From Local Action Units to the Subsidized Housing Inventory

Citizen Planning Training Collaborative
March 17, 2018
Panelists

- Laura Shufelt, Massachusetts Housing Partnership, Assistant Director, Community Assistance Team

- Katy Lacy, AICP, Massachusetts Housing Partnership, Senior Project Manager

- Judi Barrett, Principal, Barrett Planning Group LLC
MHP is a quasi-public agency started in 1985.

MISSION: Use private investment to bring more affordable housing to Massachusetts.
What does MHP do?

- Permanent financing for affordable rental housing
- ONE Mortgage program
- Community Assistance
- Research on housing data and supporting policy efforts
MHP’s Community Assistance

**MISSION**  To increase the supply of affordable housing by **fostering local leadership** and **providing technical support** to municipalities, non-profits and local housing authorities

- Direct technical assistance to municipalities, housing authorities and non-profits
- Grant programs to support trainings, 3rd party technical assistance & non-profit collaboration
- Workshops & trainings
- 40B technical assistance grants
- Publications
- Special initiatives & policy
About Barrett Planning Group

- Thirty years in planning & community development
- Focus areas: land use & zoning, affordable housing, comprehensive planning, socioeconomic impact analysis
- Frequently serve as Chapter 40B Technical Assistance Consultant to Boards of Appeal
- Been around long enough to remember the original LIP regulations, ca. 1990!
Goals for the Session

• Define Local Action Units (LAU)

• Types of Local Action

• Permitting/Approvals for Local Action Units

• Adding LAU’s to the Subsidized Housing Inventory (SHI)
Goals for the Session

• Getting Local Action Units onto the Subsidized Housing Inventory (SHI)

• Keeping LAU’s on the SHI-Long Term Monitoring

• Realistic Goals: The Impact of Local Action For Your Community
What are Local Action Units (LAU’s)?

- Built Outside of a Comprehensive Permit
- Built Pursuant to Local Action
- Part of the LIP Program
- Eligible for SHI
What are Local Action Units?

LAU’s Meet the Requirements of the Subsidized Housing Inventory (SHI):

- Household Income/ Asset Limits
- Cost Limitations
- Subject to approved AFHMP
- Subject to Regulatory Agreement
- Subject to Deed Restriction (Homeownership)
- Ongoing Monitoring
What are Local Action Units?

DHCD is the Subsidizing Agency

DHCD Approved LIP/LAU Application

Evidence of Local Action/Support

LIP Design and Construction Standards
Impact of LAU Program

- 130 Municipalities with Local Action Units
- 689 Projects (ranging from single unit to large)
- Over 1,800 Units Created
51,000 Units Created by 40B

Reality Check!
The LAU Journey

Wouldn’t it be great if....

Stable, Deed Restricted, Affordable Home

How do we get there??
The LAU Journey

- Build Local Support
- Local Action
- Eligible Household Moves In!
- Build
- Permit/Approve
- Get Unit on SHI
- Keep unit on SHI!
The LAU Journey: Getting Started
BUILDING LOCAL SUPPORT

MHP CAN HELP!

How do we get there??
What is Local Action?

- Zoning Provision
- Condition of a Variance or Local Permit
- Donation of Municipal Buildings or Land
- Use of Local Funds (CPA), inclusionary zoning fees in lieu
Effective Local Action

Recipe for Results:

- Feasible
- Flexible
- Fair

Think Like a Developer!
Zoning for Local Action Units

- Inclusionary Zoning
  - With or Without Density Bonus
- Accessory Apartments
- Condition of a Special Permit
Zoning Language: DO Reference Existing Regulations

§ 300-74. Definitions.

AFFORDABLE HOUSING TRUST FUND (“FUND”)
An account established and operated by the Town for the exclusive purpose of creating or preserving affordable housing units in the Town of Salisbury.

AFFORDABLE HOUSING
A dwelling unit that is affordable to and occupied by a low or moderate income household and meets the requirements for inclusion on the Massachusetts Department of Housing and Community Development (DHCD) Chapter 40B Subsidized Housing Inventory. Affordable units shall remain as affordable units in perpetuity. These units shall have the same construction methods, physical characteristics as, and be intermingled with other units in the subdivision or development.

AFFORDABLE HOUSING RESTRICTION
A contract, mortgage agreement, deed restriction or other legal instrument, acceptable in form and substance to the Town, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or renter, and which provides for administration, monitoring, and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law, and be entered into and enforceable under the provisions of G.L. c. 184, §§ 31-33 or other equivalent state law.

LOW OR MODERATE INCOME
Household income that does not exceed 80 percent of the area median family income as determined by the United States Department of Housing and Urban Development (HUD), then in effect.
Zoning for Local Action Units

Zoning Language: DO Keep it simple

- No Buildings Permits Until Regulatory Documents are Complete and Recorded
- No Occupancy Permits Until Proof of Compliance with all SHI requirements has been provided: deed rider (if applicable) eligible occupant, affordable price, etc.

Municipality Holds the Cards!
Zoning Language: DON’T

• Repeat the Entire 40B Regulations or Guidelines
• Conflict with Fair Housing Law
• Include Provisions that are Subject to Litigation!

Consult Your Municipal Counsel
Planning for Affordability: Other Local Action

Development on Public Land

It’s Complicated, MHP can Help!
Other Local Action

Development Using Public Funds (CPA, Housing Trust)
Other Local Action

Development of Public Buildings
Using Municipal Property to Create LAU’s

- Requires Approval of Town Meeting or Chief Elected Official
- Requires Compliance with 30B
- Requires all Usual Permits/Approvals
Planning for Affordability at the Project Approval Phase

Special Permit or MOA should specify:

1. Number of Affordable Units
2. Affordable Unit Mix (1 br, 2br, 3br)
3. Refer to Plan Showing Location of Affordable Units
4. CONDITION REQUIRING THAT UNITS SHALL BE ELIGIBLE FOR AND APPROVED BY DHCD INCLUSION ON SHI
Planning for Affordability at the Project Approval Phase

Sample Condition-Reference the By-Law

In accordance with the Municipality’s Inclusionary Zoning Ordinance (Section 5.41), four of the residential units in the new multi-family structure shall be made available to affordable to households earning at or below 80% AMI.
Planning for Affordability at the Project Approval Phase

Sample Condition

...Prior to the issuance of any building permits for the construction of the Project, the petitioner, City and DHCD will enter into a Regulatory Agreement and Declaration of restrictive Covenants which will establish the affordability restriction for the inclusionary units in perpetuity.
Planning for Affordability

Once the Permit or MOU is Complete:

• Make sure all documents are properly recorded at the Registry of Deeds
• Notify Building Officials of Relevant Pre-Conditions
• Notify Office of Assessors that these are Affordable Units
Getting Units on the SHI

Get Preliminary Approval of Local Action from DHCD *before* Permit, Zoning Article, etc. is Formalized

Formal Application by Municipality to DHCD *after* Successful Local Action

Get DHCD Approval *before* Building Permit

Units Added to SHI *after* Building Permit
Community Support Narrative, Project Description and Documentation

Please provide a description of the project, including a summary of the project’s history and the ways in which the community fulfilled the local action requirement.

______________________________
______________________________
______________________________

Signatures of Support for the Local Action Units Application

Chief Executive Officer:
defined as the mayor in a city and the board of selectmen in a town, unless some other municipal officer is designated to be the chief executive officer under the provisions of a local charter

Signature:________________________
Print Name:_____________________
Date:__________________________

Chair, Local Housing Partnership:
(as applicable)

Signature:________________________
Print Name:_____________________
Date:__________________________
The Project

Developer
Name  
Address  
Phone  
Email  

Is your municipality utilizing any HOME or CDBG funding for this project?  
□ Yes  □ No  

Local tax rate per thousand $________ for Fiscal Year ________

Site Characteristics

<table>
<thead>
<tr>
<th>Project Style</th>
<th>Total # of Units</th>
<th># of Units Proposed for LAU Certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detached single-family house</td>
<td></td>
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<tr>
<td>Rowhouse/townhouse</td>
<td></td>
<td></td>
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<tr>
<td>Duplex</td>
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<td></td>
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<tr>
<td>Multifamily house (3+ family)</td>
<td></td>
<td></td>
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<tr>
<td>Multifamily rental building</td>
<td></td>
<td></td>
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<tr>
<td>Other (specify)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Unit Composition

<table>
<thead>
<tr>
<th>Type of Unit</th>
<th># of Units</th>
<th># of BRs</th>
<th># of Baths</th>
<th>Gross Square Feet</th>
<th>Livable Square Feet</th>
<th>Proposed Sales Prices/Rents</th>
<th>Proposed Condo Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Condo Ownership</td>
<td></td>
<td></td>
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<tr>
<td>Fee Simple Ownership Rental</td>
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<tr>
<td>Affordable:</td>
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<tr>
<td>Market:</td>
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</tbody>
</table>
Applying to DHCD

Evidence of Local Action
• Zoning Bylaw
• Special Permit
• For Development of Municipal Property
• Evidence of Site Control
Applying to DHCD

Long Term Affordability Restriction (Get from DHCD)
• LIP Regulatory Agreement (rental or homeownership)
• For HOME-funded projects, Home Covenant/Deed Restriction

Community submits blacklined DRAFT for review by DHCD

Signed by Developer, Municipality and DHCD
Applying to DHCD

Affirmative Fair Housing Marketing Marketing Plan
- Information Material
- Ads and Flyers
- Eligibility Requirement
- Lottery Application
- Lottery and Resident Selection Procedure
- Local Preference Plan
- Name of Lottery Agent
LAU Units are Eligible for Inclusion at the earliest of the following:

- When the Building Permit is Issued
- When the Occupancy Permit is Issued
- When the Unit is Occupied by an Eligible Household
For Rental Projects:
• If Affordable Units > 25%, 100% Units Can be Included
• If Affordable Units < 25%, Only Affordable Units Included

For Homeownership Projects:
• ONLY the Affordable Units Can Be Included
## Requesting New Units Form

**SUBSIDIZED HOUSING INVENTORY: Requesting New Units Form**

<table>
<thead>
<tr>
<th>Name of Development</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Total Acreage</th>
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</tbody>
</table>

**Subsidizing Agency – List All (i.e., MassHousing, DHCD)**

……………………………………………………………………………………………………………………

**Subsidy Program – List All (i.e., Housing Starts, NEF, LIP, HOME)**

……………………………………………………………………………………………………………………

<table>
<thead>
<tr>
<th>Total Units in Development</th>
<th>Rental</th>
<th>Ownership</th>
</tr>
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<tbody>
<tr>
<td></td>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Total Affordable Units</th>
<th>Rental</th>
<th>Ownership</th>
</tr>
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<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Restricted at 80% of AMI</th>
<th>Rental</th>
<th>Ownership</th>
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<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Restricted at 50% of AMI</th>
<th>Rental</th>
<th>Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Restricted at 30% of AMI</th>
<th>Rental</th>
<th>Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

**Date of Building Permit(s)**

(Provide a listing of issued building permit numbers and corresponding unit numbers and addresses. Please note that foundation permits are not to be included as building permits)
Requests to add new units, and suggested corrections to the SHI may be submitted with supporting documentation, in writing, by the municipality, a developer, or a member of the public to

DHCD
Office of the General Counsel
100 Cambridge Street, Suite 300
Boston, MA 02114-2524
Attention: Subsidized Housing Inventory

All submissions will be reviewed and revised SHI percentages will be posted online at http://www.mass.gov.dhcd
## Housing Rehab Units Only Form

This spreadsheet may be used for requests to add new and track current CDBG and HOME housing rehabilitation units only.

Submit this form AND a copy of the affordable use restrictions to:

DHCD Office of the Chief Counsel  
Attn: Subsidized Housing Inventory  
100 Cambridge Street, Suite 300  
Boston, MA 02114

Community: ____________________________

Name, Title and Contact Information of person submitting information: ____________________________

| Town ID # (if any) | DHCD SH# | Last Name | First Name | Address | Rent or Own | Level of Affordability (at or below 80% AMI, 50% AMI, or 30% AMI) | Affordable Use Restriction Start Date | Affordable Use Restriction End Date | Grant Year | Number of Units | Loan Repaid (V/N) | Units Released (#) | Units In Effect (#) | Subsidizing Agency | Projects (if any) |
|--------------------|---------|-----------|------------|---------|------------|---------------------------------------------------------------|--------------------------------------|-------------------------------------|------------|----------------|-----------------|-------------------|------------------|-----------------|-------------------|-----------------|
Unit is Included on the SHI!

But Wait, there is More........
Maintaining Affordability: GOAL

All Affordable Units are sold or rented for an eligible price-first time and every time

All Affordable Units are occupied by eligible households

All Affordable Units secured with Long Term Affordability Restriction
Maintaining Affordability: How Long

Term of Affordability Specified in Comprehensive Permit
Should be “longest period permitted by law”

Model LIP Regulatory Agreement and Deed Rider Specify Affordability in Perpetuity

CDBG and HOME Rehab Units Affordable for 15 Years
Responsibility of Municipality or its Designee

Resource (How to?):

- DHCD
- Regulatory Agreement
- Deed Rider
- 40B Guidelines
- LIP Guidelines
(1) Annual Monitoring- The Municipality or its designee, is named in the deed rider or regulatory agreement as the monitoring agent (along with DHCD). Municipal responsibilities include annual monitoring and certification to DHCD that:

(a) Tenants in affordable rental units meet income limits and the project has been maintained in a safe and sanitary condition consistent with the LIP Guidelines and the recorded Regulatory Agreement,

(b) For homeownership units, that LIP units continue to serve as owners’ principal residences, and that any LIP units that have been resold during the prior two years have been resold in compliance with LIP requirements.
Initial Certification (at initial lease-up) for all residents:
• Confirm information provided by developer or their designee

Annual Recertification (for entire term of affordability)
• AFHMP in place, up to date
• All affordable Units occupied by eligible tenants (income/asset)
• All rents affordable
• Household size matches bedroom count
### Acton Housing Authority

#### LIP Unit Rent Detail

<table>
<thead>
<tr>
<th></th>
<th>214 Central</th>
<th>10-22 Wampus</th>
<th>16-22 Wampus</th>
</tr>
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<tbody>
<tr>
<td><strong>Income Limits (2008):</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annual Income 80% AMI (BR+1)</td>
<td>$66,150</td>
<td>$59,550</td>
<td>$52,950</td>
</tr>
<tr>
<td>Monthly Income</td>
<td>$5,513</td>
<td>$4,963</td>
<td>$4,413</td>
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<tr>
<td>30% on housing</td>
<td>$1,654</td>
<td>$1,489</td>
<td>$1,324</td>
</tr>
<tr>
<td><strong>RA (2008):</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gross Rent</td>
<td>77%</td>
<td>72%</td>
<td>69%</td>
</tr>
<tr>
<td>Utilities</td>
<td>$244</td>
<td>$229</td>
<td>$165</td>
</tr>
<tr>
<td>Net Rent</td>
<td>$1,350</td>
<td>$1,120</td>
<td>$975</td>
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<tr>
<td><strong>2012 LIP MAX:</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Gross Rent</td>
<td>$1,625</td>
<td>$1,463</td>
<td>$1,300</td>
</tr>
<tr>
<td>Utilities</td>
<td>$188</td>
<td>209</td>
<td>$161</td>
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<tr>
<td>Net Rent</td>
<td>$1,437</td>
<td>$1,254</td>
<td>$1,139</td>
</tr>
<tr>
<td><strong>2012 AHA Rent:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HUD 50058 Date</td>
<td>3/25/2013</td>
<td>6/28/2012</td>
<td>12/7/2012</td>
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<tr>
<td>Payment Standard (HUD Line 12J)</td>
<td>$1,637</td>
<td>$1,369</td>
<td>$1,156</td>
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<tr>
<td>Gross Rent (12P)</td>
<td>$1,538</td>
<td>$1,349</td>
<td>$1,153</td>
</tr>
<tr>
<td>Utilities (12M)</td>
<td>$188</td>
<td>$209</td>
<td>$153</td>
</tr>
<tr>
<td>Net Rent (12K, tenant and voucher)</td>
<td>$1,350</td>
<td>$1,140</td>
<td>$1,000</td>
</tr>
<tr>
<td>AHA Gross Rent Versus LIP Maximum</td>
<td>($87)</td>
<td>($114)</td>
<td>($147)</td>
</tr>
<tr>
<td>Info Required for Each Affordable Unit: At a Minimum</td>
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<td></td>
</tr>
<tr>
<td>-----------------------------------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Unit Address</strong></td>
<td>2 Village Terrace</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong># Bedrooms</strong></td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Head of Household Name</strong></td>
<td>Jane Jones</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Household Count</strong></td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total Household Income</strong></td>
<td>$68,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Gross Rent</strong></td>
<td>$2000/Month</td>
<td></td>
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<tr>
<td><strong>Utility Costs</strong></td>
<td>$150/Month</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Net Rent</strong></td>
<td>$1850</td>
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</tbody>
</table>
Responsibilities of Monitoring Agent
• Initial sales in compliance with LIP Requirements
• Units lived in as primary residence
• Resales in Compliance with LIP Requirements
  (to eligible buyer, for affordable price)
• Deed Restriction in Place
• Annual Check In/Tracking of EACH Unit
Supplemental Monitoring for Homeownership

- Resales
- Refinancing
- Capital Improvements
- Foreclosures
- Ongoing Contact
- Reporting (Annual Report)
- ENFORCEMENT!