Hopkinton means destinations like grocery stores, pharmacies, and recreation centers are difficult to reach without a car. Although town officials negotiated many aspects of the development’s size, design, and mitigation needs with the developer, it is not apparent whether residents’ lived experiences were taken into account, and some interviewees noted a lingering feeling of exclusion and lack of community engagement in planning for Windsor.

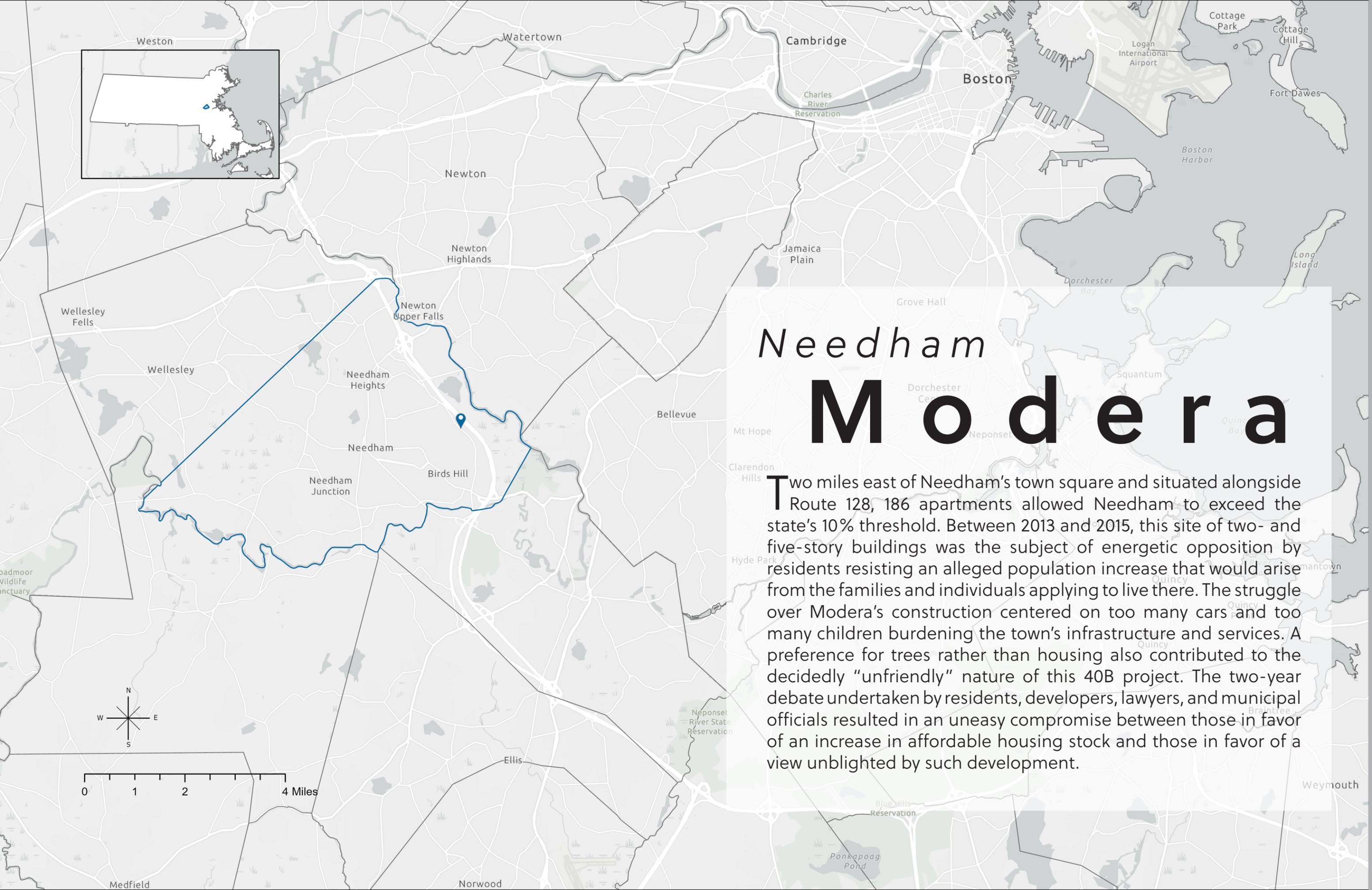
“ [People] wouldn’t even know it was there. ”

— Hopkinton ZBA Chair

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- 3 Town of Hopkinton Visioning Group, "Hopkinton Vision Statement."
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# Needham Modera

Two miles east of Needham's town square and situated alongside Route 128, 186 apartments allowed Needham to exceed the state's 10% threshold. Between 2013 and 2015, this site of two- and five-story buildings was the subject of energetic opposition by residents resisting an alleged population increase that would arise from the families and individuals applying to live there. The struggle over Modera's construction centered on too many cars and too many children burdening the town's infrastructure and services. A preference for trees rather than housing also contributed to the decidedly "unfriendly" nature of this 40B project. The two-year debate undertaken by residents, developers, lawyers, and municipal officials resulted in an uneasy compromise between those in favor of an increase in affordable housing stock and those in favor of a view unblighted by such development.

# Needham Community Profile

Needham’s proximity to Boston and strong school system are two of the several characteristics that make this residential suburban community a desirable place to live. The town also attributes residents’ quality of life to the accessibility of open or green space and the strong sense of community. These amenities attract families young and old to reside in town. In recent years, concerted efforts to plan and develop Needham’s downtown have

contributed to a vibrant geographic, business, cultural, and social center for the community.<sup>1</sup>

The majority of Needham’s 30,000 residents, who are predominantly white and affluent, live in detached, single-family homes, and such has been the case for decades. In 2010, 88.7% of residents were White, 6.4% were Asian, 1.5% were Black or African American, and 2% were

Hispanic or Latinx.<sup>2</sup> At that time, the median income (\$114,365) and poverty rate (3.2%) were above and below the country and state averages, respectively.<sup>3</sup> Needham has become incrementally more diverse in recent years while also becoming more affluent. Today (2019), the median income is \$165,547 and the poverty rate is 2.7%.<sup>4</sup> These realities, combined with the demand for access to the opportunities in Needham, elevate the need for housing that meets a “full range of incomes, promoting the diversity and stability of individuals and families living in Needham.”<sup>5</sup>

Following World War II, the population of Needham dramatically increased, and subsequently, so did the housing stock. Only about 24% of the housing units in Needham today predate World War II. In the 20 years between 1940 and 1960, Needham saw a 44% increase in housing stock.<sup>6</sup> In most recent decades, the percentage of homeowners has steadily increased, going from 79.7% in 1990 to 80.9% in 2000, and from 83.6% in 2010 to 83.9% in 2019.<sup>7</sup> Zoning bylaws in Needham have supported the proliferation of detached single-family homes and the resulting lack of affordable options to prospective low- or moderate-income residents. Single-family residential districts dominate all other types of zoning on both developed and undeveloped land. As a result, in 2017, 68% of all residential units in Needham were detached single-family homes.<sup>8</sup>

The escalation of housing prices in recent years has made the town increasingly unaffordable for those earning low and moderate incomes. Needham’s housing costs have increased markedly from 2010 to 2019. In 2010, the median home value for owner-occupied housing was \$646,300, which has increased to \$855,300 in 2019.<sup>9</sup> Beginning in the early 2000s, the town made a concerted effort to maintain and increase the availability of housing for low- and moderate-income residents. This work began with the development of an Affordable Housing Plan in 2007. A primary goal of the plan was to reach the state threshold of 10% of a municipality’s housing being affordable, short of which Needham would be subject to 40B housing development overruling its local zoning.<sup>10</sup> The goals developed in this plan, alongside a parallel needs assessment, established the town’s commitment to shaping its housing future. This future includes housing that is appropriate to the context and location in which it is sited and that serves broad socioeconomic diversity. Of particular relevance to this research is the explicit commitment to housing developed under local control and in accordance with local development plans. Thus, exceeding the 10% affordable housing threshold became paramount.

In later years, as Needham made progress towards the 10% threshold, the town developed several guiding resources to ensure that future development advanced diversity while protecting local zoning

Table 4. Needham Demographics

	2010	2019		2010	2019
<b>Population</b>	28,683	30,970	<b>Percentage owner occupied</b>	83.0%	84.0%
<b>Area (sq miles)</b>	12.29	12.29	<b>Percentage renter occupied</b>	17.0%	16.1%
<b>Percentage population age 65+</b>	16.9%	18.9%	<b>Median home value</b>	\$646,300	\$855,300
<b>Median household income</b>	\$114,365	\$165,547	<b>Median gross rent (monthly)</b>	\$1,484	\$1,483
<b>Total housing units</b>	10,781	11,309	<b>Homes counted to SHI</b>	4.61% (2013)	12.76% (2021)
<b>Race (2010)</b>	White: 88.7% Asian: 6.4% Black: 1.5% Hispanic/Latinx: 2.0% Other race: 0.4%		<b>Race (2019)</b>	White: 82.6% Asian: 8.8% Black: 2.8% Hispanic/Latinx: 3.2% Other race: 0%	

NEEDHAM  
DEMOGRAPHICS

**Sources:** American Community Survey 5-Year Estimates 2006-2010; American Community Survey 5-Year Estimates 2015-2019; Town of Needham Analysis of Impediments to Fair Housing Choice; Town of Needham Housing and Zoning Analysis



Figure 8. Pre-development: view of the site from Greendale Avenue, December 2013. (Google Street View)



Figure 9. Post-development: view of Modera from Greendale Avenue, November 2020. (Google Street View)

control as much as possible. Today, Needham’s SHI is 12.7% and is expected to remain above the threshold despite adjustments from the most recent census.<sup>11</sup> Needham’s Chapter 40B Development Guidelines, drafted in 2012, identified priority areas for affordable and mixed-income development. Additionally, this guidance document sought to educate community members, municipal staff, and key stakeholders in 40B development around procedures and considerations that are part of the review process. As resources grew, so too did partners within the community working to create and support affordable housing. Today, the Needham Housing Authority, Community

Preservation Committee, and Affordable Housing Trust all contribute to this end. As of 2020, Needham allows multifamily housing in eight zoning districts: three Apartment Districts, an Elder Services District, and four Overlay Districts: Needham Center, Lower Chestnut Street, Garden Street, and Mixed-Use.<sup>12</sup> The Apartment Districts allow up to four-story buildings, of which three stories above the first are for residential use. The Needham Center, Chestnut Street, and Garden Street Overlay Districts allow five housing units above the first floor in two-and-a-half-story buildings. The Mixed-Use Overlay District allows for a maximum of

270 housing units (more by special permit) in six-story buildings. These four Overlay Districts require that 12.5% of the housing units be affordable.<sup>13</sup> They mark an effort by the town to codify inclusionary zoning, requiring that a certain percentage of developed units be affordable in an effort to encourage diversity. The Elder Services Zoning District also accounts for the aging population in Needham, where 18.9% of people were over the age of 65 in 2019,<sup>14</sup> by effectively clustering housing and services for seniors along a seven-acre stretch of Highland Avenue.<sup>15</sup>

## Project Description

Modera is located on a six-acre site at the eastern edge of Needham, adjacent to Route 128 and fronting Greendale Avenue. At the time of permitting, a single-family home and parkland were located to the northwest, and a church to the southeast. The primary use of the surrounding neighborhood was for single-family homes. The site slopes steeply downward towards Route 128, with an elevation of 155 feet at the front and 109 feet at the rear. Before project construction, the site contained two single-family homes and

was heavily wooded, connected to nearby parkland by a mountain bike trail that weaved through the parcel.

Modera was developed by Greendale Avenue Venture LLC, an affiliate of Mill Creek Residential Trust. They designed and engineered the ten townhouses and detached five-story building that comprise the development. The townhouses (fifty-two units total) are arranged in two rows along Greendale Avenue. Tucked behind the townhouses and down a steep slope is the five-story apartment building, which lies next to a courtyard and outdoor pool. A parking garage includes 265 parking spaces, which allows for two spaces per unit, although the spaces are not designated and therefore usable by visitors. There is a 150-foot buffer of

vegetation between the rear of the site and the driving lanes of Route 128 to provide a noise and visual buffer from the highway for residents. Because the site slopes down towards the rear, the five-story building does not appear as tall from Greendale Avenue.

The project site lies within the Single Residence A zoning district. As such, the project required and was granted several waivers by the Zoning Board of Appeals. These waivers permitted the development of apartments and multi-family dwellings on the parcel, reduced side and rear setbacks, exceedance of height maximums, and landscaping of parking areas, among other allowances.

The approval process for Modera took place over a number of years, during which the project went through several size iterations. Initially, in 2002, a different developer proposed a 36-unit 40B condominium project that was abandoned after contentious community pushback,<sup>16</sup> including a suit filed by the neighbors in Superior Court.<sup>17</sup> The next iteration involved a new developer: in 2013, as a prospective purchaser, Mill Creek Residential Trust applied for a 40B Comprehensive Permit for a 300-unit development called Needham Mews. During roughly the same period, Mill Creek was also pursuing the Windsor project in Hopkinton, which was originally called Hopkinton Mews. Unlike the Hopkinton Mews proposal, this Needham Mews project was subject to many resident concerns around the size of the development, which resulted in a reduction of the number of units to 268 after a series of hearings. The ZBA issued a Comprehensive Permit in December of 2013 for a development that only contained 108 homes, causing the developer to appeal the decision to the Housing Appeals Committee (HAC).<sup>18</sup>

While the matter made its way through the HAC process, the Select Board and the developer continued to negotiate, focusing on finding the “right size” for the project.<sup>19</sup> After many discussions throughout 2015, the developer and the Select Board reached a settlement, coming to a general agreement for a 136-unit project called Modera Needham. The parties requested that the HAC process be paused while the agreed upon 136-unit project returned to the ZBA with hopes of reaching a decision. Ultimately, the ZBA voted unanimously to recommend approval of the revised 136-

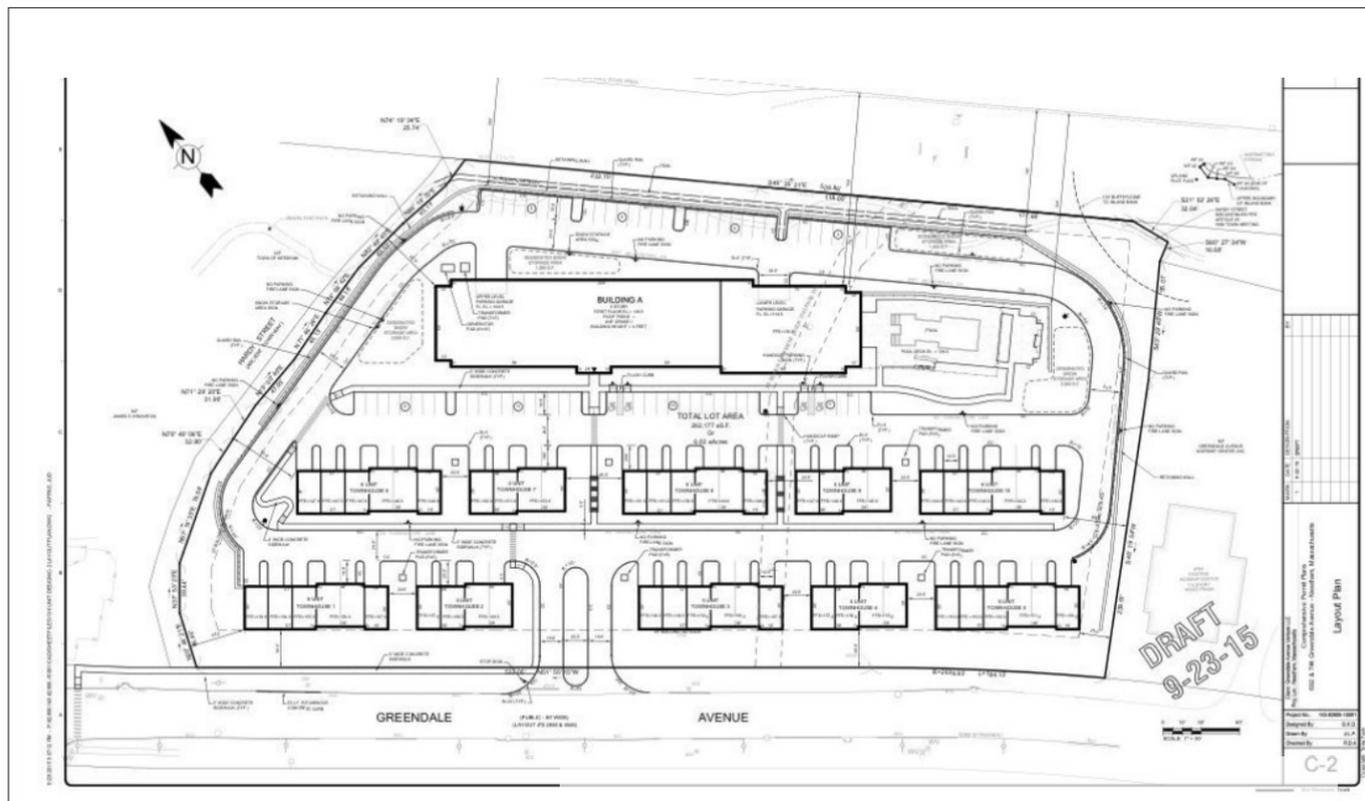


Figure 10. Site plan of Modera. (Wicked Local)

## MODERA BY THE NUMBERS

700 GREENDALE AVENUE  
NEEDHAM, MA 02492

**6.02** SITE SIZE  
(ACRES)

PEL ISSUED April 13,  
**2013**

**2018** BUILT AND  
OCCUPIED

TOTAL HOMES

**136**

AFFORDABLE  
HOMES

**34**

**900-1,750** UNIT SIZE  
(SQFT)

**14** THREE-BEDROOMS

**103** TWO-BEDROOMS

**19** ONE-BEDROOMS

### AMENITIES

- OUTDOOR POOL
- BBQ AREA & COURTYARD
- GYM AND YOGA STUDIO
- PET SPA

unit project, preferring to avoid the risk of having a 268-unit project approved if the developer won the appeal that was on pause at the HAC. The ZBA and the developer continued to negotiate over subsequent meetings, hammering out unresolved details as minor as the length of construction hours or the types of trees proposed for the rear buffer, and as consequential as the proximity of the pool to the highway given air quality concerns. An agreement was eventually reached, and the ZBA granted a Comprehensive Permit in December of 2015.

Modera differed from the original Needham Mews proposal in many other ways. Modera had a lower density than the original project, with 21.9 units per acre rather than 44.5 units per acre.<sup>20</sup> Beyond reducing the number of units, the final proposal included more parking spaces per unit, and at an amount above what the zoning bylaws required (two spaces per unit rather than 1.7 per unit). The revised project contained only one driveway, rather than two, and the exit was shifted to prevent headlights from shining directly into an abutters' window. Modera

was predicted to have 800 fewer car trips per day than the original Needham Mews project.

## Pre-Development

Community members who opposed the development of Modera voiced many concerns, but three stood out as the most significant in interviews with key stakeholders:

- Burden on school system: potential overcrowding of schools
- Traffic: uncertainty about impact on vehicle trips
- Environment: removal of wooded area and bike trail

### Burden on School System

Community members raised a prominent concern around the potential burden placed on the public school system as a byproduct of the increase in population from the development of Modera. During the introductory hearing in October 2013, residents referenced the "overcrowding of schools" as a reason for denying the project.<sup>21</sup> The former administrative specialist for the ZBA says that there was "a big uproar" on the topic of children in schools.<sup>22</sup> This concern is commonplace for community members during the Comprehensive Permit approval process, particularly in municipalities with high performing public school systems.

“ The density is obscene. ”

—Needham resident

However, the ZBA cannot deny a permit to a 40B project on the basis of school overcrowding, as much as community members may cite it as an area of great concern.

Following the extensive concern about impact on the public school system, the town made an agreement with the developer: if 50 or more school-aged children moved into the public school system within the first year, the developer would provide a payment to the town. The payout would allow the town to adequately "absorb" the additional school children.<sup>23</sup> Despite the fact that impact on schools is not a legally authorized factor in the approval of the Comprehensive Permit, this agreement felt necessary in order to subdue fears.

### Traffic

Residents, dismayed by the "obscene" density of the development, were similarly distraught over a risk of increased traffic along Greendale Avenue.<sup>24</sup> This street connects to other thoroughfares (Brookline Street and Broad Meadow Road) that in turn provide access to the highway and the town square.<sup>25</sup> Residents also cited the Needham Bikes Initiative, a local bike program, and asserted that more people would mean more cars endangering

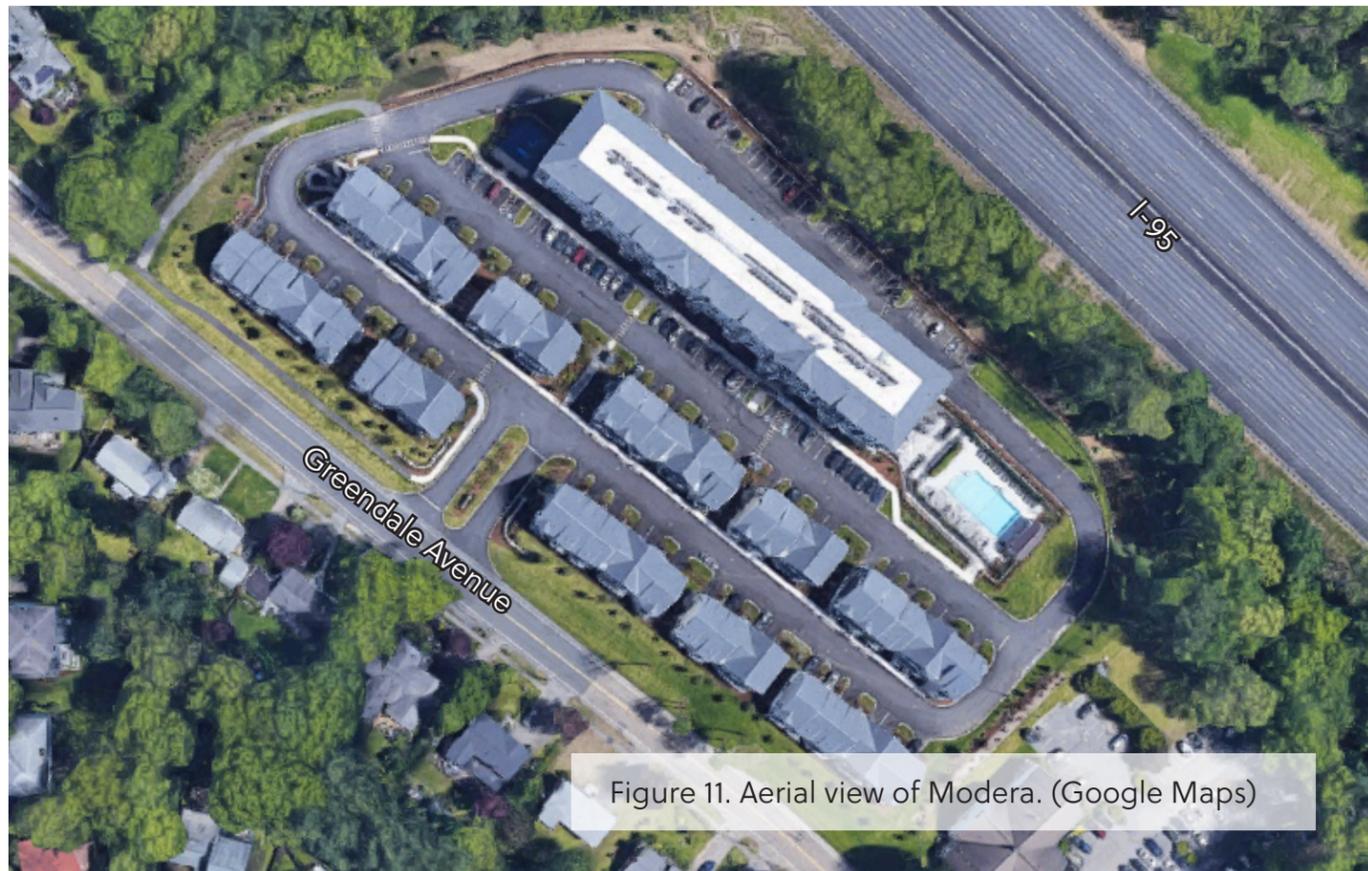


Figure 11. Aerial view of Modera. (Google Maps)

cyclists and pedestrians.<sup>26</sup> To assuage these fears, the developer commissioned a traffic study from Vanasse & Associates Inc. detailing existing and future traffic considerations pertaining to the Modera development. The report analyzed peak traffic times in combination with available pedestrian and bicycle infrastructure, with all information prepared and accessed through MassDOT and the Town of Needham. The consultant found that the project was expected to generate approximately 1,942 vehicle trips on an average weekday for two-way, 24-hour volume, with approximately 151 vehicle trips expected during the weekday morning peak-hour and 183 vehicle trips expected

during the weekday evening peak-hour.<sup>27</sup>

After the developer's consultant published its traffic study, the town won funds to recruit, interview, and hire a second consultant (BETA Engineering) to investigate the same issues. BETA Engineering calculated that Modera would generate 135 vehicle trips during the weekday morning peak hour and 165 vehicle trips during the weekday evening peak hour. BETA Engineering's six-page report did not include a detailed discussion of the methodology, and so any proposal that these differences were due to a difference in how each study was conducted would be speculation. Both reports did, however, recommend

increased signage for pedestrians at intersections, fully updated pavement traffic markings according to the federal Manual on Uniform Traffic Control Devices (MUTCD), sidewalk installation along Greendale Avenue, and a decompression intersection to alleviate peak hour traffic. The assistant town planner at the time confirmed that while 150 new cars were expected to traverse Greendale Avenue at peak hours, the traffic impact was particularly difficult to interpret because of a new interchange being built nearby.<sup>28</sup> After comparing the two studies, the ZBA stated that the project, in that form, would not suit the needs of the town's residents.<sup>29</sup>

### Environment

Before the construction of Modera, the site was almost completely wooded. Despite being privately owned, an informal and public mountain biking trail crossed the property. Community members objected to the potential loss of trees and recreational space, calling the first iteration of the project an "assault" on the neighborhood and stating that "environmental concerns are a major issue."<sup>30</sup> Some worried that should the trees be removed, "noise and pollution from the highway will reach all the way up Birds Hill," a mile away from the site.<sup>31</sup>

A less common environmental concern was raised both by the Needham Board of Health and echoed by residents: that building so close to a highway would impact the health and safety of new

residents from nearby vehicle exhaust fumes and particulate matter pollution. Several Needham residents presented PowerPoint slides to the ZBA, describing the increased risk of lung cancer, cardiovascular disease, and reproductive and development harm for high levels of particulate matter. One resident concluded her presentation with the statement, "This misuse of 40B regulation will actually hurt the population that it is intended to protect."<sup>32</sup> The administrative specialist for the ZBA at the time wished this issue had come up earlier in the process, calling the concern "legitimate," as far as environmental equity, but was not in the purview of the ZBA to solve.<sup>33</sup>

## Post-Development

### Burden on School System

Soon after the approval of Modera's Comprehensive Permit, McKibben Demographic Research conducted a study forecasting Needham's population and school enrollment over the next year.

Such studies are undertaken at regular intervals as part of Needham Public Schools Enrollment, Capital Planning, and Construction Projections and are accompanied by school-specific reports charting student enrollment. In contrast to the concerns expressed by residents, McKibben predicted a half-percentage

Table 5. Needham Public Schools Forecasted Population and Enrollment Changes 2010 to 2020

**Table 1: Forecasted Elementary Area Population Change, 2010 to 2020**

	2010	2015	2010-2015 Change	2020	2015-2020 Change	2010-2020 Change
Broadmeadow ES	5,498	5,530	0.6%	5,520	-0.2%	0.4%
Eliot ES	4,537	4,600	1.4%	4,630	0.7%	2.0%
Hillside ES	6,030	5,960	-1.2%	5,890	-1.2%	-2.3%
Mitchell ES	4,521	4,600	1.7%	4,650	1.1%	2.9%
Newman ES	8,319	8,350	0.4%	8,340	-0.1%	0.3%
<b>Total</b>	<b>28,904</b>	<b>29,040</b>	<b>0.5%</b>	<b>29,030</b>	<b>0.0%</b>	<b>0.4%</b>

Source: McKibben Demographics, March 2015.

increase in school enrollment overall, with three of five schools forecasted to see a decline in enrollment between 2015 and 2020. This provides evidence that Modera would not have a negative impact on the density of students on the public school system. Further, a current Planning Board member stated that there was not a substantial or noticeable increase in school children, “maybe two or three.”<sup>34</sup>

### Traffic

Without a competing traffic study from MassDOT or a private entity, it is impossible to state conclusively that the Modera development did or did not have a meaningful impact on residents’ commute times—a top concern—or instances of pedestrian fatalities. In a 2017 article reporting on affordable housing developments in suburban communities, a Needham resident reflected that, “with the state’s improvement of a nearby intersection . . . the traffic impact during construction hasn’t been as bad as she expected.”<sup>35</sup> Further testimonials from residents in opposition to the project were not obtained as part of this study; it is unknown how resident perceptions might have changed since the project was completed in 2018. Needham Police Department and MassDOT crash data could not be accessed to compare rates of collisions before the project’s development and after. In terms of anecdotal reports, the ZBA board members, former municipal officials, and the developer cited no known

instances of increased traffic since Modera opened.

### Environment

The developer made a number of changes to the site plan based on concerns from residents and the town about the desire for ongoing access to the bike trail, the need for a buffer between the highway and the neighborhood, and the impacts of air pollution. These changes included adding an approximately 80-foot greenery buffer to the existing vegetation along the highway and allowing public access to a trail along the rear of the site from dawn to dusk. By recommendation from the Board of Health, the developer moved the pool and amenity courtyard to be further than 150 feet from the highway, and moved the air intake systems for common corridors away from the highway-facing side of the building.<sup>36</sup>

Both the former administrative specialist for the ZBA and the ZBA chairman expressed that the concern around proximity to a highway was legitimate and could have been addressed more comprehensively. The former chair of the ZBA was frustrated that “this will not fly with the [HAC] as a reason to turn down the project.”<sup>37</sup> While it does not appear that any follow up studies have been planned to measure pollution levels or adverse health impacts on residents, the developer and the Board of Health did work out an agreement outside of the 40B Comprehensive Permit that addressed their earlier concerns.

## Conclusion

The overwhelming message from residents in pre-development hearings was that Modera was incompatible with Needham’s town character. Municipal officials provided insight into why residents found the development unsightly. When asked why community members objected to its placement and number of floors, a planning board member explained, “when people look at Needham, they expect to see trees.”<sup>38</sup> Traveling west along Greendale Avenue, one sees unbroken forest on the right and a series of single-family homes on the left, until coming upon Modera, which greets passersby with an almost unbroken block of townhouses set on a front lawn with few trees. A former town employee explained that such a large building would break up the “cadence” of the architectural patterns that, in part, comprised the town’s character.<sup>39</sup> The project’s unpopularity was evidenced by the fact that no resident at town meetings spoke in favor of Modera’s construction.<sup>40</sup>

Like many other 40B projects, the earliest public conversations about Modera were characterized by heightened awareness and organization in opposition to the project, followed much later by negotiations and subsequent changes to the plan’s design and unit count. The chair of the ZBA explained that “coercion by the courts” made the project all but inevitable.<sup>41</sup> The inevitability of the project’s completion led to a declining

“ This misuse of the 40B regulation will actually hurt the population it was intended to protect.

—Needham resident

interest in participating in the process among community members.<sup>42</sup> In the Chairman’s opinion, the developer decided to negotiate because they were concerned about a delay prior to construction. When the town “showed that it was willing to fight and had a competent counsel,” it was only then that the developer chose to negotiate, rather than risk a drawn out and costly process.

At the first hearing for the project, the three-hundred seat mezzanine in the hall where the hearings took place was packed with red-shirt-wearing residents holding homemade signs declaring, “No to 40B!”<sup>43</sup> The final hearing saw just fifteen or sixteen residents reciting the same concerns they had two years before. The ZBA chairman recalled “one or two” residents expressing support for the earlier, 108-unit version of the project as a way to avoid the risk of an even larger development coming to the site. However, beyond this, when asked directly if in his time educating residents about the structure and function of Chapter 40B he had seen a single resident change their mind and endorse a project, he had not.<sup>44</sup>

## How connected are 40B residents to the community?

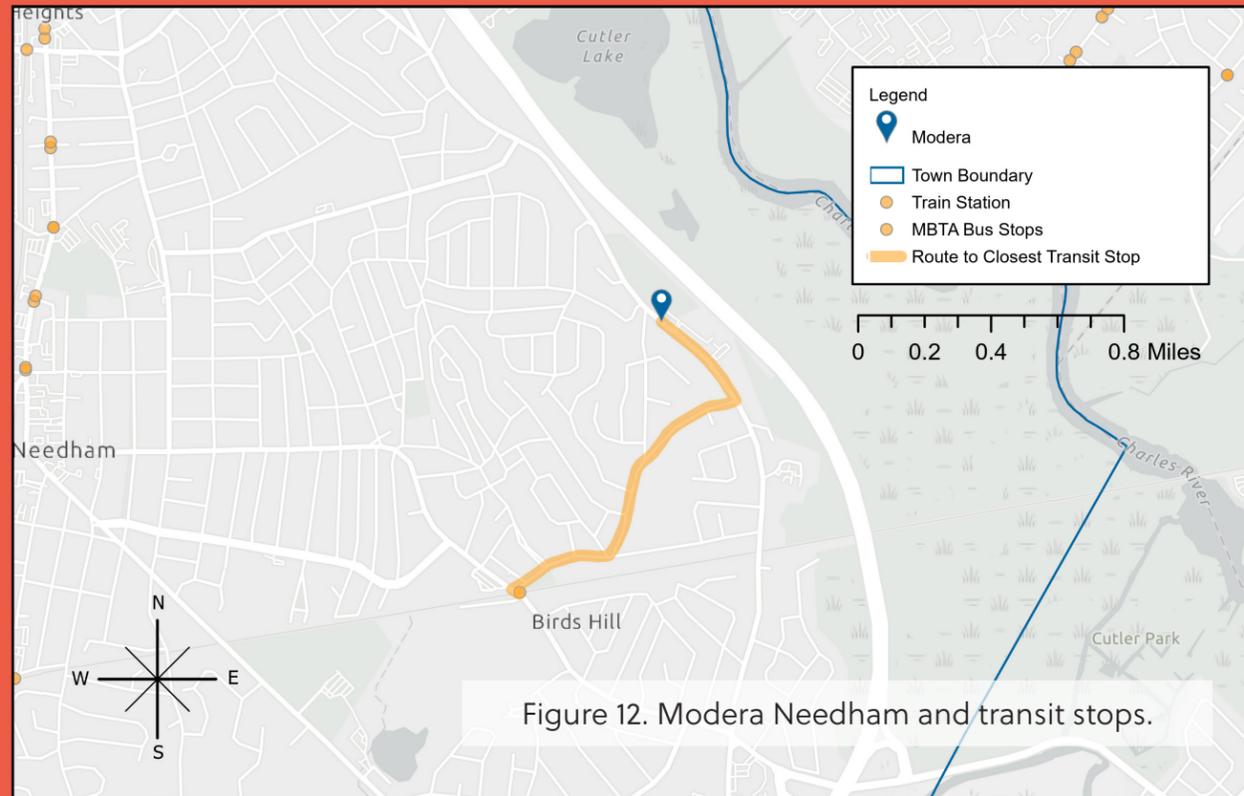


Figure 12. Modera Needham and transit stops.

In the spatial analysis, the average connectivity score for Needham's six 40B housing developments was the highest compared to the other four towns. This unique situation may be attributed to the clustering of four of Needham's other 40Bs in the northeastern part of town, near the N-Squared Innovation District on the border with Newton.<sup>45</sup> The N-Squared District contains the offices of companies like TripAdvisor, retail options, and is accessible by the MBTA Green Line and commuter rail. The four 40B developments clustered in this area are within a half-mile radius from the district.

However, Modera is the least connected of the six 40Bs in Needham. It received the lowest overall score of the six (1.56 out of 3). The transportation component of the score is particularly low for Modera, which is the farthest away from a transit stop while being located in a census block group that received the lowest National Walkability Index score of the 40B developments in Needham. It is located between a main thoroughfare—Greendale Avenue—and highway I-95/Route 128, with no clear or easy access to public transportation. The closest transit stop is the Hersey commuter rail station a mile away. There is also a stark drop in connection to social infrastructure between Modera and other 40Bs in Needham. While the four clustered near the N-Squared district received scores greater than 0.57 (out of 1) for connectivity to social infrastructure within a 5-minute drive, Modera only received a 0.38, with much fewer convenience stores and

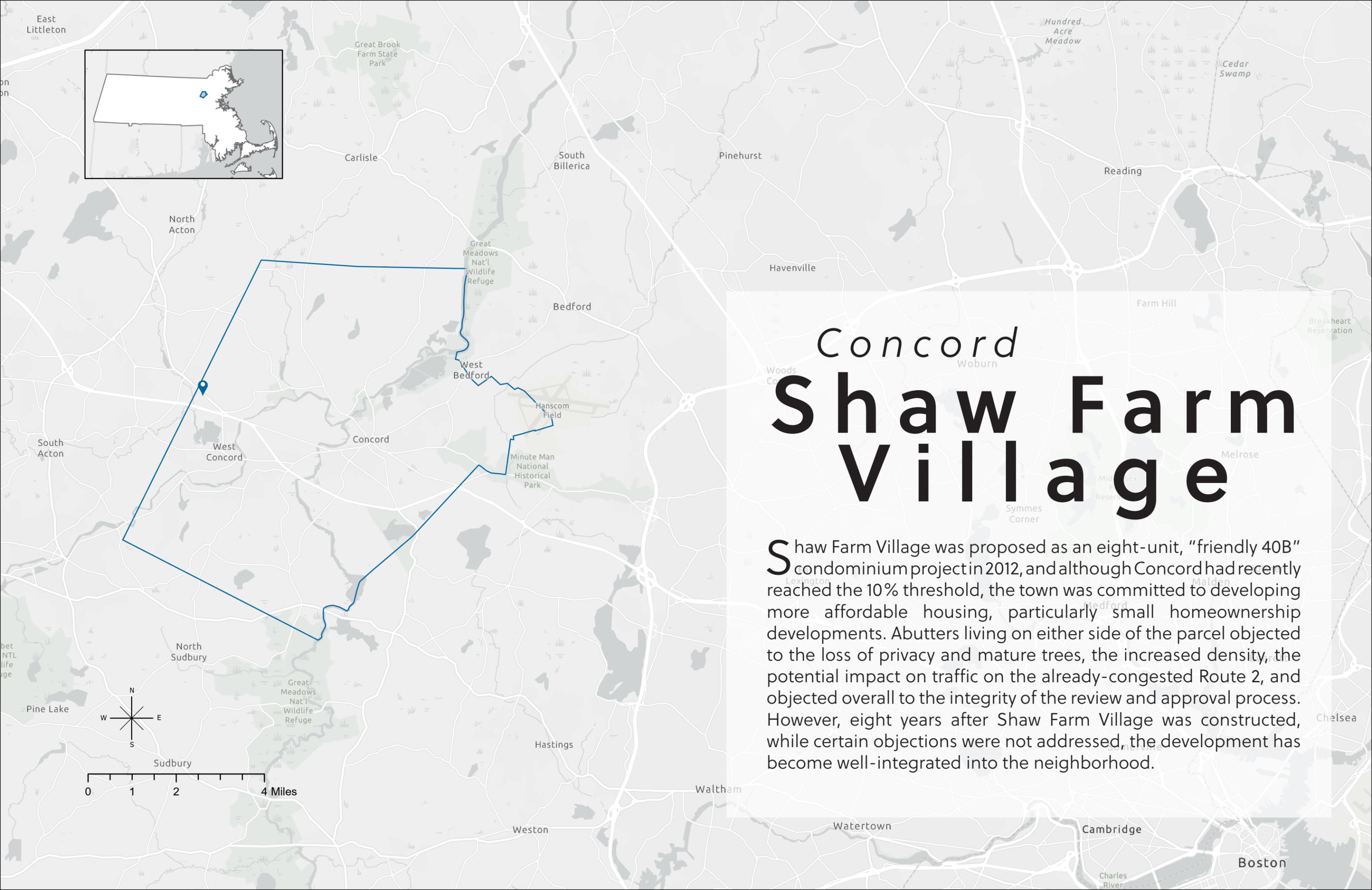
places of worship compared to the other developments.

The connectedness of the site caused contention among community members, with some claiming it was not connected enough, while the developer shared it was selected for its close proximity to a residential neighborhood.<sup>46</sup> Community members raised concerns about the project's location and connectivity to transportation and amenities early on in the development process. In a guest column for *The Patriot Ledger*, a committee formed in opposition to the project cited recommendations in the town's Affordable Housing Plan and 40B Guidelines for 14 alternative locations that would be near public transportation and retail services.<sup>47</sup> The issue of connectivity to public transportation was brought up in ZBA meetings as well, as notes from the Board's conclusions suggest: "substantially all transportation from the site will be by car other than children walking to the Broadmeadow School."<sup>48</sup> On the other hand, the developer described the location as a good place to build more housing due to its proximity to an already-residential neighborhood.<sup>49</sup> In fact, this may be one of the reasons Modera received so much opposition, as many neighbors and abutters attend public hearings to voice their concerns. Ultimately, the objections to the development of Modera on the grounds of connectivity to social amenities and transportation did not prevent the project's development.

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# Concord Shaw Farm Village

Shaw Farm Village was proposed as an eight-unit, "friendly 40B" condominium project in 2012, and although Concord had recently reached the 10% threshold, the town was committed to developing more affordable housing, particularly small homeownership developments. Abutters living on either side of the parcel objected to the loss of privacy and mature trees, the increased density, the potential impact on traffic on the already-congested Route 2, and objected overall to the integrity of the review and approval process. However, eight years after Shaw Farm Village was constructed, while certain objections were not addressed, the development has become well-integrated into the neighborhood.

# Concord Community Profile

Concord's rich literary history as the home of celebrated authors such as Ralph Waldo Emerson, Louisa May Alcott, and Henry David Thoreau has contributed to its identity as a bucolic and "quintessentially New England" town.<sup>1</sup> Located 19 miles northwest of Boston on Algonquian land, the town covers an area of 24.5 square miles and is home to a population of 19,116 (in 2019).<sup>2</sup> Concord is known to be a politically progressive community,

generally supportive of environmental issues<sup>3</sup> and the development of affordable housing.<sup>4</sup>

Concord's natural beauty, highly-rated public schools, and proximity to public transit and highways has made it a desirable place to live; it is one of the wealthiest towns in the state, with a median household income of \$152,318 (compared to \$81,215 in Massachusetts)

and a median home value of \$875,400 (more than twice the state median) in 2019.<sup>5</sup> However, more than one in five households in Concord qualify as low-income, which is \$62,550 for a household of two people according to HUD.<sup>6</sup> Concord is a predominately white town, although it has been experiencing steady, slight increases in racial diversity for the past two decades, with Black residents up to 4% of the population (769 people) and both Asian and Latinx residents up to approximately 7% of the population each (1,414 people and 1,376 people, respectively) in 2019.<sup>7</sup> Concord's population is aging, with people aged 65 and older making up one-fifth of the total population in 2019. According to MAPC projections, this population is estimated to reach 6,181 residents by 2030, a 74% increase since 2010.<sup>8</sup>

The Town of Concord's zoning by-laws create barriers to the development of affordable housing, due to restrictions on denser development. Single-family homes are the only residential use allowed by right in all four residential zoning districts, and the minimum lot area is as much as 80,000 square feet, or over 1.8 acres, in some districts. Not only do these zoning bylaws limit the production of affordable housing, but they also restrict the diversity of the town's housing stock: over 75% of Concord's homes are single-family houses.<sup>9</sup>

Despite these codes, the Town of Concord has worked to increase housing diversity through various agencies, policies, and plans for over 50 years. The Concord Housing Authority is the agency that develops and manages public housing and Section 8 vouchers. The Concord Housing Development Corporation (CHDC), established in 2006, is a non-profit housing corporation with members who are appointed by the Concord Select Board that aims to investigate and implement alternatives for the provision of housing affordable for people of low and moderate incomes. In addition, Concord is a member town of the Regional Housing Services Office, which was developed in 2011 to support the municipal functions of affordable housing for the towns of Acton, Bedford, Concord, Lexington, Lincoln, Maynard, Sudbury, Wayland, and Weston, including monitoring, program administration, and resident assistance. In 2019, the town voted to create the Concord Housing Trust, which aims to manage funds appropriated or raised for affordable housing.<sup>10</sup> This constellation of organizations supports Concord's commitment to affordable housing.

Certain state laws such as Chapter 40B have been effective at producing mixed-income and multi-family housing in Concord. As of 2020, Concord had 721 homes on the SHI, or 10.52% of their total housing stock.<sup>11</sup> Most of this was built through Chapter 40B: 515 rental homes across 6 developments and 9 ownership

Table 6. Concord Demographics

	2010	2019		2010	2019
<b>Population</b>	17,373	19,116	<b>Percentage owner occupied</b>	81.1%	75.0%
<b>Area (sq miles)</b>	24.52	24.52	<b>Percentage renter occupied</b>	18.9%	25.0%
<b>Percentage population age 65+</b>	17.4%	20.8%	<b>Median home value</b>	\$726,600	\$875,400
<b>Median household income</b>	\$119,858	\$152,318	<b>Median gross rent (monthly)</b>	\$1,519	\$2,130
<b>Total housing units</b>	6,644	7,101	<b>Homes counted to SHI</b>	6.0% (2010)	10.48% (2015)
<b>Race (2010)</b>	White: 86.4% Asian: 3.6% Black: 3.5% Hispanic/Latinx: 4.4% Other race: 0.1%		<b>Race (2019)</b>	White: 79.5% Asian 7.4% Black 4.0% Hispanic/Latinx: 7.2% Other race: 0%	

CONCORD  
DEMOGRAPHICS

**Sources:** American Community Survey 5-Year Estimates 2006-2010; American Community Survey 5-Year Estimates 2015-2019; Concord 2010 Housing Production Plan; Concord 2015 Housing Production Plan.



Figure 13. Pre-development: view of the site from Elm Street, August 2011. (Google Street View)



Figure 14. Post-development: view of Shaw Farm Village from Elm Street, October 2019. (Google Street View)

homes across 3 developments.<sup>12</sup> In addition to Chapter 40B, there are several local provisions that promote the development of multi-family and affordable homes, including the Planned Residential Development (PRD) special permit. PRD allows for multi-family developments of up to eight homes on large tracts of land, with a bonus of up to two times the basic density if affordable units are provided. The minimum sizes of PRD tracts are four times the minimum lot size of the residential district in which they are located—ranging from 320,000 to 40,000 square feet.<sup>13</sup>

The town prepared its first Housing Production Plan in 2004 and has provided two updates since, in 2009 and 2015. Aiming to reach the 10% threshold and to build housing that would meet the needs of its population, town officials laid out several affordable housing goals in its 2010 Housing Production Plan and identified specific sites as good candidates for affordable housing development. One of these sites was 1257 Elm Street, where Shaw Farm Village (and Shaw Farm Road) were built in 2013. This project completed the town's vision for developing a stretch of three adjacent parcels on Route 2A near the Acton border, with Elm Place, another eight-condominium 40B project,

and Lalli Woods, a Planned Residential Development (also with affordable units) already constructed. Shaw Farm Village is consistent with several of the goals laid out in Concord's Housing Production Plan, including increasing the diversity of housing options through compact development, encouraging the creation of affordable units that will count on the SHI, and creating homeownership opportunities throughout town for new homebuyers and eligible households including those with a Concord connection.

## Project Description

Shaw Farm Village is located in West Concord on Elm Street (or Route 2A), about 800 feet south of the town's boundary with Acton and just north of the Route 2 rotary. It lies in between two pre-existing developments with some affordability restrictions: Lalli Woods, an eight-unit Planned Residential Development constructed in 2010, lies to the east of the site, and Elm Place, an eight-unit 40B development built in 2008, is located to the west. The land directly south of the site is wooded and undeveloped state-owned

land. To the north, across Elm Street, lie two large, mostly undeveloped parcels owned by the Northeastern Correctional Center. Before project construction, the development site contained one single-family house close to Elm Street, and the remaining two-thirds of the site was forested with mature trees.<sup>14</sup>

Elm Street, or Route 2A, is a busy, major road that experiences severe congestion during peak commuting hours, particularly as vehicles queue up to enter the Route 2 rotary.<sup>15</sup> The section of Route 2A adjacent to the site does not have sidewalks or a shoulder, and residents have raised safety concerns to town officials both at the time of the project and in the present day.

Shaw Farm Village was developed by

a Concord resident and former board member of the Concord Housing Development Corporation (CHDC), through his development company ABODE Builders of New England. The Shaw Farm Village buildings were designed to blend with the neighboring developments in size, color, and style, and the architecture was designed with a traditional New England style. A central driveway ending in a T-turnaround, called Shaw Farm Road, was built to provide access to the housing, and is maintained by the homeowner's association.<sup>16</sup>

The project site lies entirely within the Residence A Zoning District, and was identified as appropriate for development of affordable housing in the 2010 Housing Production Plan.<sup>17</sup> Residence A, located in

three isolated areas in the southern part of Concord, primarily surrounds denser residence districts along the central spine of the town.<sup>18</sup> The project was granted several waivers by the ZBA, including to allow the construction of eight units on one lot, the front yard setback to be reduced to 30 feet, and the rear yard setback to be reduced to 10 feet.<sup>19</sup> As a LIP project, or "friendly 40B", Shaw Farm Village passed through the review process fairly quickly, with less than a year elapsing between DHCD issuing a Project Eligibility Letter (PEL) in August 2012 and the ZBA voting to grant the Comprehensive Permit for the project in February 2013. However, one of the direct abutters to the project appealed the decision, issuing several land court complaints, including that the process violated the state's conflict of interest law, since the developer had served on the CHDC up until he resigned in May 2012, and the CHDC had issued a letter of support for the project. The state's conflict of interest law requires a one-year "cooling off period" before former municipal employees are allowed to appear before a town on a matter which was under their former official responsibility.<sup>20</sup> The abutter and the developer eventually settled.

## Pre-Development

Before the approval and the appeal, residents raised a range of concerns at Planning Board and Zoning Board meetings and directly with the town planner and project developer. Concerns covered a wide range of issues, but based on an analysis of project documents and interviews with town officials, the

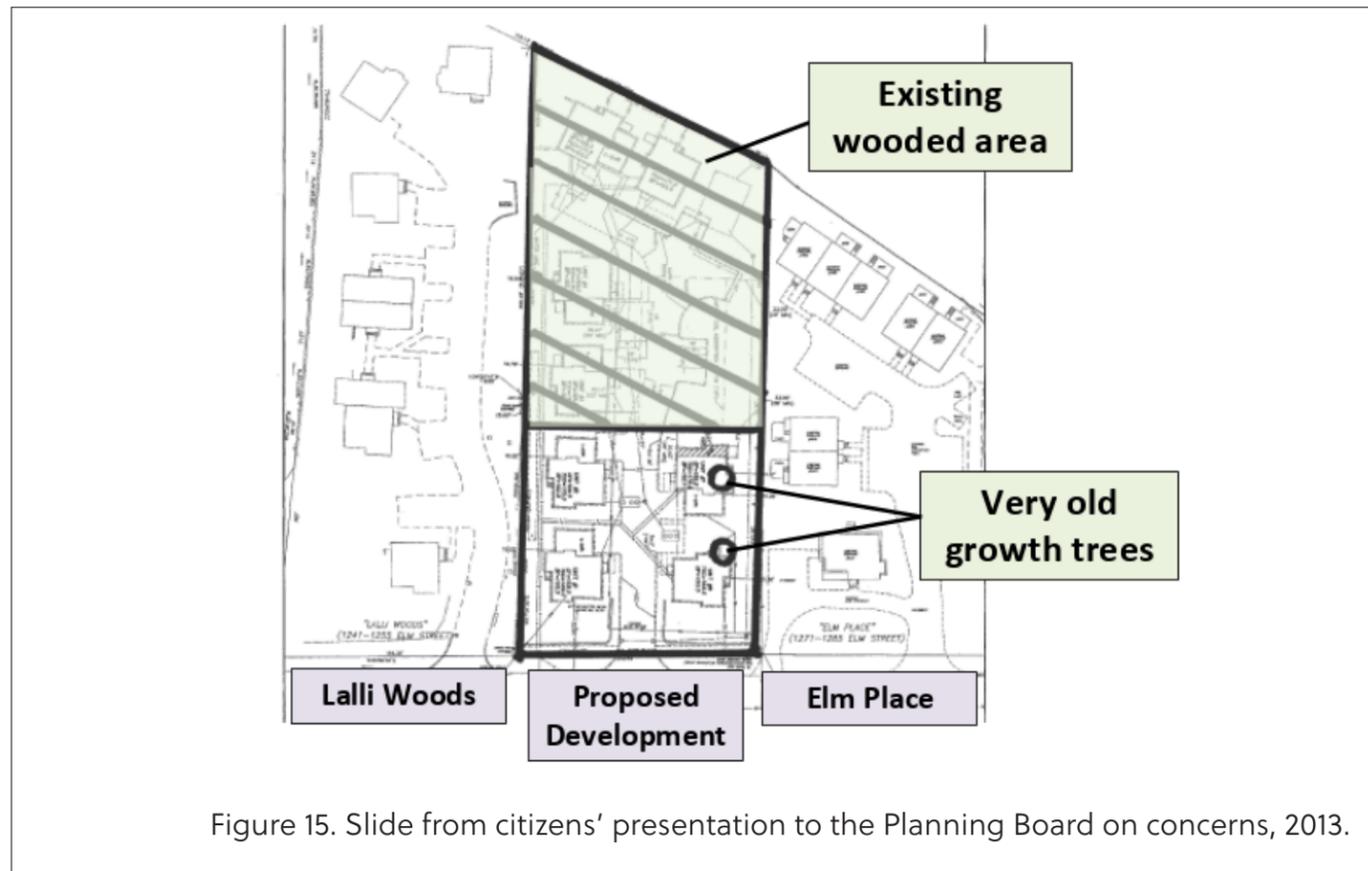


Figure 15. Slide from citizens' presentation to the Planning Board on concerns, 2013.

## SHAW FARM BY THE NUMBERS

10-60 SHAW FARM ROAD  
CONCORD, MA 01742

1.21 SITE SIZE (ACRES)

PEL ISSUED August 29, 2012

2014 BUILT AND OCCUPIED

TOTAL HOMES

8

AFFORDABLE HOMES

2

1,800-2,100 LIVING AREA (SQFT)

6 THREE-BEDROOMS

2 TWO-BEDROOMS

### AMENITIES

- ONE-CAR GARAGES
- PORCHES
- RECREATION AREA WITH SWINGSET

developer, and residents who opposed the project, this case study will focus on the following concerns:

- Density and privacy: the number, footprint, and placement of buildings
- Environment and nature: loss of mature trees; impact on migratory patterns of animals; impact on a vernal pool
- Traffic impacts and lack of walkability: increased congestion;

the inability to walk anywhere from the site and the omission of a sidewalk along the frontage of the parcel

- Process and procedure: the town's unwillingness to pursue a compromise; abuse of process; conflict of interest involving the developer's former role on the Concord Housing Development Corporation's board

### Density and Privacy

Many residents who lived in the abutting Lalli Woods and Elm Place condominium

developments opposed the project based on its impact on the density of the neighborhood, calling the addition of eight homes on a less-than-two-acre lot "crowded"<sup>21</sup> and that it would cause "overpopulation."<sup>22</sup> More specifically, they objected that the footprint and massing of the homes were not consistent with the neighboring developments. The homes proposed for Shaw Farm Village were larger, at 2,100 square feet of living space (excluding attached garages), in contrast to 1,684 square feet per home at Lalli Woods and 1,650 square feet at Elm Place.<sup>23</sup> In addition to size, abutters had concerns about the layout of Shaw Farm Village and its impact on open space. Eight detached homes were proposed, which revised an earlier proposal to the Select Board for four duplexes.<sup>24</sup> In contrast, Lalli Woods and Elm Place contain a mix of duplexes, three-unit attached townhouses, and stand-alone homes. This combination of housing types is more compact than having only detached homes, limiting the number of buildings to six at Lalli Woods and four at Elm Place, and therefore maintaining open space. Some residents were concerned about privacy, and that the new development was in such close proximity to existing homes that one abutter stated a "proposed unit in the new project would also have a direct line of sight into [her] master bedroom."<sup>25</sup>

Abutters sought compromise with the town, trying to make the case for fewer units through an alternative development

scheme: a Planned Residential Development instead of a 40B project, which would result in a total of five homes, one being affordable. While the developer maintains this reduction would not have been economically feasible,<sup>26</sup> abutters take the position that the financing could work but the developer did not want to pursue this option because it would not be as profitable.

### Environment and Nature

Density concerns were closely tied to abutters' opposition to felling over 200 mature trees, including a beloved 130-year oak tree.<sup>27</sup> Many neighbors recounted how the development would impact their view, objecting to seeing buildings out of their windows rather than trees. Similarly, abutters disapproved of the amount of paved surfaces and lack of grass and other vegetation included in the project design. Many interlocutors made clear that they particularly valued living close to nature and within a wooded landscape, appreciating the agrarian feel of the neighborhood due to the sounds of cows from the farmland located across Route 2A. Construction of Shaw Farm Village would reduce the amount of open space in the neighborhood, which abutters felt would be particularly detrimental to the numerous children living in Lalli Woods and Elm Place. In addition to trees, vegetation, and open space, abutters were concerned about the impact of the development on a vernal



Figure 16. Aerial view of Shaw Farm Village. (Google Maps)

pool located south of the site and just out of bounds of the legally required buffer of 100 feet, arguing that the environmental assessment was conducted improperly. Some abutters worried that this loss of natural resources would impact habitats or migratory patterns for creatures such as hawks, snapping turtles, deer, and bears.<sup>28</sup>

### Traffic

Throughout the review process, abutters were vocal about the existing unsafe conditions in the neighborhood, citing frequent speeding above the 45 mph limit on Route 2A. In addition, they were concerned that the addition of eight homes at Shaw Farm Village might impact the already congested Route 2A, where traffic at rush hour often backed up from the Route 2 rotary to the development site. Abutters criticized the lack of discussion in the review process about potential mitigation for congestion and unsafe conditions.

### Process and Procedure

Abutters from Lalli Woods and Elm Place organized as a community to attempt to impact or halt the Shaw Farm Village development. They cited frustrations with the review process, the town's leadership and support for the project, and the developer's goals and methods. Abutters objected to the town's planning methods and community engagement stemming from well before the development—in a presentation to the Concord Planning Board at a January 2013 meeting, abutters made the claim that almost 80% of the neighbors did not know anything about a potential development next door despite its inclusion in the 2010 Housing

Production Plan, and that "many may not have bought or would have paid less had they known."<sup>29</sup> Abutters were motivated to learn about the review process, with one former abutter recalling, "Let's try to have a say in whether it goes through. Maybe it won't go through. Maybe [the developer] can build somewhere else. Let's find out how 40Bs work."<sup>30</sup> Several residents brought up feeling excluded from the process, and that they got the sense that town officials did not care about the community's concerns, saying that it felt like "our voices didn't matter" and "they painted us as getting in the way."<sup>31</sup> Residents were disappointed that there was no room for compromise on the Shaw Farm Village proposal, stating that there were "ways the project could have been completed that benefited the entire community," including fewer units and the installation of sidewalks.<sup>32</sup> Other misgivings towards the town involved assertions of procedural irregularities and abuse of process, such as reworking meeting agendas at the last minute so residents who came expecting to give comment at the beginning of the meeting were forced to wait several hours until the end, or public comment periods being postponed entirely due to running out of time at meetings. These concerns, as well as allegations that the PEL and Comprehensive Permit were obtained through a process that violated the state's conflict of interest law, were included in an appeal that was filed in Land Court in April of 2013. Several residents expressed frustration with the developer's profit-making motives, feeling that the town's desire to develop affordable housing was just "an excuse to put too many houses on one plot of land."<sup>33</sup>

## Post-Development

In several stages throughout the review process and in response to community concerns and input from town officials, the project was amended in certain ways. The total number of garages was decreased by two.<sup>34</sup> The septic system was moved to the back of the site to ensure there was no impact on the nearby vernal pool, and the siting of some of the buildings was changed, including reducing the massing and relocating patio areas to the sides of buildings to create more privacy between the site and the abutting Elm Place development.<sup>35</sup> Hearing from abutters that there was a need for play space or a recreation area, the architect planned a gathering area which included a butterfly garden, playground, basketball court, and a walking path, although what was eventually built was just a small recreational area containing a swing set. In addition, the developer paid each neighboring development a \$15,000 allowance to fund landscaping that would provide a visual buffer and increase privacy between developments. Some of these changes assuaged abutters' concerns more effectively than others.

### Density and Privacy

Abutters who opposed the project did not achieve their goal to reduce the number of homes or buildings in Shaw Farm Village, and many of them missed the feeling of being nestled in the woods and seeing a view of trees from their windows. However, one neighbor lauded the addition of the screening landscaping that the developer

“ It's human nature to resist change, and development is perceived as major change.

—Developer

had funded, saying "the screening and plantings made a big difference. Without that it would feel stark and crowded."<sup>36</sup> In addition, the new buildings have brought new people, a fact that all of the neighbors interviewed for this study celebrated, particularly the arrival of more children and pets in the neighborhood. One abutter who was in opposition to the project remembered the good friendship she made with one of the couples who moved into the new units.<sup>37</sup> While one resident from Elm Place stated that he wanted to put their home on the market in 2013, after the Concord Planning Board voted to recommend that the ZBA approve a Comprehensive Permit that January (saying "I want out of here now"<sup>38</sup>), his wife explained in a recent interview that the approval and construction of Shaw Farm Village was not the reason that caused them to move.<sup>39</sup>

### Environment and Nature

Neither neighbors nor town officials cited any impacts on the ecology, natural resources, or fauna of the area due to this project. Town officials were confident in the Natural Resources Commission's ruling that the development would not impact the vernal pool.<sup>40</sup> An abutter remembered encountering a snapping turtle laying its eggs near the pool during the construction



Figure 17. Cows in Concord. (Friends of Minute Man National Park)

of the development, and another resident noted the pool was still there today. After development, neighbors miss the previous tree cover and remembered noticing “less birdsong,”<sup>41</sup> feeling that they are not as much in nature as they were before.

### Traffic

Abutters who had been worried about an increase in traffic before the development of Shaw Farm Village acknowledge that any worsening congestion cannot necessarily be attributed to this particular project, since other construction has occurred in the area. However, the neighborhood’s concerns around safety and accessibility remain unaddressed. One former abutter shared that her husband had been hit by a car while crossing Route 2A. Others expressed discontent about the lack of accessibility and walkability

of the neighborhood, explaining that they have to drive to the Bruce Freeman Rail Trail rather than walk, even though it is just a half-mile away. As recently as December of 2020, 200 residents from the neighborhood submitted a letter to the Town of Concord calling for installation of sidewalks on Route 2A and other safety features.<sup>42</sup> Although these lingering concerns are unrelated to the impact of the development of Shaw Farm Village, they highlight the residents’ frustration that the project review process was a missed opportunity to address these issues.

### Process and Procedure

More than eight years after the review process and approval for Shaw Farm Village concluded, some abutters maintain their previous objections to how the project unfolded. Despite this

frustration with how Shaw Farm Village was approved, there do not seem to be any lingering resentments from neighbors or community members. Abutters expressed acceptance of the project, saying, “this is just the way it is now,”<sup>43</sup> and appreciation for the neighbors who have moved in to Shaw Farm Village. Several interlocutors stated that the approval of the project did not cause them to move. The developer mentioned that because he was also a resident of Concord, it was important to repair relationships with community members who he might run into around town.

## Conclusion

While some community members did cite concerns around large systemic impacts this development could have on the town, such as burdening schools or increasing traffic, Shaw Farm Village’s small number of units meant concerns were limited mostly to abutters, and on hyper-local issues, such as reduced privacy. The developer reflected on the nature of this opposition, saying that “it’s human nature to resist change, and development is perceived as major change.” He characterized abutters who oppose further development as taking the position that, “I’ve got my home now, so why do we need any more?”<sup>44</sup>

Now built and occupied, Shaw Farm Village seems to be well-integrated

with the neighboring communities. Although several concerns from neighbors around the felling of trees, unsafe traffic conditions, and frustration with the review process were not assuaged, bitterness does not appear to linger and abutters seem to be focused on the positive outcomes of Shaw Farm Village. In fact, one abutter observed that the community organizing around the development of Shaw Farm Village sparked ideas and laid the foundation for organizing around other concerns, including the high traffic speeds and lack of walkability of the neighborhood.<sup>45</sup> In the recent group letter addressed to the town seeking safety and accessibility improvements, residents of Lalli Woods, Shaw Farm Village, Elm Place, and several other neighboring developments seemed to call upon the strength of the denser community, writing, “over the last ten years, this area of Concord has grown from a few, scattered single-family homes into a vibrant community.”<sup>46</sup>

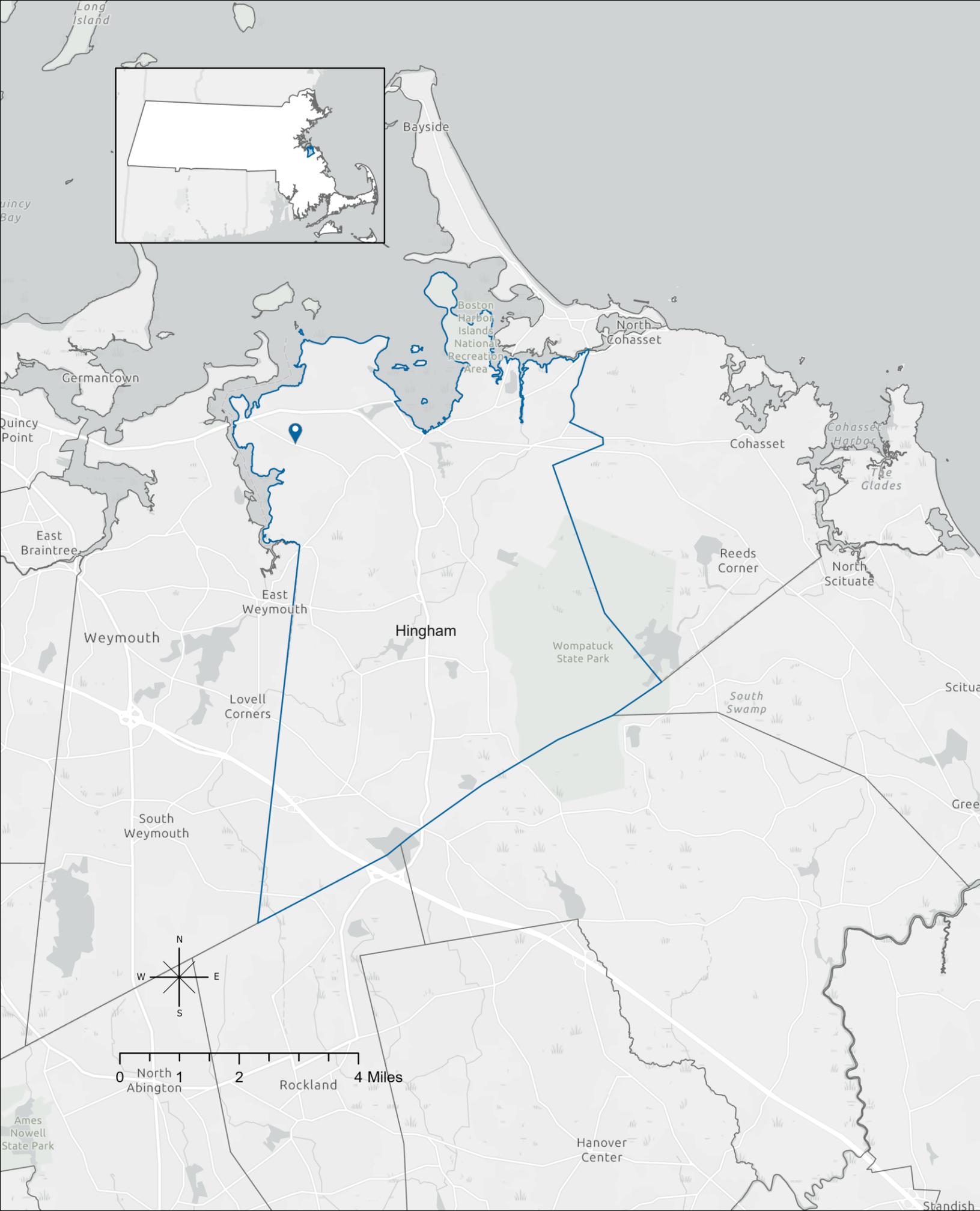
## *How connected are 40B residents to the community?*

Throughout the review and approval process for Shaw Farm Village, and to this day, residents in the neighborhood have banded together to call on the Town of Concord for safety and accessibility improvements, including the installation of sidewalks and pedestrian crossings. The neighborhood is located just off of the busy and congested Route 2A, and residents cite a fear of traffic crashes, frustration with their inability to walk places safely, and generally a feeling of being “far out,” “isolated,” and in a “lost area of Concord that the town doesn’t pay attention to.”<sup>47</sup> The far west region of the town where Shaw Farm Village is located contains a cluster of affordable homes, built through 40B as well as other affordable housing programs. The development is a 1.3 mile walk from the nearest transit station, much of which is along Route 2A, with no sidewalks. This lack of connectivity to resources and amenities has prompted residents to coordinate and organize, thus building relationships, a sense of community, and social connectivity.

In addition to this lack of geographic connectivity, the residents of the deed-restricted condos in Shaw Farm Village described feeling socially disconnected from other residents in the Town of Concord as a whole. They explained that this is not necessarily because people are unwelcoming, but because their economic backgrounds are so different that it can be challenging to relate to people and share the same concerns. Residents in affordable homes described their situation as being like “a cat in a dog kennel” or “a small fish in a big pond full of sharks.”<sup>48</sup> These relational differences are exacerbated by the prohibitive cost of activities and services like daycare or swim lessons in Concord, which can further isolate residents living in affordable homes. In addition to class differences, residents in affordable homes shared stories about experiencing racism, particularly on behalf of their children from classmates at school.

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- 22 Svilokos, Interview by authors.
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- 44 McBride, Interview by authors.
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- 46 Residents of the Neighborhoods of Lalli Woods, Shaw Farm Village, Elm Place, Elm Valley, Commerford Road, and Black Horse Place, Concord, MA, 01742, "Safety and Accessibility Improvements Needed in Our Community," June 5, 2020.
- 47 Anonymous abutter in opposition, Interview by authors.
- 48 H., Interview by authors.



# Hingham Craftsman Village

The design compatibility, economic feasibility, and community support characteristic of Craftsman Village in Hingham is unlike other sites selected for study in this report. A thorough, well-informed, and community-engaged development process—in combination with the opportunity to improve upon deteriorating site conditions—led to little, if any, opposition to the project. In this way, Craftsman Village offers a model for the production of 40B homes in high-income, low-density, suburban communities in Massachusetts. Nonetheless, in tandem with a deep sense of pride in this accomplishment, local housing advocates and key stakeholders remain unsatisfied with the inability to replicate a frictionless process and to move beyond encouraging development in hopes of producing truly affordable housing.

# Hingham Community Profile

Hingham, Massachusetts is located on Massachusetts and Wampanoag land. With 21 miles of shoreline, this coastal town takes great pride in its history of fishing, shipping, and shipbuilding.<sup>1</sup> Today, this pride translates to a commitment to honor town character through the preservation of historic buildings and resources.<sup>2</sup> As a growing residential community of nearly 25,000 residents over 22 square miles of land, Hingham stewards the antique

architecture and natural resources that reflect the town's distinct industrial and recreational history.

Hingham is known for its strong housing market, buoyed by a high performing school system and its proximity to Boston. Located just 15 miles south of the city, Hingham affords residents easy access to employment and commercial activities in Boston via train, commuter boat, or

highway. Between 2000 and 2010, the population of Hingham grew by 11%, (an increase that may have been due in part to the addition of a 1,100 unit, age-restricted development.) In recent decades, Hingham has also become a highly desirable community for younger families, with a consistently top-ranked school system in the state. The presence of many amenities that contribute to quality of life, has increased property values in a low-density suburb with predominantly single-family homes.<sup>3</sup> Between 2010 and 2014, the median home value was \$649,200 and the median household income was \$103,350, attracting largely affluent families for whom this housing market was accessible.<sup>4</sup> During this time, the economy also rebounded from the recession and community members saw housing prices soar as the supply of homeownership homes did not meet demand.<sup>5</sup> These pressures only further exacerbated the housing crisis in Hingham and heightened an ongoing conversation of affordability. By 2019, the median home value increased to \$771,600 and the median household income increased to \$142,435.<sup>6</sup>

There are several constituencies in Hingham that are working to make housing more affordable in recognition of the increasingly expensive and inaccessible prices for market-rate housing. The Hingham Housing authority owns and maintains 106 rental homes in town, in addition to administering the Housing Choice Voucher Section 8 program. The

Community Preservation Committee, established through adoption of the Community Preservation Act in 2001, seeks to maintain the character of the community through investments in areas of open space preservation, affordable housing, and historic preservation, among others. More recently, the Affordable Housing Trust formed in 2007 to preserve and develop affordable housing. The Trust was established through town meeting and is guided by state law defining its financial and operational abilities. Collectively these constituencies play complementary roles in supporting the availability of housing to low- and moderate-income residents of Hingham.

Hingham seeks to provide a variety of housing for all income levels while encouraging compatibility with the historic character of single-family homes. Continuing to enhance the availability of affordable housing is of interest in Hingham as there are a range of housing needs that remain across income levels and communities of focus.<sup>7</sup> When Craftsman Village was completed in 2014, 95% of residents were White, 2.1% were Asian, 0.97% were Hispanic/Latinx, 0.81% were Multiracial, and 0.41% were Black. At that time, 80% of all housing units were owner occupied and a quarter of all housing units were in multi-family dwellings.<sup>8</sup>

In this context, interlocutors described Chapter 40B as well-received among town

Table 7. Hingham Demographics

	2010	2019		2010	2019
<b>Population</b>	21,731	23,652	<b>Percentage owner occupied</b>	79.5%	80.9%
<b>Area (sq miles)</b>	22.21	22.21	<b>Percentage renter occupied</b>	20.5%	19.1%
<b>Percentage population age 65+</b>	18.7%	20.7%	<b>Median home value</b>	\$637,000	\$771,600
<b>Median household income</b>	\$98,890	\$142,435	<b>Median gross rent (monthly)</b>	\$1,572	\$2,160
<b>Total housing units</b>	8,501	9,286	<b>Homes counted to SHI*</b>	5.9% (2011)	11.37% (2020)
<b>Race (2010)</b>	White: 97.3% Asian: 1.2% Black: 0.8% Hispanic/Latinx: 0.3% Other race: 0.1%		<b>Race (2019)</b>	White: 95.2% Asian: 1.7% Black: 0.6% Hispanic/Latinx: 1.1% Other race: 0.1%	

HINGHAM  
DEMOGRAPHICS

**Sources:** American Community Survey 5-Year Estimates 2006-2010; American Community Survey 5-Year Estimates 2015-2019 Town of Hingham Master Plan Draft 2021

\*Hingham contests DHCD's SHI calculations.



Figure 18. Pre-development: view of the site from Beal Street, October 2012. (Google Street View)



Figure 19. Post-development: view of Craftsman Village from Beal Street, October 2019. (Google Street View)

staff, elected officials and volunteer board members.<sup>9</sup> However, at a previous turning point in 2005, the town disputed DHCD’s position on Hingham’s SHI. This dispute centered around Linden Ponds, a 272-unit, age-restricted, rental development.<sup>10</sup> While the town assumed that the project would contribute to reaching the 10% threshold, DHCD ruled otherwise. As the dispute remained contested, the Affordable Housing Trust found that developers were reluctant to pursue an unfriendly 40B project in Hingham out of concern for a challenge in court.<sup>11</sup> (To this day, the Town of Hingham maintains its position on Linden Ponds and thus the dispute is ongoing.)<sup>12</sup> The Hingham

Affordable Housing Trust stewarded development of Craftsman Village at 80 Beal Street under these circumstances. Since the development of Craftsman Village, Hingham continues to pursue affordable development in addition to adopting zoning by-laws that allow for greater flexibility and diversification of housing stock. Over the years, public and private development contributed to the growth of affordable housing in town, as Hingham remained focused on getting and staying above the 10% state threshold. They ultimately achieved the goal of getting above the 10% threshold in 2017 with approval of the Broadstone Bare Cove Alliance Comprehensive Permit.

## Project Description

Craftsman Village offered a well-sited and welcome improvement over the existing use of a three-acre property. The property, once owned by the federal government as an ammunition depot, had been returned to the town after World War II for educational use. Prior to the development of Craftsman Village, a former two-story educational home on the site, owned by Amego Inc., had deteriorated through the years until it became an “eyesore” for neighbors.<sup>13</sup> As a result, the proposal for development offered an opportunity

to demolish the current structure and improve the appearance and utility of the site. The property was purchased by the town for \$399,000 (a portion of which was funded by the Community Preservation Act) and given to the Affordable Housing Trust to pursue as a Local Initiative Program.<sup>14</sup> The proposed project site was located within an Official and Open Space District.<sup>15</sup> Therefore, any potential affordable housing development required waiving restrictions on residential use, among other paving and setback zoning requirements. These waivers were all granted unanimously by the ZBA.<sup>16</sup> The property did not have direct neighbors on the same side of

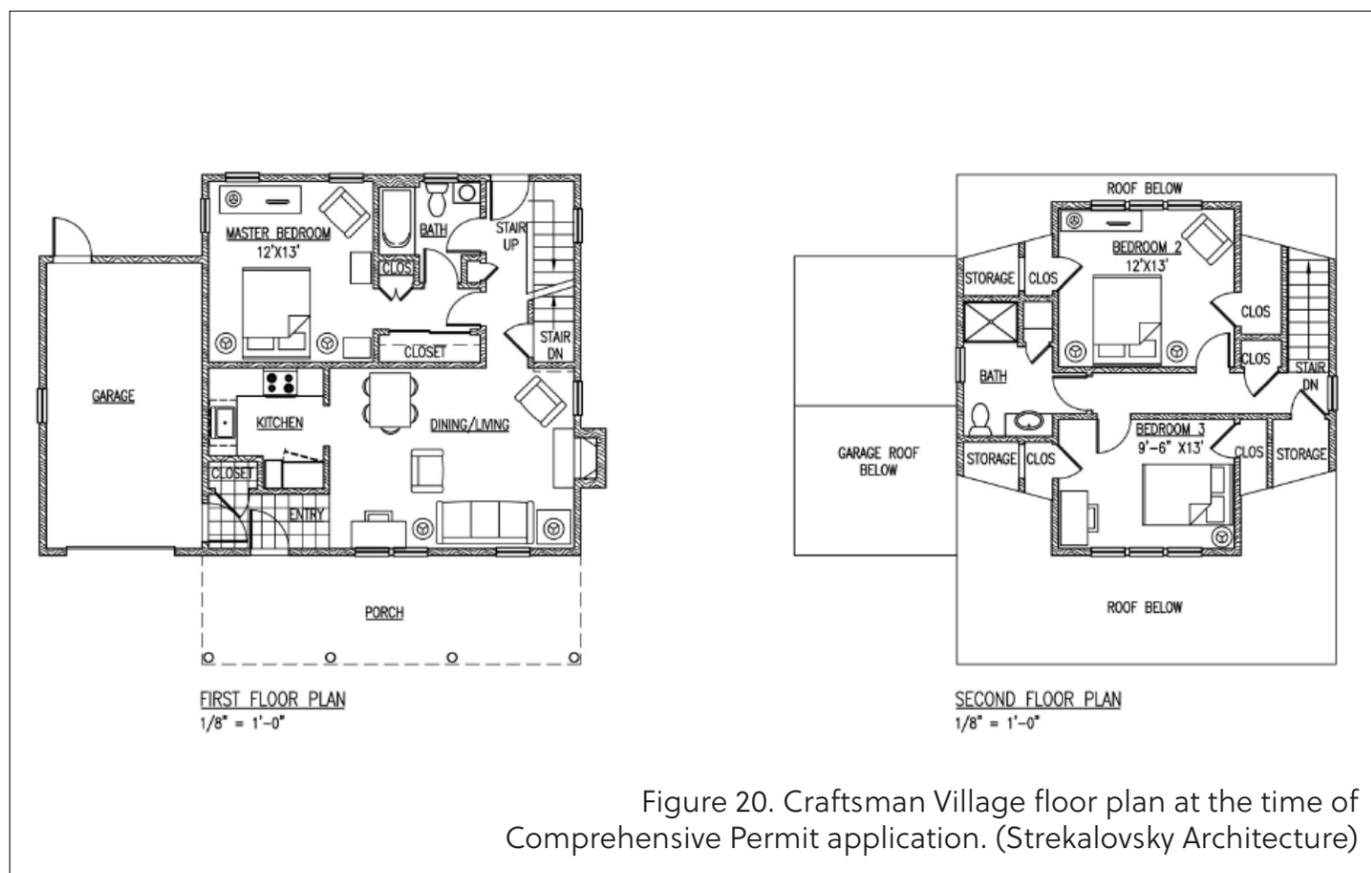
Beal Street as both abutting properties remained undeveloped and owned by the Housing Authority and Town of Hingham, respectively. Single-family homes lined the opposite side of Beal Street in a residentially zoned district. The proposed development was within close proximity to public transportation, described by a community member as walking-distance from the commuter rail, bus, and ferry.<sup>17</sup> As such, the future development would offer several transit options for future residents to be well-connected to the community and employment. Collectively, these existing site conditions put the forthcoming Local Initiative Program at Craftsman Village project on a well-received trajectory.

Over the course of two years, the

Hingham Affordable Housing Trust adeptly stewarded the development of Craftsman Village with support from contracted partners and funding from the Community Preservation Act. Those participating in this process described it as slow, yet primed for success, as the Trust ensured residents felt listened to and consulted.<sup>18</sup> The Trust selected a local firm, Strekalovsky Architecture, to design the proposed project in preparation for a Comprehensive Permit application. The architect brought local knowledge as a Hingham resident, in addition to prior experience on a development team for 24 contiguous units on a 5-acre parcel in town. The Trust also contracted services from a project consultant to provide technical assistance throughout the design

development process, with a focus on economic feasibility. The project consultant developed pro-formas for several variations of both design and density to settle on a proposal for six market-rate houses and two affordable houses on the three-acre parcel. Thus, guided by contracted partners and internal expertise among committee members, the Trust arrived at a proposal described as both palatable to the Trust and acceptable to developers.<sup>19</sup>

On October 26, 2011, following just three hearings and little public concern or comment, the Zoning Board of Appeals granted the Comprehensive Permit for Craftsman Village. The cottage style homes included 1,200 square feet of living space, three bedrooms, a farmer's porch, and a one-car garage. The site layout was designed to be pedestrian-friendly with communal space and walking paths to the interior while roadways and parking were located on the periphery.<sup>20</sup> Following approval of the permit, the Affordable Housing Trust then issued a request for proposals (RFP) to developers. The consultant fielded several questions from interested parties during a site walk related to the small size of the proposed units, the flexibility of the approved design, as well as the role of and expectations from the Trust.<sup>21</sup> After reviewing six proposals, the Affordable Housing Trust awarded the project to Weston Development Group. The lead developer explained that his interest in the proposed development was rooted in the demonstrated progress that had already been made by the Trust to design a well-received and approved Comprehensive Permit.<sup>22</sup> The lead developer had experience developing



## CRAFTSMAN VILLAGE BY THE NUMBERS

1-8 TAYLOR LANE  
HINGHAM, MA 02043

**3.09** SITE SIZE  
(ACRES)

PEL ISSUED **2011**  
May 11,

**2013** BUILT AND OCCUPIED

TOTAL HOMES

**8**

AFFORDABLE HOMES

**2**

**1,484** UNIT SIZE  
(SQFT)

**8** THREE-BEDROOMS

### AMENITIES

- TWO-CAR GARAGE
- FARMER'S PORCH
- FINISHED BASEMENT

small cottages and approached the project with an abundance of respect for the time, energy, and outcomes of the iterative and thorough design process.<sup>23</sup> The fact that the solicitation for a developer succeeded, rather than preceded, the Comprehensive Permit approval framed the developer's approach to the project. The developer viewed his role as a caretaker of the pre-approved design by the Town. The final development maintained the original design concept approved under the Comprehensive Permit, with a few modifications to make

the project feasible for the developer, including two-car garages and finished basements. Following these changes, the final affordable households were valued at \$185,000 and the market-rate households were valued at \$550,000 and eventually appraised at a higher value.<sup>24</sup> Craftsman Village was developed in 2013 and fully occupied by 2014.

Years out from development of the project, Craftsman Village continues to be revered as a model 40B project. A low-density development that incorporated feedback

and fit the character of the neighborhood met little, if any, resistance or opposition throughout the approval process. Local experts and consultants ensured that the proposed design was both amenable to the community but also feasible for the developer. To this day, stakeholders involved in the creation of Craftsman Village drive by with a warm feeling.<sup>25</sup> Nonetheless, in tandem with a deep sense of pride in this accomplishment, local housing advocates and key stakeholders remain unsatisfied with the inability to replicate a frictionless process and to move beyond encouraging development in hopes of producing truly affordable housing. Moreover, a deeper dive into the lived experience of residents shows that 40B developments may not alone be the catalyst to a more welcoming and inclusive community.

## Pre-Development

Craftsman Village at 80 Beal Street represents a unique case to analyze through the lens of concerns among community members and town staff. A slow and thorough design and development process led by Hingham's Affordable Housing Trust engaged community members early. Through site visits and community meetings, Affordable Housing Trust members heard and incorporated feedback from neighbors into the design of Craftsman Village.<sup>26</sup> With

expert guidance from project consultants, the Affordable Housing Trust applied for a Comprehensive Plan Permit with a proposal that faced little opposition from municipal staff or community members. As an eight-unit homeownership project, there were no concerns regarding impact on traffic, municipal services, or the school system. Additionally, the proposed design did not include development in the buffer zone of vegetated wetlands on-site and thus elicited minimal concern following an environmental review. Nonetheless, research into the design, density, and affordability of Craftsman Village illuminates the community-led design process as well as the give-and-take negotiations among key decision-makers and stakeholders that ultimately led to a project that brings a good sense of pride for all who participated in development.

This case study will focus on how the expectations for the following elements of Craftsman Village turned out once the project was built:

- Design: fit with the character of the community; reflect the architectural style and height of the neighborhood
- Density: low-density; homeownership
- Affordability: provide missing middle housing; market-rate units would be developed for sale below the median home price



Figure 21. Aerial view of Craftsman Village. (Google Maps)

## Design

At the outset of the planning and design process for Craftsman Village, community members and abutters wanted the proposed development to fit in with the character of the community. In fact, the stated goal or expectation for the development, as expressed by a member of the Affordable Housing Trust, was “building affordable housing that looked like Hingham.”<sup>27</sup> This is a chorus that is not uncommon to Hingham, and heard in communities across the

region experiencing new development in a suburban, suburban-rural, or rural context.<sup>28</sup> To community members, fitting in with the character of the community meant freestanding, cottage-style, single-family homes. Moreover, in a hyper-local context, anything otherwise would be seen as incompatible with the design of residential dwellings across Beal Street.<sup>29</sup> In site walks at 80 Beal Street and community meetings, Affordable Housing Trust members picked up on this sentiment and the strong preference for

a homeownership project with detached households.<sup>30</sup>

## Density

In addition to preferences around the architectural style, community members also held clear expectations for the density of the proposed development at Craftsman Village. Hingham Affordable Housing Trust members and abutters wanted a design that was appropriate in scale to the surrounding neighborhood and wouldn't be “too tall.”<sup>31</sup> This scale assured community members that not only would the development fit in with the community but also limit the size of households moving in. Such a vision was in stark contrast to the four-, five-, or six-story buildings of previous 40B developments in North Hingham and the growing stock of million-dollar mansions.

With rental housing becoming more prominent in Hingham and beginning to fill a niche of the local housing supply, residents were largely opposed to the higher-density development at 80 Beal Street. Prior to the development of Craftsman Village, Avalon at Hingham Shipyard added over 90 rental homes on 26 acres to the local neighborhood, with remaining open space for additional development in the future.<sup>32</sup> This higher density development, in addition to others such as Hingham Woods in North Hingham, was viewed as inappropriate and incompatible.<sup>33</sup> Therefore, the idea of eight units proposed on a three-acre parcel at

80 Beal Street was difficult to grasp for community members used to strict zoning by-laws that control lot size, frontages, and large set-backs.<sup>34</sup> Affordable Housing Trust members heard concerns from one resident who lived further northwest along Beal Street regarding the addition of too many townhouse condominiums on the select parcel.<sup>35</sup> This preference reflected the planning narrative and relative density of the Residential Zoning District across Beal Street from the proposed project site.

## Affordability

Concern for the design and affordability of both the market-rate and deed-restricted homes Craftsman Village emerged as a unique, yet not uncontroversial element of the proposed project. Prior to any design or development conversations, the Hingham Affordable Housing Trust identified a gap in the local housing stock that the future Craftsman Village would seek to fill: free-standing cottages that would be modestly-sized and affordable in perpetuity. At the time of the project, it was not uncommon for cottages built in the 1800s to have doubled or tripled in size. Homes with additions, and new overlarge homes, described as “McMansions,” were part of an overheated market that did not offer an abundance of home ownership opportunities to low- or moderate-income residents.<sup>36</sup> Thus, Affordable Housing Trust members stewarding the project narrowed in on an expectation for the future design of Craftsman Village to



Figure 22. Craftsman Village site sketch at the time of Comprehensive Permit application. (Strekalovsky Architecture)

serve as a smaller, affordable, alternative to the predominant housing stock in Hingham.<sup>37</sup> In collaboration with the architect and project consultant, the Trust arrived at a design that would fill the “missing middle” housing supply. The cottage style homes included 1,200 square feet of living space, three bedrooms, a farmer’s porch and a one-car garage. The proposed dimensions were chosen to be not only cost-effective but also amenable to modular construction. This modest size reassured trust members that market-rate households would be relatively affordable when put on the market.<sup>38</sup> Over several months and technical proceedings, the Affordable Housing Trust worked diligently to get approval for a project design that fit within the confines of this expectation.

## Post-Development

While the Hingham Affordable Housing Trust spent over a year preparing for the Comprehensive Permit application, the approval proceeded expeditiously through the Zoning Board unobstructed by controversy. The Comprehensive Permit application was approved with conditions on October 26, 2011, following just three ZBA hearings and two engineering reviews. The Zoning Board granted several waivers requested by the applicant that related to zoning and general by-laws. Most notably, the ZBA waived restrictions on scheduled uses to permit residential use

of the site within an Official and Open Space District.<sup>39</sup> The project went through a subsequent hearing in 2014 to approve insubstantial change modifications to Comprehensive Permit requested by the developer.

“What is frustrating is that since that time, the town has not gotten on the same page about how to do it again.”

—Project consultant

A comparison of pre- and post-development follows. Stewardship by the developer of Craftsman Village ensured that the final outcome was well-received by community members and aligned with a well-articulated vision. Concerns and expectations were in large part addressed or assuaged, with the exception of elements constrained by economic feasibility and housing affordability.

### Design

The final design and development incorporated preferences shared among community members, resulting in free-standing cottages at Craftsman Village that fit the local character of Hingham. The Affordable Housing Trust approached development of the parcel without any preconceived notions about the outcome, and even initially entertained

the possibility of renovating the existing structure.<sup>40</sup> By hosting a transparent and thorough process, the Affordable Housing Trust won the trust of community members to oversee a project that would address their concerns, which may not have been true of a project led by a private developer.<sup>41</sup> Following community meetings, the Affordable Housing Trust decided unanimously to move forward with cottage-style, modestly-sized, single-family homes early on in the process.<sup>42</sup> Moreover, through an RFP process, the Affordable Housing Trust selected both an architect and developer that had experience in the design and construction of cottage-style homes and could usher their vision from concept to development.

Ultimately, municipal staff who were involved with the project’s development described the final product as “cute,” “adorable,” and matching the original vision.<sup>43</sup> Abutters were also complimentary of the development and two-story, quaint freestanding cottage-style homes surrounding a shared play area for residents created to encourage interactions.<sup>44</sup> These favorable opinions also reflect residents’ approval for improvements to the site, as it previously contained a deteriorating structure. Other community residents describe the Craftsman Village homes as attractive and close in character to the rest of Hingham, each surrounded by landscaping that complements the built design. Overall, community members are as thrilled with

the outcome as the developer. In this way, a deliberate and involved design process that considered feedback ensured the outcome matched the expectations held among community members.

### Density

After completion, Craftsman Village was described as moderately dense, considering that the development included eight houses with two stories each and a building footprint of 1,484 square feet. As such, the outcome both matched expectations and began to fill a gap in housing density on Beal Street. The architect aptly described Craftsman Village as a transition from small-scale residential development to higher-density townhouse and condominium developments further along Beal Street and in Hingham Shipyard.<sup>45</sup> Craftsman Village did not replicate the low density of single-family zoning but was still appropriate for the neighborhood. Several interlocutors acknowledged that more could have been done with the land to provide additional housing on the three-acre parcel. However, the Hingham Affordable Housing Trust held firmly to the vision of eight houses on the site and only made concessions to expand each building’s footprint.<sup>46</sup> This steadfast commitment in the face of additional opportunity showed deference for the preferences of community members and quelled concerns of high density development in a residential neighborhood.

## Affordability

Despite the thorough and well-informed due diligence conducted in the initial design, the progression of the project into the development phase necessitated several changes that deviated from original expectations for the project. In order to make the project economically feasible for the developer, the final development expanded upon the original design and increased the value of the market-rate households. The original site plan was amended through a give-and-take process, in which both the town and the developer were described as firmly entrenched in their respective priorities.<sup>47</sup> Ultimately, the developer maintained the overall design aesthetic for Craftsman Village but expanded each house's footprint to make them more economically feasible. The developer increased the gross living areas by expanding the dining rooms and finishing the basements. Additionally, one-car garages were discarded in favor of two-car garages. This update was made under the assumption that a two-car garage was necessary to make the homes marketable in a denser development within a suburban community.<sup>48</sup> The expanded building footprints made the development more "congested," but the overall design remains a cluster of cottages.<sup>49</sup>

As a result of the design and dimensional changes on the part of the developer, the market-rate households were sold at

prices upwards of \$675,000.<sup>50</sup> The reality of the housing construction market is such that Craftsman Village would not have been developed absent the alterations in living area and garage space. In the final analysis, the affordable homes would not have come to be without the market-rate units. Alterations made to the original design expanded the modestly-sized cottages, raising the market value of the homes. Therefore, while the Affordable Housing Trust held high expectations for the market-rate homes to sell for less than the median home price in Hingham at the time, they did not meet this goal.<sup>51</sup>

In concluding this analysis, it is important to note a related outcome regarding the perceived potential to build equity in the deed-restricted homes at Craftsman Village. The deed-restricted homes provided an opportunity for income- and asset-eligible buyers to own a home with an affordable mortgage. However, in reality, deed-restrictions became a point of confusion and subsequent frustration for owners of affordable homes. Admittedly ignorant of the regulated limitations on the resale prices of these homes, residents made improvements that did not increase the value of their dwelling. Investments in countertops and carpets, for example, do not constitute changes to the structure and thus do not contribute to the value of the home.<sup>52</sup> After becoming aware of limitations to equity-building in deed-restricted homes, residents in affordable units said they would take back

the opportunity to move into Craftsman Village.<sup>53</sup> Analysis and modeling of accrued equity in CHAPA's monitoring portfolio estimates that median equity built among 40B homeowners is just \$79,000 over 11-12 years.<sup>54</sup> This estimation considers the maximum resale value and potential mortgage balance. For comparison, the typical Boston-area single-family home generated \$60,000 in equity over the last year alone.<sup>55</sup> Moreover, the typical home in Hingham appreciated \$312,000 in value over the last 12 years.<sup>56</sup> Together, qualitative and quantitative data gathered through research complicate the narrative that homeownership through Chapter 40B creates opportunity for building equity among low- and moderate-income residents.

## Conclusion

Craftsman Village stands out among the four case studies due to the relative absence of entrenched concerns or opposition to the proposed project. A deliberate design process led by the Affordable Housing Trust with support from outside consultants resulted in an eight-unit, cottage-style, homeownership development that fit within the character of the community. This contrast with other 40B developments suggests that specific and largely uncommon characteristics of the Craftsman Village design and review process enabled an uncontroversial project. Town ownership and stewardship

of the site reoriented the usual dynamic between a 40B developer and the town, such that the Town of Hingham became the "customer" and the developer assumed the responsibility of "caretaker." Moreover, the role of the Hingham Affordable Housing Trust in designing the project reassured neighbors that their concerns would be incorporated into the Comprehensive Plan permit application. Project consultants set economically feasible expectations for the proposed development and aligned project parameters to the local context to satisfy all constituencies and gain support for the Craftsman Village project. The totality of this progress, all prior to engagement with a developer, ultimately put the town in good standing to articulate, negotiate, and see through a built community that matched density and design expectations.

While Craftsman Village is described as a model 40B in both process and product, affordable housing advocates maintain a sense of frustration and disappointment in the longer-term outcomes. Ultimately this sentiment begs additional questions that complicate the imprint Craftsman Village leaves on the community of Hingham. To this day, an equally seamless and uncontroversial project review and approval process has yet to come to fruition. The outcomes

of Craftsman Village did not allay larger fears or concerns around the impact of Chapter 40B developments on the community. Instead, 40Bs proposed and approved in Hingham since Craftsman Village have been met with opposition. One ZBA member expressed sympathy toward opposition rooted in the reaction to unanticipated change.<sup>57</sup> Yet, they shared that community members continue to show up at hearings in opposition and grab on to one aspect of the project, with no bottom line. When concerns about limiting density, controlling design, and protecting community character are the only voices in a room that is situated within a system of white privilege and exclusion, it can be difficult to push the boundaries of what is comfortable and acceptable. Only with new and diverse voices advocating for change and uplifting lived experiences, can the opportunities available to predominantly white, economically privileged Hingham residents also become available to a more economically and racially diverse demographic in a more solidary and inclusive community.

## CONNECTIVITY

A supplementary investigation of the impact of Craftsman Village on the community of Hingham considers the lived-experience and social connectivity of residents. One of the many highly praised characteristics of Craftsman Village is the development's proximity to public transportation and downtown Hingham. An Affordable Housing Trust member articulated that "mainly, we want to build transit-oriented projects and that is why [developments] belong in this part of town."<sup>58</sup> Residents of Craftsman Village live within a 10-minute walk of the Hingham Ferry Terminal, the West Hingham Commuter Rail Station, and the Hingham Depot/

Quincy Center Station bus route. The block group is rated highly walkable with a National Walkability Index score of 14.167 out of 20. With these amenities, one might conclude that Craftsman Village is spatially well-connected to the community and the region with proximal access to amenities, services, and employment opportunities.

However, the lived experience of one family in Craftsman Village captured through qualitative research suggests that a well-received and centrally located project does not inherently lead to social connectivity and inclusion in the community. In fact, residents in affordable homes feel isolated, so much so that some regret the decision to move to an area just because it provides access to a better education and the opportunity to build equity. This isolation results in part from a difference in lifestyle and culture across economic classes within Hingham.<sup>59</sup> Within the hyper-local community of Craftsman Village, these class distinctions were also apparent and exclusionary. When residents in affordable homes raised concerns over a proposed 65% increase in condominium fees, they were told, "If you can't afford [the fee], just leave."<sup>60</sup> A lack of racial and ethnic diversity also leads to isolation in the school system, since children and parents

## How connected are 40B residents to the community?

feel excluded and not accepted. These sentiments are best illuminated by one family's experience with the School Department's insistence on the parents submitting multiple forms to prove their residency in Hingham. While the interlocutor reflected that these challenges are minimal compared to those of other people, they nonetheless make more visible the racism and classism that permeates the lived experience of residents.

In Craftsman Village, residents in affordable homes moved to Hingham in pursuit of opportunities for homeownership, education for their children, and a new environment. However, the move into a less diverse community in pursuit of these opportunities comes with tradeoffs. Given time and distance, connections with residents' prior, more diverse communities have weakened. This detachment is further compounded by social isolation in Hingham, a predominantly white, affluent community. The lack of diversity renders class and racial differences more apparent. Despite gratitude for the opportunity the move afforded, one resident shared that "if I had to take [the move] back, I would. It is much better to live with a diverse community."<sup>61</sup>

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# *Findings and Themes*

While each of the four case studies examined in this research are unique in their size, history, housing tenure, and community type, together they provide a nuanced snapshot of reactions to Chapter 40B housing in Massachusetts. We initially set out to determine whether concerns that were raised prior to a development came to fruition once the development was built. Through the research process, we identified themes that cut across each of the case studies, addressing questions beyond the scope initially set for this research endeavor. We learned not only what concerns arose in reaction to 40B developments, but also why concerns might be similar or different across the four developments.

# 1 Reactions to Change

Conversations about 40B developments are known for being embroiled in contentiousness and vitriol. Community members who might be self-described

proponents of affordable housing or who even live in affordable homes themselves show up in opposition to a proposed 40B development near their own home out of fear or concern for a development's impact on local schools, traffic, the environment, or the community's character, to name just a few common refrains. This attitude has been given the moniker, "Not in My Backyard" or NIMBYism, and can delay or prevent new construction altogether. To many interviewees consulted in this study, NIMBYism and opposition to 40B developments are rooted in a fundamental, human aversion to change and the unknown. In some cases, the

proposed housing changes caused conflict at a hyper-local level, while in others it highlighted a concern about a shift in the town's broader priorities, character, and vision for its future.

Concord's Shaw Farm Village and Hingham's Craftsman Village present two examples of localized reactions to change with different outcomes and lessons. Shaw Farm Village faced organized opposition primarily from abutters in neighboring developments, who expressed that their expectation for having open space and woodlands surrounding their homes was undermined by the town's decision to pursue the project. While they ultimately grew to know and like their neighbors, this small community exemplifies the emotional response to change that interviewees mentioned time and again. On the other hand, the Town of Hingham effectively avoided any confrontation around the development of Craftsman Village by negotiating expectations early on to align with abutters' interests. In this case, development was a change for

the better in the eyes of neighbors who were eager to see the redevelopment of a building they considered an "eyesore." This was a unique situation, but still one from which lessons may be learned on how to preempt and manage expectations at a hyper-local level, where the most vehement concerns often arise. The implementation of those lessons may not be simple, as evidenced by the drumbeat of resistance to change in subsequent development in Hingham.

Deeply reflexive reactions also arise in response to broader community changes. Hopkinton has experienced a shift from pastoral landscape to residential suburb, accompanied by racial diversification of the town's population, increased density, and a higher rate of development. The introduction of the 280-unit 40B development that became Windsor at Hopkinton served as a tangible project on which community members could pin reactionary sentiments. Similarly, in Needham, town representatives found it hard to parse out genuine concern from masked attempts to stymie change in the public meetings about the Modera development. Long-term changes in the demographics of suburbs are forcing communities to rethink their visions for the future, and these debates are being fought out in the public arena of affordable housing.

Regardless of the scale or focus of opposition across case studies, one thing

can be certain; not all fears or concerns were addressed. However, this outcome should not be received as fodder for continued opposition to future 40B developments that cannot be appeased. Over time, community members in Hopkinton, Needham, Concord, and Hingham became accustomed to the new developments. The change to which they initially reacted with concern or even vitriol became commonplace. These on-the-ground realities, therefore, demand a more colorful answer to the black-and-white question 'did fears and concerns around a proposed development come to fruition?' A narrow focus on NIMBY-based objections to 40B developments and whether they come to pass misses the opportunity to shape the conversation in a more positive light. As communities are forced to rethink their past, present, and future with evolving needs and shifting demographics, changing hearts and minds will be critical to equitably addressing the housing crisis in Massachusetts.

# 2 Power and Process

In any 40B development design and review process, the stakeholders who show

up and engage, as well as the power dynamics between them play an important role in the project's success. Community members, developers, and town officials each have different ways of wielding power throughout a 40B's development. The exploration of stakeholders' priorities and involvement in each of the case studies reveals the complexity of building affordable housing in the Massachusetts' market and regulatory context.

The involvement of community members and the dynamics among various stakeholders emerged as particular areas of tension surrounding 40B developments. While bringing more community members into the development process may seem desirable, the outcomes are not self-evident. In Hopkinton, some town officials expressed disappointment with the lack of public participation early on in the process, only to encounter greater opposition at a later point. Similarly, Shaw Farm Village's neighboring community members wished they had been consulted or notified of the development plans earlier in the

process. Yet, in both of these cases, community members' objections and preferences would have either prevented any development at all or (according to the developer) made the projects financially unfeasible. Engaging community members in towns like the ones this study focused on can lead to an undesirable cycle that stops housing development before it can begin. As evidenced by the Craftsman Village development in Hingham, engaging community members early may be one approach that allows for expectation-setting and alignment of different stakeholders' visions for a parcel. The outcome of these proactive and collaborative efforts are contingent on community members' openness to change. It is also important to note who is not present or represented in these conversations. The would-be residents of affordable housing do not have a seat in public meetings, while current residents who do attend often oppose the construction of affordable housing. Left to their own devices, community members in cities and towns may very well not build any affordable housing at all, exacerbating the divide.

The Commonwealth has relied on 40B to break this cycle, leveraging the allowance to bypass local zoning, which provides an incentive for developers to exert their influence on the housing market in a way that increases affordable options. In both the LIP case studies and the one non-LIP case study, developers made concessions

and adjustments based on the town's and community members' needs. However, developer's profit-motivation ultimately led to decisions that came at the cost of housing affordability. In Hingham, Affordable Housing Trust members reflected on their disappointment about the appraised value of the market-rate units in Craftsman Village. While they had hoped the six market-rate units would provide "missing middle" housing due to their design as smaller cottage-style homes, the developer insisted on building two-car garages and expanding the building footprint to meet their financial bottom line. Even engaging a developer who is also a community stakeholder, as Concord did for Shaw Farm Village, does not preclude contention and distrust of the developer's motives. Community members in Concord saw the developer's extensive relationship and connection with town government as an unfair source of influence on decisions made about the development. Across all the cases, developers held an ambivalent relationship with the town, ultimately driven by their need to maintain their bottom line, even if they supported the town's efforts to increase affordable housing. While this relationship is rational in a capitalist market, the impacts on housing affordability must be considered.

Finally, the municipal officials across the four towns illustrate a balance between proactive development of affordable housing ("the carrot") and reactive

negotiations with 40B project developers ("the stick"). In Hopkinton, the Windsor development was key to achieving the 10% threshold for housing affordability in the town. Needham's Modera similarly contributed to the town's efforts in meeting the 10% target. In both towns, community opposition was mollified by town officials reassuring community members the development would give them immunity from further state preemption. The fact that avoiding state control is a major driver for affordable housing development does not bode well for the future of affordable housing in Massachusetts. As the spatial analysis demonstrated, the single-minded approach of reaching the 10% affordability threshold may leave 40B residents disconnected and under-resourced, despite living within the boundaries of wealthy communities.

# 3 Real and Perceived Connectivity

One of the central goals of this study was to understand how connected 40B residents are to their communities. While the intended objective of Chapter 40B was to invite integrated affordable housing, the most commonly cited statistics about the statute's success focus on the quantity of housing produced, not residents' sense of inclusion or welcome. The spatial analysis portion of this study found that the 40Bs in the four featured towns fall across a range of connectivity to social infrastructure, jobs, and transit access, with Needham's 40Bs scoring the highest on average and Hopkinton's two 40B developments scoring the lowest. However, the qualitative analysis reveals a more nuanced story.

Hingham's Craftsman Village was located in a relatively well-connected parcel, highly accessible to community services and social infrastructure, half a mile from the bus stop to catch the 220 bus to Quincy and other transit options. However, the families living in the affordable homes faced a myriad of challenges with their neighbors and the broader community. Ultimately, the family interviewed felt the strongest social connection to more diverse communities outside of Hingham.

On the other hand, residents of Shaw Farm Village in Concord feel geographically isolated from the rest of town. Yet, socially, the neighbors in the cluster of homes around the site have found ways to make connections and organize for better access to the town's amenities. These lived experiences complicate the value of spatial connectivity, suggesting that proximity to critical services, resources, or amenities alone is not an assurance for the sense of inclusion or welcome.

The siting and location of Windsor at Hopkinton and Needham's Modera were largely dictated by the availability of open land for development. In Hopkinton, interviewees expressed that the remote location meant that community members would rarely see or pass by the development. On the other hand, Modera is located on a strip of land at the end of a residential neighborhood, between a major thoroughfare and a highway, where the town had previously fought off another 40B development. While one was so remotely located when it was built that its nearest neighbor was a gun club, the other is tucked against a highway and further separated by another busy street from a community that did not welcome a large apartment complex. Based on the spatial connectivity analysis, both sites are physically and socially distanced from the communities in which they are located. Neither is well-connected to transit or employment opportunities and both are isolated from other social infrastructure by

being geographically remote or cut off by major roads. While the concerns around the impact of Windsor at Hopkinton and Modera did not continue after their construction, the lack of forethought into these projects' connectivity to the rest of town points to a "check the box" mindset toward building affordable housing.

The spatial analysis and research interviews sketch a story of 40B residents' connection to their community. Some 40B residents may have easier access to the town's services and amenities than others, yet those living in the affordable homes reached through this study expressed a universal sense of disconnectedness from their communities. Other 40B projects are absent from both the hearts and minds of community members due to their physical isolation. Collectively, these observations demonstrate that while decision-making bodies are not required to consider how a 40B's location fares under the metric of connectivity as they make determinations for proposed developments, pre-planning and zoning in consideration of quality of life and access to resources can have profound social implications.

# 4 Expectations of Opportunity

Finally, a motif arose throughout conversations involving the opportunities associated with owning homes and living in towns like Hingham, Concord, Needham, and Hopkinton. In interviews, 40B residents identified educational and financial opportunities as reasons to purchase their deed-restricted homes. In Hopkinton and Needham, locals asserted that newcomers wanted to rent in their towns for access to high-quality schools. Interviewees referenced the idea of the "American Dream" and the aspiration for a lifestyle that encompasses owning a single-family home, receiving a good education, and the financial benefits that follow. While in some ways the 40Bs examined in this study have supported families in their pursuit of these goals, qualification for purchasing or renting in an affordable 40B has not guaranteed that their aspirations for a better life are achievable.

Though 40B residents of the rental homes were not reachable for this study, the conversations with 40B homeowners provide a rich set of tensions to explore. In both Craftsman Village and Shaw Farm Village, two out of the eight homes

were sold at an affordable price with deed restrictions that limited the home value from appreciating at market rate, thus limiting the amount of wealth built. Homeowners in both developments also face the challenge of paying mortgages and condominium fees that are proportionally higher percentages of their incomes than what their fellow Homeowners Association members pay toward housing. Because the incomes of households who are eligible for affordable homes are limited to 80% of AMI, their other cost of living expenses needed to participate and live in a community are disproportionately high. This reality often leaves affordable 40B homeowners' everyday expenses untenable. Families struggle to provide the same experiences and extracurricular activities as their children's peers, leading to a feeling of difference and social isolation. The situation may be further exacerbated for renters in these towns, where the average cost of rent in an affordable 40B apartment could be more than a homeowner's mortgage and condo fee. Though these 40B residents realize moving to wealthier suburban towns has been a boon to their families overall, their experiences demonstrate that 40B is not a direct or easy path to helping low- or middle-income families achieve the "American Dream."





# *Recommendations*

Informed by research findings and analysis, the recommendations below seek to further CHAPA's work to advocate for opportunity, expand access to housing, and develop the field of professionals around Chapter 40B.

## Data Collection and Reporting

- CHAPA should encourage DHCD to maintain an updated and accurate list of 40B developments across the state. The Subsidized Housing Inventory (SHI) managed by DHCD includes all housing that has received some form of state or federal subsidy, or technical assistance, and therefore includes public housing and non-40B affordable housing developments. This all-encompassing format of data management complicates analysis and advocacy by academic and non-profit stakeholders who are focused on the impacts of 40B developments—including for this study. This list should include accurate addresses, LIP designations, tenure, number of units, year approved, and year completed.
- CHAPA should urge DHCD to require monitoring agencies to collect and report aggregate demographic data, including race, for 40B developments. Demographic data will allow practitioners and scholars to better analyze the impacts of 40B with respect to policy goals. This additional level of analysis is particularly relevant in understanding outcomes in the context

of racial justice, the pandemic, and housing insecurity. Any data collection must prioritize and protect resident privacy.

## Education and Capacity Building

- CHAPA should consider building out the MEI program to support local engagement and community organizing. CHAPA's MEI program plays a unique role in changing the contentious conversation at the local level, debunking common myths, and grounding dialogues in stories and individuals' lived experience. Making the case that 40B housing is good for the town and for society could introduce a powerful concept. Work by the MEI team to unpack this zero-sum approach and self-defeating exclusionism can make way for social solidarity. This will build upon ongoing efforts within the organization to leverage story-based strategy.
- In its role as a 40B monitoring agent, CHAPA should consider providing additional training to homeowner's associations (HOAs) to foster a better

understanding of condominium fee laws, procedures, and pitfalls. This education could be supplemented with tighter protocols for condominium fees. CHAPA should support HOAs in understanding and working to prevent the conflicts that often arise between residents who are paying significantly different fee amounts, and the burdens of increasing fees on residents living in deed-restricted homes.

- CHAPA may consider exploring and advocating for mechanisms that make living in a community affordable to residents in affordable 40B homes. Additional costs of living such as transportation, daycare, clubs, and activities can be out of reach for residents at 80% of AMI, particularly in wealthy communities. One potential mechanism to explore is changing the percent of Area Median Income that makes households eligible for Chapter 40B Affordable Housing, downscaling from a regional model.
- As CHAPA incorporates racial justice into practice and elevates the production of affordable housing for low- and moderate-income residents, particularly those of color, the organization should more clearly articulate, in written materials and verbal communications, the opportunities for and limitations to equity building that are inherent in deed-restricted households for future 40B residents.

While these recommendations largely focus on the role and positionality of CHAPA as an advocacy and capacity building organizing, the research findings and analysis suggest that all practitioners, scholars, and other stakeholders expand the conversation to grapple with new questions that offer a nuanced understanding of the impact of Chapter 40B on communities in Massachusetts. This means considering not only the impact of 40B on housing affordability, but also the impact on the ability to afford to live in a community. It means considering opportunity not just as a location, but also a condition and sense of welcoming. Through these new lenses, the work to ensure that every person in Massachusetts should have a safe, healthy, and affordable place to call home can take on new meaning.



*Limitations and*  
**Future  
Research**

## Limitations of Our Research

We worked to ensure that the scope of work and work plan maximized the limited time available to complete this ambitious research. However, the short schedule impacted some key areas of research. First, we chose to limit research to focus on four developments. With more time, studying a larger sample of sites would yield a better representation of the many types of projects and communities in Massachusetts, and would allow for systematic analysis of more criteria. Similarly, our capacity for interviewing stakeholders was curtailed by the scope, and more time would have afforded us the ability to engage with a broader range of community members and municipal officials and validate statements or claims from interlocutors within each case study.

In particular, we encountered certain challenges interviewing residents living in affordable homes in 40B developments. Ideally, we would have gleaned information and knowledge from a larger sample of 40B residents from more communities and housing developments, through methods that might include a survey or focus groups. This more extensive approach was limited by time, resources, and the COVID-19 pandemic, which impeded the potential for in-person fieldwork and the ability to conduct interviews through convenience sampling. Due to 40B residents' income status, we compensated residents who participated in the study. CHAPA agreed to provide this project with funding for compensation, without which appropriate research with vulnerable populations would not be possible, particularly at a larger scale.

At the same time, the virtual nature of research enhanced our capacity to conduct interviews. Conversations with interlocutors conducted through Zoom or over phone eliminated travel time otherwise associated with primary research across a geographic area. As a result, we could more easily conduct interviews together and in close succession. Nonetheless, it is important to highlight that accessibility and availability of internet connectivity is not equitably distributed. Virtual meetings spaces can be unfamiliar, uncomfortable, and introduce new challenges to interlocutors.

As addressed in the recommendations provided above, general data availability limited the extent of the research and analysis. For example, with more complete data around the demographics of 40B projects, we could have conducted a more robust analysis of socioeconomic and demographic change in communities before and after a 40B development has been completed and occupied for a period of time. Additionally, data we received from DHCD's inventory of 40B developments contained errors and omissions, confounding the criteria in the site selection process and spatial analysis we conducted. Further, the availability of meeting minutes for relevant municipal committees and boards varied across communities. In communities where minutes were not recorded, detailed, or available, we relied upon interviews and secondary resources. Finally, quantitative analysis of changes in factors such as traffic and school enrollment was limited by data availability.

## Gaps in 40B Research at Large

We heard from several key informants that the 2009 UEP Field Projects report "On the Ground: 40B Projects Before and After" not only proved to be a key resource for CHAPA, but has been cited by other professionals in the field. In our review of the literature, we did not find any other systematic studies of community changes before and after 40B developments were built and occupied, pointing to a clear gap in the research that this project helps to fill. In particular, while data can be found and measured for quantitative factors, such as traffic or school enrollment, there is a dearth of attention paid to more subjective concerns. Our third research question about how connected 40B residents are to their community attempted to examine less measurable but often-heard concerns from residents around their ability to fit into the towns they live in. In addition, as outlined in Appendix G: Mapping Methodology, we hoped to fill a gap in the literature pertaining to spatial analysis, including a state map showing where 40B developments are located and further analysis on the policy's effectiveness at its stated goal of creating inclusive and affordable housing.

## Suggested Future Research

Based on the limitations and gaps outlined above, there is a need for a more extensive, in-depth study of the effectiveness of 40B as a policy, as well as how it fits into the broader landscape of affordable housing.

### What Makes Chapter 40B Work?

There are a multitude of threads that researchers can follow when it comes to examining facets of Chapter 40B. This study sought to highlight practices and principles that led the four featured case studies to success. A more comprehensive study of 40Bs across the state would be required to develop generalizable best practices. Additionally, there are factors to the success of 40Bs that the authors considered but did not pursue in this research, including:

- Are there differences in public attitude and support for 40B in communities with local housing production plans or master plans?
- Are certain strategies from developers, municipal officials, or community members more effective in assuaging and addressing the root of residents' concerns?
- What are the key evaluation criteria to consider when assessing the success of a 40B development?

### **How Effective is 40B?**

Little analysis has been conducted on the effectiveness of Chapter 40B at achieving its stated policy goals. On the one hand, scholars laud the effectiveness of Chapter 40B in the production of much-needed housing, while others decry the law for stripping local governments of the ability to regulate land uses through local zoning. Additionally, while the statute was enacted to address the harm of exclusionary housing policies on people of color, research on Chapter 40B's effectiveness at creating equitable housing opportunities across the Commonwealth has not been measured.

A thorough investigation of Chapter 40B's effectiveness should assess how much truly affordable housing has been created through the statute, with non-housing cost of living included for consideration. An additional study may evaluate the racial equity promise of Chapter 40B, analyzing the extent to which Chapter 40B has created housing that is accessible and affordable to people of color who have historically been excluded from affluent neighborhoods. These investigations would be guided by the intended purpose of Chapter 40B to expand access to safe and affordable homes for low- and moderate-income residents of Massachusetts, and would aim to critically assess the statute as one of many tools to make housing more affordable.

In order to build upon our third research question about how 40B residents are connected to the community, future research efforts could include a longitudinal research study with residents living in affordable homes in Chapter 40B buildings to explore long-term outcomes, including whether residents feel welcomed and integrated into the community. Just as this study combined qualitative and quantitative data to explore the question of resident's connectivity, so should any future study. However, the dearth of existing research on the lived experience of Chapter 40B residents and lack of focus on what happens after residents are housed makes the qualitative research and storytelling component key to any future research.

### **How Does Chapter 40B Fit Into the Broader Affordable Housing Landscape?**

Finally, further investigation is necessary into how exclusionary zoning regulations complicate or contradict the proliferation of affordable housing and how Chapter 40B fits into combating exclusion. Single-family-only residential zoning, the absence of multi-family zoning districts, and large minimum lot size requirements in many Massachusetts towns constrain the availability of land for housing development and limit housing types to single-family houses and townhouses on the one hand and large apartment

buildings on the other. Such a study should also evaluate local regulations that go above and beyond state environmental regulations in environmental or coastal overlays, floodplains, or wetlands protection. This inquiry could be leveraged to reclaim zoning as a practice that can acknowledge injury from racism and classism and create healing.

# Conclusion

Many states look to Massachusetts as a leader in the production of affordable housing, and much of this renown is thanks to Chapter 40B. Despite the roadblocks levied against it by community members and town officials who oppose development, Chapter 40B has generated an impressive stock of affordable housing in the Commonwealth—nearly 20,000 affordable homes, according to DHCD. However, just as oppression and inequality evolve, so too should the policies and regulations aimed at dismantling them. We hope to have moved forward the conversation about 40B and how it contributes to affordable housing in Massachusetts, yet there is much more to be done.

Each 40B development is unique, as our four case studies illustrate, with varied community concerns, stakeholder dynamics, and outcomes. While homes in Craftsman Village in Hingham and Shaw Farm Village in Concord were sold for home ownership, Needham's Modera and Windsor at Hopkinton are rentals. The case studies also include three Chapter 40Bs built through the Local Initiative Program (LIP), also known as friendly 40Bs, while Modera experienced greater opposition without the LIP stamp of approval. From Craftsman Village and Shaw Farm Village's 8 market-rate homes with 2 affordable homes to Modera's 136 apartments and Windsor at Hopkinton's 280 homes, the developments ranged vastly in size. Still, the four case studies featured in this study only represent a small portion of the variety of housing built across the state through 40B.

Complex and intertwined themes run through the development experiences of all four case studies. The push-and-pull of different stakeholders' priorities throughout the 40B development process

complicates the statute's effectiveness at creating truly affordable housing. Often, the community stakeholders who do engage, whether proponents of affordable housing or not, oppose developments based on a deeply human aversion to change, blocking developments from being built or significantly slowing down the process. The concerns raised throughout the development process were not always addressed; yet once a development was complete, community members became accustomed to and accepted the change. Even when Chapter 40B developments are built and occupied, the degree of connectivity between residents and their communities varies, from geographic isolation to being socially set apart from neighbors. In many ways, Chapter 40B's promise of welcoming, integrated, and affordable housing is still a dream unfulfilled for families who qualify for affordable housing but struggle with the increased cost of living in wealthier towns.

While this study has contributed to the discourse on Chapter 40B and incorporated new voices into the conversation, continued research on the implementation, impact, and effectiveness of the statute is necessary. Initiatives to support those applying for and living in affordable housing are starting to emerge. Scholarship on Chapter 40B's efficacy and the lived experience of residents can shine a light on where and how such projects might be most effective. In the year during which this report was written, a racial justice reckoning has heightened the urgency of providing affordable housing as a right to all. While systemic change is needed to rectify the history of harm perpetuated through exclusionary zoning and racialized housing discrimination, we hope to have illuminated how Chapter 40B has and can continue to play a role in this progress.

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# *Appendix*

## Appendix A: Annotated Bibliography

Bratt, Rachel G., and Abigail Vladeck. "Addressing Restrictive Zoning for Affordable Housing: Experiences in Four States." *Housing Policy Debate* 24, no. 3 (July 3, 2014): 594–636. <https://doi.org/10.1080/10511482.2014.886279>.

State-mandated goals or policies have been critical components to the proliferation of affordable housing homes in an exclusionary local regulatory environment. Nonetheless, the pace has been slow and the impacts are complex.

Brown, Halina Szejnwald. "How Newton Bridged the Housing Divide." *CommonWealth Magazine*, May 10, 2020. <https://commonwealthmagazine.org/housing/how-newton-bridged-the-housing-divide/>.

Story of fierce confrontation in Newton to successfully pass a large development project (including more than 800 homes) in a citywide referendum. While this was not a 40B project, proponents represented a wide range of interests including the developer, local activists, and most of Newton's civic organizations.

Einstein, Katherine Levine, David M. Glick, and Maxwell Palmer. *Neighborhood Defenders: Participatory Politics and America's Housing Crisis*. Cambridge: Cambridge University Press, 2019. <https://doi.org/10.1017/9781108769495>.

An investigation of how local participatory land use institutions amplify the power of entrenched interests and privileged homeowners. Meeting commenters are significantly more likely than voters to be older, homeowners, men, and White. (Disparities would be even stronger if comparing commenters to the general public, not to voters). This is true in all communities, even disadvantaged ones. 63% of meeting commenters were opposed to the construction of new housing (affordable and market rate). In every community, support among voters for Chapter 40B exceeded support among meeting commenters for specific housing developments.

Einstein, Katherine Levine. "The Privileged Few: How Exclusionary Zoning Amplifies the Advantaged and Blocks New Housing—and What We Can Do About It." *Urban Affairs Review* 57, no. 1 (January 1, 2021): 252–68. <https://doi.org/10.1177/1078087419884644>.

In this response to "Rethinking Exclusionary Zoning" (Imbroscio, 2019), Einstein outlines the political harms wrought by exclusionary zoning (EZ) and that anti-EZ players want fair and equitable land use (not the elimination of all regulations) as part of a broader housing agenda to increase the supply of housing in places that need it.

Enterprise Community Partners. 2014. "Impact of Affordable Housing on Families and Communities: A Review of the Evidence Base". <https://www.enterprisecommunity.org/download?fid=3335&nid=4547>

This report summarizes the positive impact that affordable housing can have on communities in nine areas, including education, health, transportation, and seniors. It includes data to support their claims in each of these areas. Regarding 'neighborhood quality,' it claims that affordable housing contributes to "neighborhood vitality" in that it either increases or has no impact on local income, sales, jobs, and property values.

Flores, Micah. "Inspector General Cites Waste, Fraud and Abuse in 40B." *Wicked Local*, October 9, 2009. <https://www.wickedlocal.com/article/20091009/NEWS/310099723>.

Prior to the failed repeal effort of 40B, critics of the policy focused on state preemption of local land use plans. An additional, yet less central criticism of the policy, highlighted abuse of the policy on the part of developers that take advantage of the ability to bypass local zoning and manipulate the purchase process to turn a significant profit.

Hananel, Ravit. "Can Centralization, Decentralization and Welfare Go Together? The Case of Massachusetts Affordable Housing Policy (Ch. 40B)." *Urban Studies* 51, no. 12 (September 1, 2014): 2487–2502. <https://doi.org/10.1177/0042098013512877>.

This paper examines how the implementation of 40B has evolved since 1969 through the lens of centralization and decentralization — or, the changes to the law that gave local authorities more input in 40B (1989). Surprisingly, with more decentralization (more local government power), more Comprehensive Permit applications were approved by local ZBAs. Alongside this increase in local control, there has been a shift in the types of housing produced through 40B: A larger share of the housing produced is moderate-income, reflecting an underlying assumption that some families are more "deserving" than others (young families priced out of the housing market vs. low-income Black and Latinx families).

Imbroscio, David. "Rethinking Exclusionary Zoning or: How I Stopped Worrying and Learned to Love It." *Urban Affairs Review* 57, no. 1 (January 1, 2021): 214–51. <https://doi.org/10.1177/1078087419879762>.

Claims that the effort to curtail Exclusionary Zoning (EZ) embraces neoliberalism and skepticism for the power of grassroots movements, which gives rise to adverse sociopolitical outcomes, including an even greater degree of racialized harm upon the disadvantaged.

Kauppila, Will. "Town Residents Clash with Developers over Chapter 40B Housing Law." *Pioneer Institute*, August 5, 2016. <https://pioneerinstitute.org/blog/town-residents-clash-developers-chapter-40b-housing-law/>.

A line has been drawn between developers looking to build large new developments and town residents who want to prevent new construction. Common criticisms of developers assume they are just seeking to supersede local zoning laws, they are providing some homes at below-market price in

order to circumvent the legislation and drive down construction costs, they are using 40B as a cover to reap profits from projects that primarily cater to higher-income demographics, and that new development will increase traffic congestion, noise and pollution.

Jaffe, Seth. "Score One For Affordable Housing: Chapter 40B Trumps Vague Local Environmental Concerns." *Law and Environment*, September 16, 2011. <https://www.lawandenvironment.com/2011/09/16/score-one-for-affordable-housing-chapter-40b-trumps-vague-local-environmental-concerns/>.

This article discusses the Zoning Boards of Appeal of Holliston vs. Housing Appeals Committee case, in which the ZBA denied a Comprehensive Permit under Chapter 40B for "vague environmental concerns" pertaining to wetland and stormwater protection. The judge ruled that the ZBA review is limited to local concerns and therefore doesn't have the jurisdiction to view remedial plans, as that is a state level concern.

Olson, Kris. "Town Must Pay Fees over 40B Opposition." *Massachusetts Lawyers Weekly*, December 28, 2017. <https://masslawyersweekly.com/2017/12/28/town-must-pay-attorneys-fees-over-opposition-to-40b-development/>.

The Town of Sudbury was forced to pay a developer's legal fees for wrongfully suing the developer over a controversial 40B development. Judge Speicher ruled that 40B does allow cities and towns to modify projected 40B developments or deny all together if there is a legitimate local concern, such as safety, but it cannot stop a 40B project simply because it isn't popular.

Scally, Corianne Payton, and J. Rosie Tighe. "Democracy in Action?: NIMBY as Impediment to Equitable Affordable Housing Siting." *Housing Studies* 30, no. 5 (July 4, 2015): 749–69. <https://doi.org/10.1080/02673037.2015.1013093>.

Authors interviewed and surveyed developers in New York to understand opposition to affordable housing development projects, including who, how,

when, and how opposition can be overcome. Developers said they faced more opposition in urban communities, for rental developments, and for proposals that would bring low-income people near existing residences. The most common reasons for community opposition were safety and crime, tax burdens, traffic concerns, school impacts, and environmental impacts. The most frequent outlets for opposition were news media, information campaigns, and web-based forums. The most frequent negative outcome of opposition was construction delays. The most effective strategies developers used to counter opposition were informal meetings with community leaders, informal public information sessions, and formal public hearings.

Schuetz, Ingrid Ellen, Erin Graves, Katherine O'Regan, and Jenny. "Strategies for Increasing Affordable Housing amid the COVID-19 Economic Crisis." *Brookings*, June 8, 2020. <https://www.brookings.edu/research/strategies-for-increasing-affordable-housing-amid-the-covid-19-economic-crisis/>.

To prevent future pandemics and natural disasters from putting as much of a strain on housing, recommends three goals: (1) Increase the amount of long-term affordable rental housing, especially in high-opportunity communities. (2) Protect existing affordable rental housing from physical deterioration and financial insecurity. (3) Support affordable housing projects currently in the pipeline that face financial obstacles due to the pandemic.

Sullivan, Colleen M. "40B Vote Both Heartens And Hardens." *Banker & Tradesman*, November 8, 2010. [https://www.riemerlaw.com/wp-content/uploads/2019/10/110810\\_vaughan\\_408-vote-both-heartens-and-hardens\\_banker-and-tradesman.pdf](https://www.riemerlaw.com/wp-content/uploads/2019/10/110810_vaughan_408-vote-both-heartens-and-hardens_banker-and-tradesman.pdf).

Following the vote upholding 40B, this article reflects on the arguments in support of and opposition to the policy. Summarizes common themes among opposition to include the power given to developers to steamroll local density or zoning restrictions. Advocates respond by saying that it is an effective tool at incentivizing developers to produce affordable housing in NIMBY suburbs.

Witten, Jonathan Douglas. "The Cost of Developing Affordable Housing: At What Price?" *Environmental Affairs* 30 (January 1, 2003): 47.

While all states grapple with affordable housing crises, those looking for a solution should not turn to Massachusetts. Massachusetts creates more issues than it solves at the local level by "cram down" state mandates. Others should instead find inspiration from planned states that distributed burdens across the public and private sector through inclusionary zoning and impact fees. "One size does not fit all."

Witten, Jonathan. "Adult Supervision Required: The Commonwealth of Massachusetts's Reckless Adventures with Affordable Housing and the Anti-Snob Zoning Act." *Environmental Affairs* 35 (January 1, 2008): 43.

In non-planned states, state-preemption is regressive in stripping local governments of the ability to regulate desirable and undesirable land uses through local zoning.

## Appendix B: *Literature Review Methodology*

We explored the following questions in the initial literature review phase:

1. How has the COVID-19 pandemic altered or affected the trajectory of the housing crisis and housing disparities in Massachusetts?
2. What other analyses (quantitative, qualitative, or spatial) have been completed around 40B?
3. How has Massachusetts addressed the affordable housing crisis through state or local policy (besides 40B)?
4. What are the common criticisms of 40B? How do proponents respond?
5. What factors lead to positive results in local/community decision making processes? Failure?
6. What are the common criticisms or concerns that neighborhoods express about building affordable housing? Specific pushback to 40B developments?

To address each of the literature review questions, we investigated both peer-reviewed articles and grey literature on Chapter 40B housing in Massachusetts. Additionally, we conducted initial conversations with key informants in support of and in critique of Chapter 40B as a regulatory instrument for producing affordable housing in Massachusetts. Key informants engage with Chapter 40B as scholars and practitioners, each offering additional insights into the design and impact of the controversial policy.

The initial research phase included familiarization with the project partner, CHAPA, and the role of CHAPA's Municipal Engagement Initiative (MEI) team. We sought to understand how this report could fill the MEI team's and CHAPA's programmatic needs. Findings from the literature review and conversations with the CHAPA and MEI teams can be found in the Literature Review section.

## Appendix C: Case Study Research Process

Our process began with background research into each selected site to gather demographic data, note key stakeholders, and identify initial controversies or narratives. Background research not only built our knowledge base regarding each site, but also informed development of nuanced interview questions.

To further ensure standardization across selected sites, we adhered to a detailed, iterative, Interview Protocol (Appendix E). The Interview Protocol built upon the methods by establishing sampling guidelines for the number of interviews to be completed by stakeholder type, with key research questions in mind. Sampling guidelines are as follows:

- Key Stakeholders (*estimated number of interviews for each site in parentheses*)
  - Municipal official (1)
  - Developer/Project Consultant (1)
  - ZBA member (and other volunteer committees as applicable) (1)
  - Community member in opposition to the project (2)
  - 40B development resident (2)
- Overall: Scholar (3)

We leveraged contacts shared by the CHAPA team, background research on selected sites, and the snowball method to identify interviewees. Outreach and scheduling templates included in the Interview Protocol document assisted team members in external communication and ensure consistency in how the research project is described or introduced to interviewees. Recognizing that the selected case studies were approved and built several years ago, we also developed summary documents for interlocutors with key project dates, statistics, and links.

Additionally, we created an Interview Guide (Appendix D) for uniformity across

interviews, adherence to IRB protocols, and to ensure that conversations drive towards answering key research questions. The Interview Guide includes sub-sections for each key stakeholder. Each subsection reiterates what can be gleaned from the key stakeholder, followed by a call structure. The call structure includes (1) an opening with the explanation of research and IRB consent, followed by (2) introductory questions, (3) project-specific questions tailored to the key stakeholder's positionality, and (4) concluding questions to guide further research. We also incorporated follow-up questions, clarifying questions, or thematic questions as appropriate into conversation with interlocutors.

Throughout the research process, we upheld agreed-upon principles. First, we shared a commitment to serving as impartial researchers. We made decisions independently, incorporating input from the CHAPA team so long as it did not jeopardize the unbiased and rigorous methodology. Further, we provided compensation to 40B residents for their time and contributions to the research process. This was a central tenet for us in proceeding with this aspect of the research, as 40B affordable homes are reserved for residents who earn less than 80% of the area median household income, with most earning less than \$50,000 per year.<sup>1</sup> Listening to and incorporating the lived experiences of 40B residents in affordable households has become increasingly critical to research. Compensation was provided in the form of twenty-five dollar Visa gift cards. It is worth noting that a gift card is not a fair exchange for labor. However, we recognized that gift cards would be the most logistically feasible way of compensating residents of affordable 40B homes for their time. Compensation was not provided to other interlocutors.

### Recruiting 40B Residents

We sought to interview residents of the four 40B affordable housing developments

chosen for this study. Residents who live in affordable homes within the development offer a unique perspective and lived experience that made the researchers' understanding of how connected residents are to the community more robust. To recruit residents, the team employed the strategies outlined below, listed in highest to lowest priority.

### **1. Networking with the CHAPA MEI Team**

We leveraged the connections and relationships that the CHAPA MEI team has built throughout the course of their work organizing in communities. We reached out to the MEI team to inform them of the projects chosen and asked for the contact information for any connections or relationships that they have in that town or at the development. Once provided, we reached out to those connections and asked for the contact information of any 40B residents that the connection has a relationship with.

### **2. Posting on Online Forums**

In order to find online forums to post on, we completed an online search. Key online forums used by town residents included platforms such as Facebook and NextDoor. When this methodology was employed, case study leads either contacted the administrator of the forum or if possible, directly posted to the forum to explain the research that was being conducted and the residents that we were hoping to speak to, including the compensation plan. The template for the post is below.

*"I am conducting research on 40B housing developments and would like to interview current and former residents of (name of project). Interviewees will be compensated with a gift card. Please send me a message if you are interested."*

We shared more information about the study for those who respond with interest.

### **3. Direct Mail**

We also used direct mail to contact residents in the affordable households in home ownership developments. Our team created a template letter that informed residents of the research that we were conducting, the interviews that we were hoping to host, and the compensation plan. Addresses of affordable homeownership households were obtained through publicly available tax assessor's databases.

### **4. Connecting with Resident Services Coordinators**

As crucial resources for affordable housing residents, resident service coordinators (RSCs) often have contact information for residents. As deemed applicable, we reached out to the property managers of the developments to ask for the contact information of the resident services coordinators and then emailed the RSCs directly, informing them of the research, the interviews that we hoped to conduct, and the compensation plan.

### **5. Snowballing**

At the end of appropriate interviews, we solicited advice for reaching out to 40B residents of affordable households. This snowballing led to outreach by the interlocutor to residents with whom they had personal or professional relationships. In each instance, we considered power dynamics amidst an expedited research timeline.

## Appendix D: Interview Guide

### Municipal Staff (Town Planner and/or Town Manager)

#### *Purpose*

- Situate the project within the context of the local community, infrastructure, services, economy, and environment (before and after)
- Investigate municipal staff experience with the proposed project prior to approval (review, public hearings, community outreach, decision)
- Assess changes to the community following occupancy of the proposed project
- Gain access to any project documents that might not be available online

#### *Call Structure*

##### Opening

- Around the call intros - names, roles
- Housekeeping: We have this call scheduled for the next 45 mins. Does this time still work for you?
- Explanation of our research study
- IRB Disclosure and informed consent (sent prior to the call)
- Reviewing the agenda for the call. Anything you would like to add

##### Introductory Questions

1. How long have you worked for [Town]?
2. In your role, how does your work intersect with 40B projects?

##### Project Specific Questions

1. How would you describe the review and hearing process for [project name]?
2. What expectations did community staff and community members have for [project name]?

##### 3. What concerns did you hear:

- a. From staff? (And what were your concerns, if any?)
  - b. From community members? Were they organized?
4. Did you have a community engagement strategy? And if so, how did the town engage with and educate community members about the proposed project?
  5. What staff and resource capacity did the town have to engage in the design review process and improve the final outcomes with the developer?
  6. How did the final project match expectations and concerns?
  7. How are [development] residents integrating with the community?
  8. How has the community changed X years after the project was completed?
  9. Do you think creating a housing production plan or a master plan would help address public opposition? (If the city/town has one, ask if this helped at all)

##### Conclusion

- Is there anyone else you would recommend we speak with? Do you have ideas about how we might connect with 40B residents?
- Do you have any additional questions for us or anything else to add?
- If we include any of the information we gathered from this interview in our report, we will send them the section for review and they'll have 7 days to give comments and if they don't give comments within 7 days it will be assumed that we are good to go.
- Thank you for your time! Can we follow up with you if we have further questions?

## Developer

### *Purpose*

- Explore the dynamic between the developer, the community, and the municipality
- Understand how the proposed project evolved through the development and review process
- Identify key points of tension or opposition between the community and the developer
- Gain access to any project documents that might not be available online

### *Call Structure*

#### Opening

- Around the call intros - names, roles
- Housekeeping: We have this call scheduled for the next 45 mins. Does this time still work for you?
- Explanation of our research study
- IRB Disclosure and informed consent
- Reviewing the agenda for the call. Anything you would like to add?

#### Introductory Questions

1. Tell us a little about your development portfolio.
2. How many 40B projects have you worked on and where? Any others in [Town]?

#### Project Specific Questions

1. In your own words, what were you hoping to develop with [development name]?
2. Can you describe your relationship with community members during the review process?
3. Can you describe your relationship with municipal staff during the review process?
4. During the review process what areas of concern were raised by staff and or community members?

#### a. Follow-up with prompts:

- i. Environmental impact
- ii. Sewer/stormwater impact
- iii. Traffic impact
- iv. Pedestrian safety
- v. Design/aesthetic
- vi. Burden on schools
- vii. Burden on municipal services
- viii. Neighborhood character
- ix. Inconsistency with city planning

5. How did you address, negotiate, or disregard these concerns?

6. What role did additional consultants or experts play in the design review process?

7. How did the project change from initial determination of project eligibility through approval?

8. Was project approval appealed or stalled?

a. By whom?

b. Why?

c. How was it resolved?

9. How did this project compare to other 40B developments you have led?

#### Conclusion

- Is there anyone else you would recommend we speak with?
- Are there any residents you can connect us with?
- Do you have any additional questions for us or anything else to add?
- If we include any of the information we gathered from this interview in our report, we will send them the section for review and they'll have 7 days to give comments and if they don't give comments within 7 days it will be assumed that we are good to go
- Thank you for your time! Can we follow up with you if we have further questions?

## ZBA Member

### *Purpose*

- Identify common concerns voiced before ZBA in reviewing a 40B development project
- Understand if/how concerns addressed, negotiated, or heard through the ZBA
- Assess changes to the community following occupancy of the proposed project

### *Call Structure*

#### Opening

- Around the call intros - names, roles
- Housekeeping:
  - We have this call scheduled for the next 45 mins. Does this time still work for you?
- Explanation of our research study
- IRB Disclosure (need more info)
  - Informed consent
- Reviewing the agenda for the call. Anything you would like to add?

#### Introductory Questions

1. How long have you lived in [Town]?
2. How long have you been on the ZBA?
3. What made you join the ZBA?

#### Project Specific Questions

1. In your own words, how would you describe the community's reaction to the proposed project?
2. What concerns did you hear:

- a. From staff? (And what were your concerns, if any?)
  - b. From legal counsel?
  - c. From community members? Were they organized?
3. How were concerns addressed, negotiated, or heard through the Comprehensive Permit process or the Housing Appeals Committee?
  4. How did the final project match expectations and concerns?
  5. How are [development] residents integrating with the community?
  6. How has the community changed X years after the project was completed?
    - a. As a result of the project?
    - b. In general?
  7. Do you think creating a housing production plan or a master plan would help address public opposition? (If the city/town has one, ask if this helped at all)

#### Conclusion

- Is there anyone else you would recommend we speak with?
- Do you have any additional questions for us or anything else to add?
- If we include any of the information we gathered from this interview in our report, we will send them the section for review and they'll have 7 days to give comments and if they don't give comments within 7 days it will be assumed that we are good to go
- Thank you for your time! Can we follow up with you if we have further questions?

## Community Member in Opposition to the Project

### *Purpose*

- Hear concerns about proposed 40B development project
- Understand tactics and trigger points for vocalizing opposition to 40B development
- Assess whether concerns came to fruition after completion of the project

### *Call Structure*

#### Opening

- Around the call intros - names, roles
- Housekeeping:
  - We have this call scheduled for the next 45 mins. Does this time still work for you?
- Explanation of our research study
- IRB Disclosure (need more info)
  - Informed consent
- Reviewing the agenda for the call. Anything you would like to add?

#### Introductory Questions

1. How long have you lived in [town]?
2. What do you enjoy about living in [town]?
3. How would you describe [town]?

#### Project Specific Questions

1. What were your major concerns regarding the proposed project?
2. How did you organize in opposition to the proposed project?
3. What key messages did you get out into the community?
4. Do you support access to affordable housing broadly?
5. How were you engaged or involved in the review processes or public hearings?
6. Have your concerns been realized X years after the project was completed?
7. How has the community changed X years after the project was completed?
8. How would you respond to criticism that fighting against affordable housing projects excludes low-income people, essential workers, or people of color from living in your community?
9. How open are you to additional affordable housing units or developments in town?

#### Conclusion

- Is there anyone else you would recommend we speak with?
- Do you have anything else to add or additional questions for us?
- If we include any of the information we gathered from this interview in our report, we will send them the section for review and they'll have 7 days to give comments and if they don't give comments within 7 days it will be assumed that we are good to go
- Thank you for your time! Can we follow up with you if we have further questions?

## 40B Development Affordable Housing Resident

### *Purpose*

- Hear how residents are experiencing life in the community
- Identify challenges of living in the 40B development
- Identify opportunities afforded through residence in the 40B development

### *Call Structure*

#### Opening

- Around the call intros - names, roles
- Housekeeping:
  - We have this call scheduled for the next 45 mins. Does this time still work for you?
- Explanation of our research study
- IRB Disclosure
  - Informed consent
- Reviewing the agenda for the call. Anything you would like to add?

#### Introductory Questions

1. How long have you lived in [town]?
2. Why did you decide to live in [town]?
3. What do you enjoy about living in [town]?

4. How would you describe [town]?

#### Project Specific Questions

5. Why did you decide to live here?
6. Do you feel welcomed into the broader community?
7. How do you feel a part of the community?
8. What anticipated or unforeseen challenges did you encounter along the way?
9. What new opportunities has this living situation introduced?

#### Conclusion

- Is there anyone else you would recommend we speak with?
- Do you have anything else to add or additional questions for us?
- Share how they will receive Visa gift card
- If we include any of the information we gathered from this interview in our report, we will send them the section for review and they'll have 7 days to give comments and if they don't give comments within 7 days it will be assumed that we are good to go
- Thank you for your time! Can we follow up with you if we have further questions?

## Appendix E: Interview Protocol

### Scheduling Interviews

- Case Study Lead manages all communications, scheduling, and agenda writing:
  - Sends two-week when2meet (can be used for all interviews scheduled over those two weeks)
  - Owns all communications with the interviewee
  - Shares with interviewee times that work for *3 out of 5 people* on the team
  - Researches interviewee to tailor interview guide and share with team at least 24 hours prior to the call
    - Pre-research may include: How close is this town to reaching the 10% threshold? Does the town have a HPP?
  - Sends interview guide/key questions in confirmation email 24-hours prior to the call
    - E.g., I am writing to confirm we'll be speaking tomorrow at X:XXam/pm. I am looping in my colleagues [name] and [name] who will be joining us on the call. I am also attaching/copying below some of the key questions we're interested in discussing with you tomorrow.
- All other team members sign up for interview roles in the Case Studies tab of the Rotating meeting sign-ups Google Sheet and review all relevant documents (agenda, background research, etc.) prior to the interview

### Conducting the Interview

- Case Study Lead serves as Facilitator 1
- Facilitator 1 kicks off the call, checking for IRB consent, timing, overview of our study, and why we want to interview this person
- Facilitator 1 and 2 proceed through interview guide questions
- Facilitator 1 closes the call (thank you and can you recommend anyone else to speak with?)
- Notetaker takes notes throughout - can ask Qs, though may be hard to multitask and 3:1 could feel like a lot of voices

### Interview Questions

- Iterations every ~1-2 weeks or as research progresses
- Light research on interviewee prior to call (Google, LinkedIn, publications) to tailor interview guide for the individual

### Interview Follow-Up

- Notetaker summarizes the notes and identifies themes + sends to team when completed
- Adds additional possible interviewees to tracker and to-dos to relevant meeting agendas/documents
- Case Study Lead sends follow-up thank you note to interviewee within ~24 hours
- Additional steps to come as the research process clarifies (e.g., integration into case studies, thematic analysis)

Call Outreach email template:

“Dear [interviewee],

I am working on a research project to evaluate communities’ reactions to 40B developments and whether concerns and fears are realized once projects are completed. This project is being sponsored by CHAPA (Citizens Housing and Planning Association). We’d like to conduct a one-on-one interview with you over phone/video call to learn more about your experiences with the Chapter 40B development that you have a relation to and ask for your reflections on how your response has changed to said development before and after the completion of the project. You are one of 30 to 40 key informants who we would like to interview. The interview will be open-ended, guided by a series of open-ended questions and is expected to last 30 to 60 minutes.

Additional information is provided in the attached Interview Consent Form [or will be emailed to you after our conversation].

Please let us know if you are willing to be interviewed and then we’ll set up a time and place. Thank you for your time and considering our request.

Sincerely,

Allison McIntyre

Gloria Huangpu

Louisa Gag

Lucy Perkins

Madeleine Kelly

## Appendix F: *List of Case Study Interviewees*

The case study research process relied primarily on information provided by key stakeholders for each project. Below is a list of individuals interviewed for each case study and for background information. Several interlocutors who chose to not be quoted or identified are not listed below.

### **The Windsor at Hopkinton, Hopkinton**

Mark Allen, Civil Engineer, President and Owner of Allen Engineering & Associates

Carol Cavanaugh, Superintendent of Hopkinton Public School System

Bob Draper, President of The Sportsmen's Association

John Gelcich, Town Planner

Elaine Lazarus, Town Manager

Rory Warren, ZBA Member

Ken Weismantel, Former Chair, Planning Board

### **Moderata, Needham**

Robb Hewitt, Former Mill Creek Director of Development

Jeanne McKnight, Planning Board

Sheila Page, Former Administrative Specialist, Zoning Board of Appeals

Christian Regnier, Attorney at Goulston & Storrs

John Schneider, Chairman of the Zoning Board of Appeals

Karen Sunnarborg, Housing and Planning Consultant

### **Shaw Farm Village, Concord**

Dave Fisher, Former Member, Zoning Board of Appeals

A.H., Resident

Jack McBride, Developer, Abode Builders

Marcia Rasmussen, Director of Planning and Land Management, Town of Concord

Liz Rust, Housing Professional, Regional Housing Services Office

Leslie Svilokos, Former Abutter

### **Craftsman Village, Hingham**

John Chessia, Civil Engineer, Owner of Chessia Consulting Services, LLC

Joseph Fisher, Former Chair, Zoning Board of Appeals

K.N., Resident

Mark O'Hagan, Developer, Weston Development Group

Mario Romania Jr., Abutter and Member, Zoning Board of Appeals

Vcevy Strelakovsky, Architect, Strelakovsky Architect

Lynne Sweet, Real Estate Consultant, Founder and Principal of LDS Consulting Group

Emily Wentworth, Senior Planner, Town of Hingham

Tim White, Chair, Hingham Affordable Housing Trust

## Appendix G: Mapping Methodology

The steps and figures below showcase how we selected the four projects for our case studies.

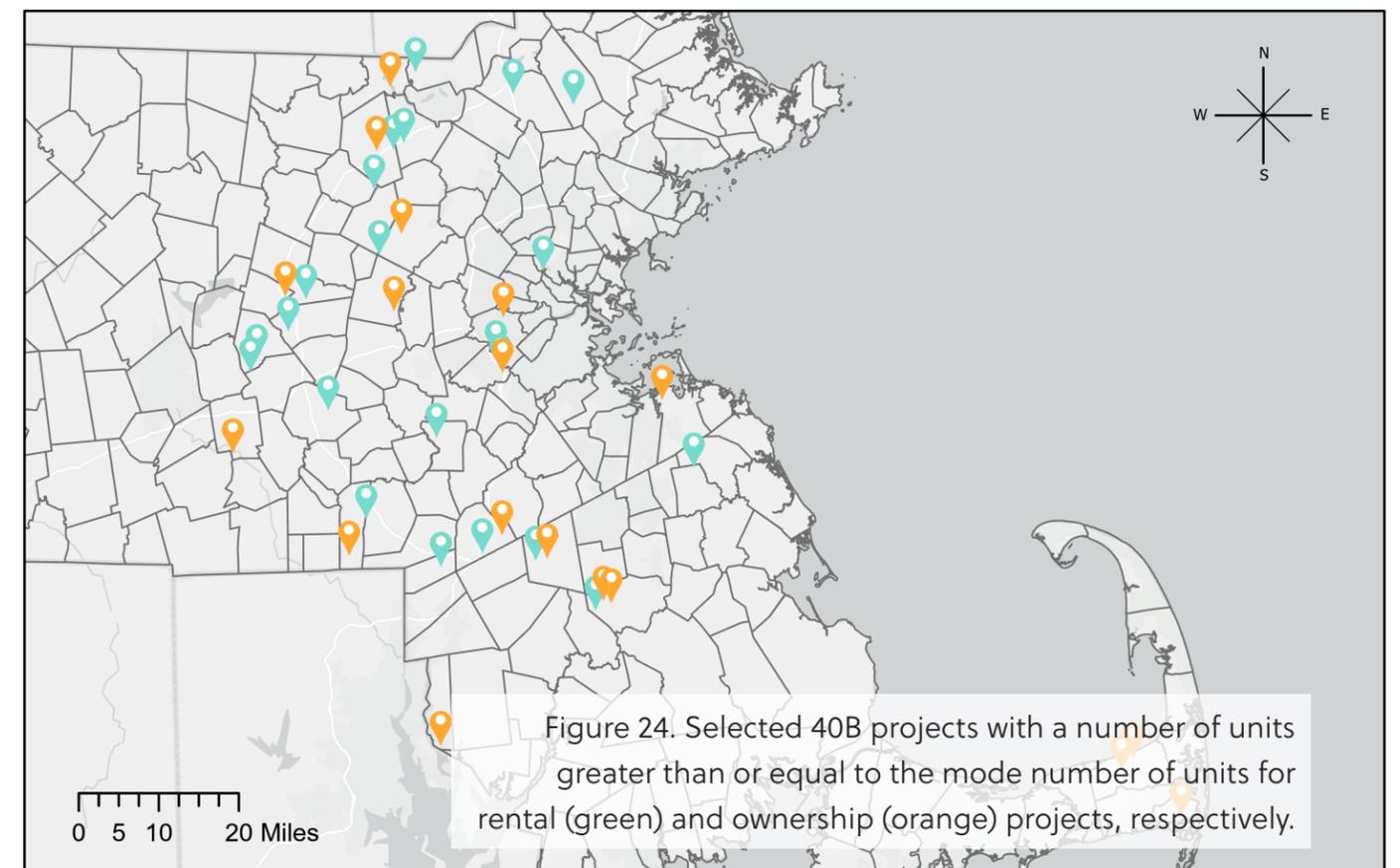
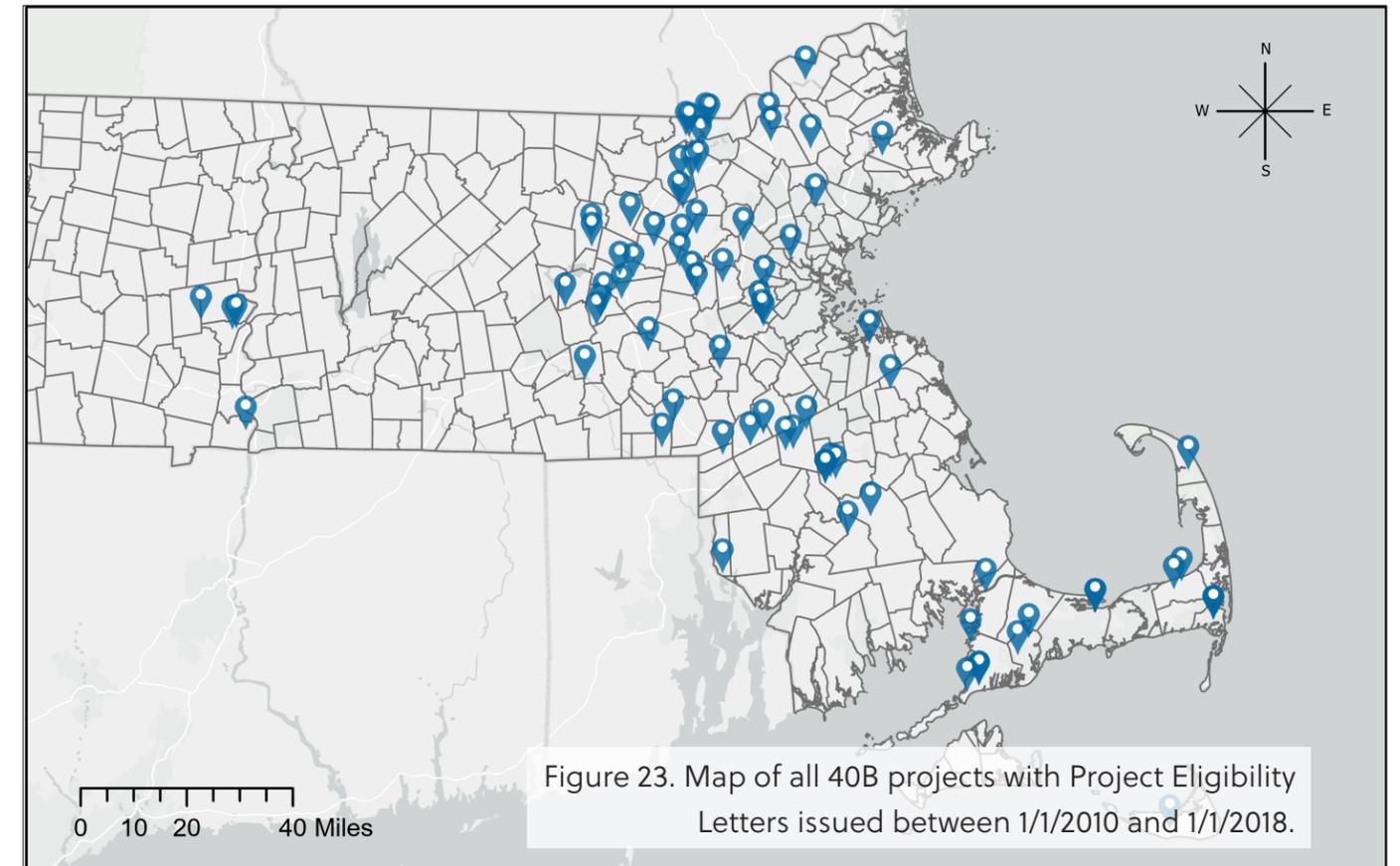
### Step 1: Filter 40B Rental and Home-Ownership Lists by Controls

- Acquire comprehensive lists of rental and ownership 40B development from CHAPA team.
- Remove 40B developments that do not align with control variables from both lists: that they must have received PEL letters between 1/1/2010 and 1/1/2018, and have eight or more units for homeownership and xxx or more units for rental developments.
- *Output:* Two lists for rental and ownership 40B developments, with control variables accounted for.

### Step 2: Select 40B Projects Across Neighborhood Types

- Use Geographic Information Systems (GIS) to overlay filtered lists of 40B developments on MAPC housing submarket typology statewide.
- Identify rental developments and ownership developments located in Submarkets 5 and 7.
- *Output:* Lists of rental and ownership 40B developments in regions that are suburban/high price or suburban/moderate price.

Note: In this step, we decided to forego the process of extending the MAPC submarket types across the state, as most of the resulting sites fell within the MAPC region already. Thus, another criterion we added was that the case studies must be within the MAPC region.



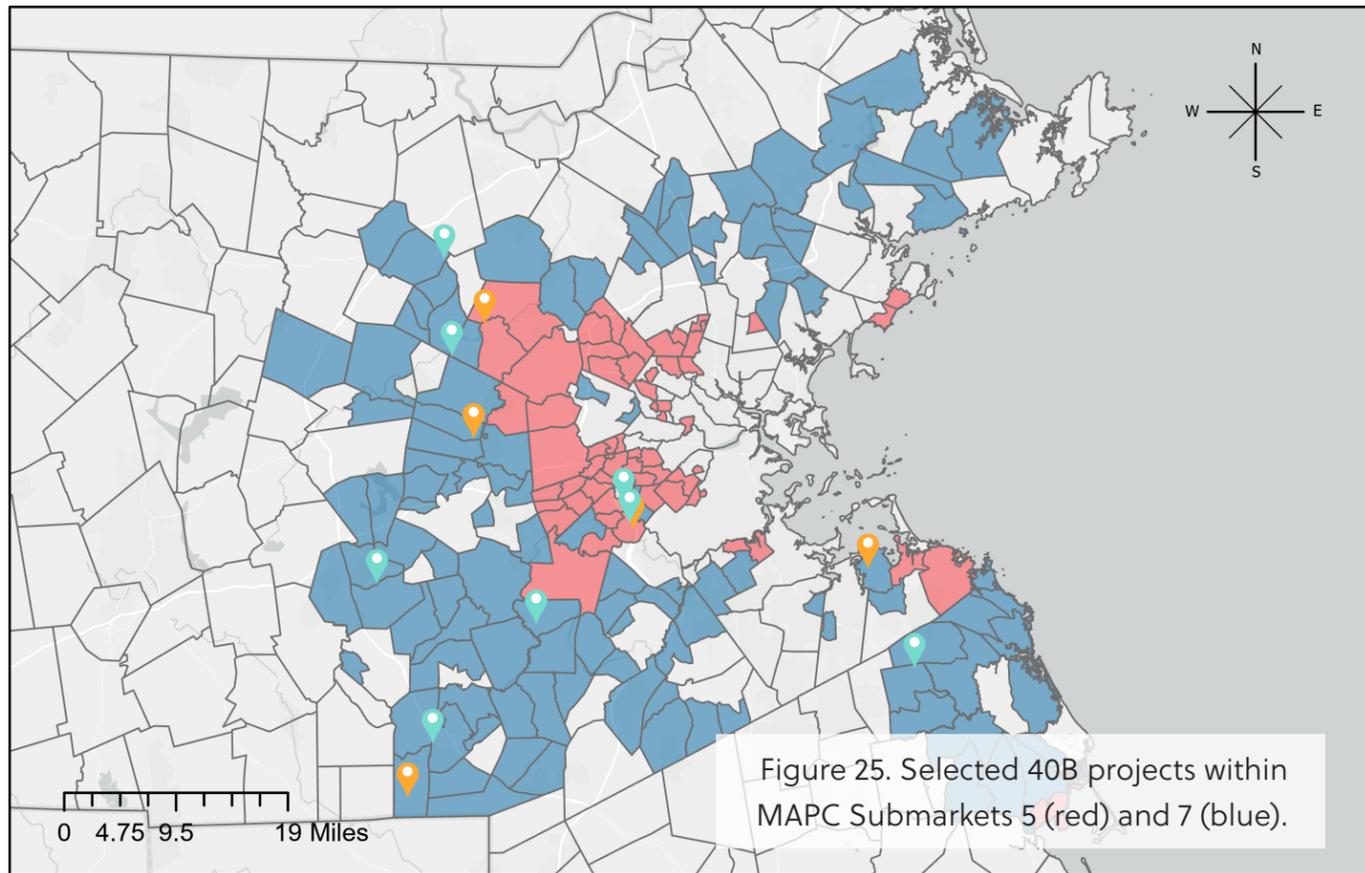


Table 8. Results: Rental Projects

Project Name	Community
Concord Mews	Concord
Village Green Apartments	Littleton
Parc at Medfield	Medfield
Webster Village	Hanover
Windsor at Hopkinton	Hopkinton
Westerly at Forge Park	Franklin
Second Avenue Residences	Needham
Modera Needham	Needham

Table 9. Results: Ownership Projects

Project Name	Community
Landham Crossing	Sudbury
Craftsman Village	Hingham
Shaw Farm Village	Concord
Greendale Village	Needham
Taft Estates	Bellingham

### Step 3: Work with the CHAPA Team to Select Final Cases

- Select four to five developments from each of the lists, based on team interest and investigation of local news media reports relevant to the development's construction, public meeting notes, and other sources of information.
- Share eight to ten sites with the CHAPA team for final selection.
- *Output:* Four 40B development projects that align with the site selection variables.

We worked with the project partners at CHAPA to identify a set of four 40B sites that would provide geographical diversity to the project. Our team and partners at CHAPA considered the amount of information and controversy that would be available for us to research, including whether the developments were built through the Local Initiative Program (LIP), also known as "friendly 40Bs." While we had hoped to choose two LIPs and two non-LIP projects, the data gathered from DHCD was incorrect. Further into our research, we found that three out of our four projects were LIPs, despite not being listed on the SHI as such.

## Spatial Analysis of Connectivity

The literature review surfaced very few spatially-driven analyses of Chapter 40B's impact or effectiveness and there is no comprehensive map showing where 40B developments are located across the state. Our site selection process has begun to fill some of these gaps by creating a comprehensive map of 40B projects built since 1991, which is included below.

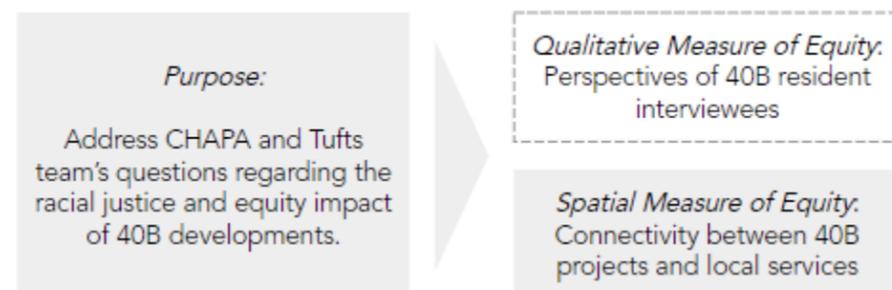
However, we hoped to expand the spatial analysis of 40Bs further to answer the third research question in this study: How connected are 40B residents to the community? To investigate this question through a spatial analysis, we explored the following research questions in the context of the four towns where our case studies are located:

- Are 40Bs equitably integrated into communities, as measured by connectivity and access to services, jobs, and transit?
- How does access compare between friendly 40Bs and unfriendly 40Bs?
- How does access compare between rental and ownership projects?

A StoryMap on this analysis can be found at the following link: <https://bit.ly/3y9ljo1>

Figure 26. Framework for how the spatial analysis fits into the study.

### Context for Spatial Analysis Approach



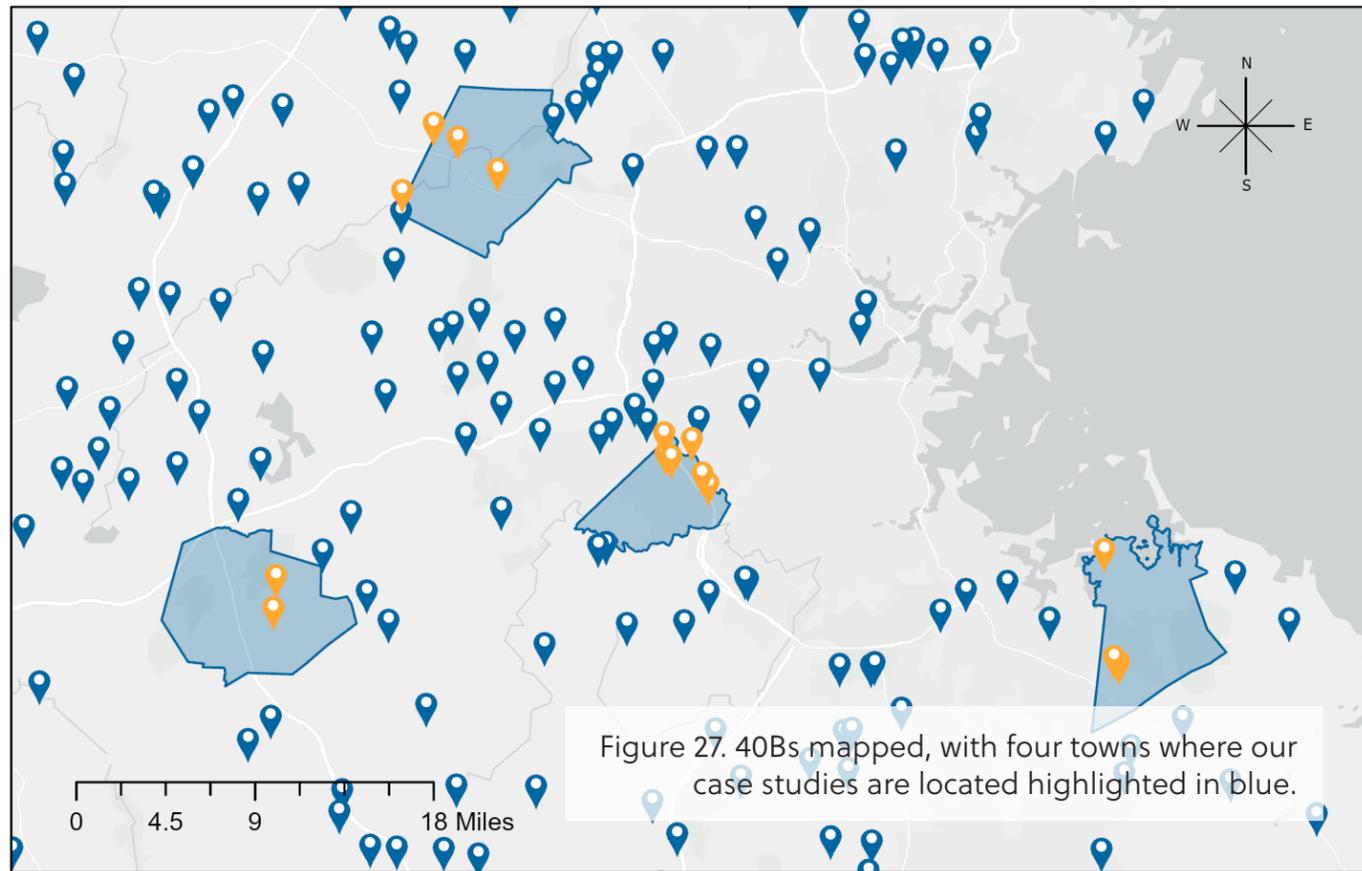
Unit of Analysis: Four case study towns, looking at **all 40Bs in each town (not just the case study sites)**. **There are four 40Bs in Concord, three in Hingham, two in Hopkinton, and six in Needham.**

### Required Data:

- Shapefile for geocoded location of all 40Bs from DHCD via CHAPA
- Shapefiles for boundaries and road networks in the four study towns from MassGIS and Esri Street Map
- Shapefiles for locations of community support services from MassGIS and Data Axel
- Employment opportunity and walkability data from EPA Smart Location Mapping
- Shapefiles for locations of transit from MassGIS

### Steps:

- Create a list of services and amenities that make for a welcoming community experience
- Use closest facility and service area network analysis approaches to give an "accessibility score" to 40Bs for each of the services identified.
- Compare results of LIPs with non-LIP 40Bs; ownership vs rentals



- Social Infrastructure (Counted by number within 10-minute drive; Weights used indicated in parentheses)
  - Grocery stores (32.8%)
  - Convenience stores (9.5%)
  - Elementary schools (32.2%)
  - Recreation centers (2.8%)
  - Pharmacies (9.2%)
  - Places of worship (1.6%)
  - Libraries (6.8%)
  - Open space (5.0%)
  
- Employment (From EPA's Smart Locator Database by census block group)
  - Jobs within a 45 minute drive (0.077)
  - Jobs within 45 minute transit commute (0.135)
  - Low-wage workers (earning \$1,250/month or less) that can reach the block group within a 45-minute commute from their home location (0.394)
  - Low-medium wage workers (earning \$3,333/month or less) that can reach the block group within a 45-minute commute from their home location (0.394)

*Connectivity Score:*

The connectivity score was calculated by using network analysis methods to examine 40B residents' ease of access to community support services, employment opportunities, and transit. The variables listed below attempt to capture a holistic set of measurable municipal and regional resources that—if accessible—would contribute to a welcoming experience for a community member. While this measure of connectivity and access to services is not a comprehensive representation of what makes a community a welcoming place to live, the spatial analysis provides a quantitative measure to complement the stories and perspectives highlighted in the case studies. We recognize there are many informal networks of community support that we cannot effectively include in this analysis. This list of community support services is limited to the data available through MassGIS. Weighting used within each of the categories is listed in parentheses.

- Transportation (From EPA's Smart Locator Database by census block group)
  - Distance from 40B development to transit stop (36.30%)
  - Transit departure frequency at peak hours (4-7pm, weekdays) within 0.25 mile (21.50%)
  - National Walkability Index score (41.90%)

This analysis contributes to the scholarship on 40B's effectiveness at furthering racial justice in Massachusetts, while addressing a corollary question CHAPA posed for our team. This analysis allowed us to put data behind our recommendations on best practices for the planning, community engagement, and development of 40B in a more equitable manner.

## Appendix H: Glossary

This glossary of terms has been adapted from the Town of Concord's website, with references for additional terms cited.<sup>2</sup>

**10% Threshold** – The required percentage of year-round housing stock that must be affordable, per Massachusetts General Law Chapter 40B. A community's percentage is monitored by DHCD and published as the SHI.

**Affordable Housing** – Housing targeted to and affordable by households that meet specific income eligibility levels, typically households earning 80% or less of the metropolitan area median income (or AMI). "Affordable housing" does not refer to the design, type, or method of construction of a housing unit or development, but to the cost of the housing to the consumer. Housing is generally considered affordable if the household pays less than 30% of its monthly income to secure the housing. As defined by DHCD, an affordable housing unit qualifies for inclusion on the Subsidized Housing Inventory (SHI) when it is affordable to people at or below 80% AMI, has received some form of subsidy, and has deed restrictions to ensure long-term affordability.

**Area Median Income (AMI)** – HUD annually publishes the area median income limits nationally, and these are used for eligibility in most housing programs. HUD estimates the median family income for an area in the current year at various levels (30% AMI, 50% AMI, 80% AMI and 100% AMI), adjusted by household sizes so that incomes may be expressed as a percentage of the area median income.

For example, a household's income must be equal to or less than 80% of the area median income to be eligible for affordable housing programs. Housing units that are rented or bought by such income-qualifying households, have received some form of subsidy, and have deed restrictions for long-term affordability, are included on the SHI.

**Affordable Housing Restriction** – There are many forms of restrictions, but they must contain some language to document the income levels of the resident selection, the rent/sale price methodology, the monitoring agent, and identify on-going compliance requirements: This Restriction and all of the covenants, agreements and restrictions will be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33.

**Chapter 40B** – Massachusetts General Law Chapter 40B was enacted in 1969 to address the shortage of affordable housing statewide by eliminating barriers created by local zoning and approval processes. If a community has yet to obtain the 10% goal and at least 20-25% of the units have a long-term affordability restriction, Chapter 40B requires the Zoning Board of Appeals to approve the project.

**Community Preservation Act (CPA)** – The Community Preservation Act (MGL Ch. 44B) helps communities preserve open space (passive or active), historic resources, and create affordable housing by creating a dedicated funding stream. A minimum of 10% of the annual fund revenues must be used for each of the three categories, while the remaining 70% may be allocated to any one of,

or any combination of, the allowed uses. Housing units created with CPA funds must be available to households under 100% AMI, and secured with a deed restriction.

**Comprehensive Permit** – A permit for the development of Low or Moderate Income Housing issued by a Board or the Housing Appeals Committee pursuant to the M.G.L. c. 40B §§ 20 through 23 and 760 CMR 56.00.

**Cost Burden** – The percentage of household income spent on mortgage costs or gross rent. According to HUD, households spending more than 30% of income on housing costs are considered “cost-burdened,” while those spending more than 50% are “severely cost-burdened.”

**Department of Housing and Community Development (DHCD)** – The Massachusetts Department of Housing and Community Development (DHCD) is the state agency responsible for promulgating housing regulations, overseeing completed developments and units, and offering programs and funding targeted at income eligible households.

**Exclusionary Zoning** – Zoning and other land use restrictions that discourage the development of smaller sized market rate housing, which limits the affordability for lower income households in certain areas, thereby contributing to social and racial segregation. These

practices create barriers for non-white and lower income households accessing employment and educational opportunities.<sup>3</sup>

**Housing Appeals Committee (HAC)** – A quasi-judicial body within DHCD, which hears appeals by developers of Comprehensive Permit (Chapter 40B) decisions by local Zoning Boards of Appeal.

**HUD** – The United States Department of Housing and Urban Development’s (HUD) mission is to increase homeownership, support community development, and increase access to affordable housing free from discrimination.

**Income Eligibility Levels / Limits** – Various programs use different income levels, or limits, to both qualify the household and to set the rent/sales price, usually tied to some percentage of AMI, adjusted for family size. The most important classifications relating to income limits are 80% AMI, 50% AMI, and 30% AMI. There is not always perfect symmetry between HUD and DHCD on the terminology used to describe the levels of income (i.e., the terms used to describe the percentage, like “low income” and “moderate income.”)

**Local Initiative Program (LIP)** – A state program under which communities may use local resources and DHCD technical assistance to develop affordable housing that is eligible for inclusion on the Subsidized Housing Inventory

(SHI). LIP is not a financing program, but the DHCD technical assistance qualifies as a subsidy and enables locally supported developments, which do not require other financial subsidies, to qualify for inclusion on the SHI. LIP projects may be referred to as “Friendly 40Bs” because the developer will work cooperatively with the municipality to address concerns, and therefore move more quickly through the review process.

**Local Preference** – Local Preference is the term used to denote a local selection preference when offering housing to applicants. This can be rental or ownership housing, initial housing lotteries or waiting lists. Local preference is granted by the Monitoring Agent, or Subsidizing Agency.

**Metropolitan Area Planning Council (MAPC) Housing Submarkets** – A housing submarket is a collection of neighborhoods—some next to each other, some not—with similar housing stock and housing market characteristics. These characteristics determine who can find, afford, and remain in suitable housing in that neighborhood. The neighborhoods in each submarket share common needs and challenges, regardless of geographic location. MAPC’s study revealed seven distinct housing submarkets in the Greater Boston region.<sup>4</sup>

**Monitoring Agent** – The party responsible for ensuring the property remains in compliance with its affordable deed restrictions.

**Planned Residential Development** – Planned Residential Development allows by special permit from the Board an alternative pattern of residential land development.

**Project Eligibility Letter (PEL)** – Developers must submit a Project Eligibility Letter (PEL) application to a Subsidizing Agency, which will allow the subsidizing agency to determine if (a) the project is generally eligible under the subsidy program; (b) the site of the proposed project is generally appropriate for residential development; (c) the conceptual project design is generally appropriate for the site on which it is located; (d) the project is financially feasible within the housing market where it will be located; (e) the pro-forma has been reviewed and the project appears feasible and complies with profit limitations; (f) the Applicant is eligible to apply, per the statute and the programmatic requirements of the subsidizing agency; and (g) the Applicant controls the site.<sup>5</sup>

**Qualified Unit** – In general, ownership units created by Chapter 40B (or another accepted program) are counted as qualified units on the SHI. In rental developments however,

the rules are different. Per guidelines published by DHCD in 2008, in a rental development, if at least 25% of units are occupied by eligible households earning 80% or less than the area median income (or alternatively, if at least 20% of units are to be occupied by households earning 50% or less of area median income), then all of the units in the rental development shall be eligible for inclusion on the SHI.

**Section 8** – Section 8 of the Housing Act of 1937, commonly referred to as the Housing Choice Voucher Program, provides rental housing payment assistance to private landlords on behalf of low-income populations. The program incentivizes landlords to rent apartments at fair market rates to low income residents through a rental subsidy administered by the U.S. Department of Housing and Urban Development.

**SHI** – The Subsidized Housing Inventory (SHI) is the official measure of a community’s stock of low-or moderate-income housing for the purposes of Chapter 40B. While housing developed under Chapter 40B is eligible for inclusion on the SHI, many other types of housing also qualify to count toward a community’s affordable housing stock.

**Subsidizing Agency** – A state agency authorized to subsidize and regulate affordable housing developments, such as DHCD, Mass Development, Mass Housing, or Mass Housing Partnership.

**Zoning Board of Appeals (ZBA)** – The Zoning Board of Appeal is a municipality’s permit granting authority that is responsible for reviewing and approving applications for relief by special permit and by variance from the requirements of the Zoning By-Law. The ZBA holds public hearings on: issuing special permits; granting variances from the zoning bylaws; administrative appeals of the Building Inspector’s decisions; and comprehensive permits for affordable housing under M.G.L. Ch. 40B.

#### Endnotes

- 1 Citizens’ Housing and Planning Association, “Fact Sheet on Chapter 40B: The State’s Affordable Housing Zoning Law.”
- 2 The Town of Concord, “Affordable Housing Glossary.”
- 3 Bratt and Vladeck, “Addressing Restrictive Zoning for Affordable Housing: Experiences in Four States.”
- 4 MAPC, “Submarkets.”
- 5 Lacy, “40B: Project Eligibility Process.”

Spring 2021

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