

GUIDELINES for COMPREHENSIVE PERMIT (40B) DEVELOPMENTS

INTRODUCTION

Comprehensive Permit developments under M.G.L. Chapter 40B benefit the residents of Sudbury by increasing the availability of affordable housing. The Town's objectives regarding affordable housing are articulated in the 2001 Master Plan and the 2005 Housing Plan. The purpose of these Guidelines is to communicate to prospective developers the Town's evaluation process and its development standards. Creating affordable housing is a high priority objective for the Town. These Guidelines reflect a balance between that objective and other valued Town objectives such as protecting drinking water supplies, preserving native habitat, ensuring public safety, and sustaining existing neighborhoods.

Sudbury realizes that 40B developments are a significant deviation from established low-density development patterns that characterize the majority of the Town. The Town prides itself on its abundance of open spaces and recreational opportunities, established neighborhoods, and historic character. Design of 40B developments should strive to emulate the current land use patterns by creating well designed, livable communities that provide for the enjoyment of residents, while blending into the surrounding neighborhoods.

Successful 40B developments in Sudbury have worked with the Town boards during the early planning stages of the project. They have created walkway links to nearby areas of interest; provided and enhanced passive recreational opportunities with the construction of trails and walkways within the developments; permanently protected wetland and associated upland areas; assisted the Town in completing off-site improvements due to the increased impact on public services caused by new development; benefited from the use of professionals in the fields of engineering and architecture to develop high quality plans that meet Town goals; and satisfy neighborhood concerns by working with abutters early on in the review process.

Sudbury's experiences with 40B development applications have expanded the Town's knowledge and understanding of the regulatory framework, and have enabled us to create processes under which both the applicant and the Town can achieve their respective goals. These guidelines articulate the Town's general goals and expectations for 40B development. At the same time, we appreciate the fact that every application is different and must be carefully analyzed. Pre-application meetings are held to generate staff comments early in the process. As the permit granting authority, the Board of Appeals works closely with the Conservation Commission, Board of Health, Board of Selectmen and Planning Board to ensure the development complies with existing laws and regulations to the maximum extent feasible. Sudbury also liberally utilizes peer review consultants to assist in areas requiring specialized expertise, such as traffic and financial analysis. We request fully engineered plans prior to approval to ensure the physical feasibility of each development. Often we will work on specific revisions to the Plan in informal work sessions with the developer to better utilize the Board of Appeal's time in public hearing sessions.

By working cooperatively with developers, Sudbury hopes to guide 40B developments to appropriately meet the Town's needs and goals. These Guidelines are intended to provide

guidance to developers and assist in the comprehensive permit application review process. However, it is strictly advisory and is not intended to replace or supersede state or municipal requirements that govern the comprehensive permit process.

PROCESS

Approval of a 40B development requires the input of a variety of Town boards and officials. The Director of Planning and Community Development serves as the comprehensive permit coordinator, providing guidance to applicants and input to the Board of Appeals, and other municipal boards, officials, or consultant whose input is solicited during the process.

Sudbury has refined its comprehensive permit review process to reduce the potential for different Town boards and officials giving applicants conflicting direction. Throughout the process, the applicant will be asked to meet with other boards and officials (e.g. Fire Chief, Chief of Police, Selectmen, Design Review Board, Conservation Commission, Building Inspector, DPW Director, and Health Director). Following the meetings the boards and officials are asked to provide written input to the Chairman of the Board of Appeals. The goals of this process is to enable the Town to speak with one voice.

A similar process is utilized to generate comments on an application to MassHousing. While the applicant will typically review an application with different boards, each board or department will be asked to respond to the Board of Selectmen, who is the responsible board for providing input at the state level. Individual comments to state agencies are discouraged.

In order to expedite the review process and to reduce costs for applicants, the Town prefers to work with applicants informally early in the design process when requirements and alternatives can be explored without the expense of formal plans or engineering studies. This process usually begins with an informal pre-application meeting with Town officials and a representative from the Board of Appeals to exchange information prior to filing a 40B application with the State. No binding decisions will be made at or as a result of a pre-application meeting, and any Board of Appeals member who participates will speak only as an individual with experience in the comprehensive permit process and not in an official capacity as a Board of Appeals member.

At this point, the applicant chooses whether to proceed and file a formal application or to continue the informal process by participating in one or more informal working sessions with the Director of Planning and other Town representatives, as appropriate. Generally, there will be no further involvement by any member of the Board of Appeals until an application is filed in order to ensure compliance with Open Meeting Law requirements.

After an application has been filed, the Board of Appeals will hold a series of public hearings to consider all aspects of the application. The objective of the early hearings is to understand site characteristics (e.g., wetland issues, elevations, and septic capacity), neighborhood issues, public safety issues, and the applicant's general concept for the development, as described in the preliminary site development plan requirements. For some projects, it may be helpful to conduct working sessions to explore issues in a less formal manner than at a hearing, and in those cases the Board of Appeals may suggest working sessions to be attended by one Board of Appeals member, the Director of Planning and Community Development, and other Town representatives, as appropriate. Any such sessions will be announced in advance at the public hearing, and will be posted as public meetings so that members of the community will have an

opportunity to attend and participate. No substantive decisions on a project application will be made at such sessions, and any Board of Appeals members who attend will have no authority to make any binding determinations on behalf of the Board of Appeals. Board members will be fully briefed by the attending member or the Director of Community Development, on the discussions of all work sessions at the next public hearing.

In the Town's experience applications proceed much faster when issues are identified and resolved at the conceptual stage, rather than later in the process. When necessary, the Board of Appeals will engage the services of one or more consultants (at the applicant's expense) early in the process, while at other times it may engage consultants following conceptual reviews when significant differences remain. Outside consultants often provide information that assists parties in reaching consensus on a design that meets the applicant's economic needs while satisfying the Town's needs for protection of public safety, natural resources, and neighborhoods. Applicants should anticipate the use of consultants when preparing the budget and timeline for the project.

Generally, neighbors are appropriately concerned about the impact of comprehensive permit developments. Applicants are advised to be proactive and to meet with neighbors in an effort to work out mitigation measures (e.g. plantings and fencing where a structure will be close to an abutter) prior to filing the formal application. In addition, arranging to have copies of all submitted material at the Goodnow Library is a simple way to keep the neighbors informed as project planning moves forward.

PHYSICAL ATTRIBUTES OF DEVELOPMENTS

General: Sudbury prefers developments that conform to current zoning standards as much as is feasible. A development should fit into its neighborhood and make effort not to detract from existing homes and structures. Safe entrance/exit from the development to public streets is required. There should be appropriate street access for the size of the development, and an adequate vegetative buffer should be provided to minimize the visual impact of the development. Improvements such as external walkways and traffic control are generally explored during the review process in order to mitigate public safety issues created or exacerbated by a 40B development. The Town prefers developments which incorporate "smart zoning" by taking advantage of proximity to existing services and business areas. Sudbury also encourages the use of existing developed residential properties through combining lots and/or retaining existing buildings, as well as relocating existing small houses when feasible. Combined lots should be contiguous and not surround intervening properties.

Units per acre: Density is an issue that arises at many hearings. The number of units per acre will be subject to scrutiny relating to adverse public safety and environmental impacts that may result. The Town encourages applicants to discuss proposed density early in the process to ensure that projects are appropriately designed and are protective of the interests that the Town is authorized to regulate under c. 40B. See Chart A for project densities that the Town believes would be most appropriate in 40B developments.

Size of Units: The size of units in a 40B development should reflect the variety of needs of expected residents, including those of moderate-sized households. Reflecting current needs, Sudbury prefers developments that contain two-bedroom units, with some one and three bedroom units, in a roughly 50%, 25% and 25% ratio.

Architecture: Sudbury prefers developments that are compatible with the historic and residential character of the Town. Attached housing units should be designed to the maximum extent feasible to blend compatibly with surrounding single-family neighborhoods. Building design, including exterior materials, should be in harmony with and enhance the Town's existing architectural traditions. In furtherance of this goal, the Town prefers building designs that avoid prominent garage doors along front facades. Garages should be set back from the front façade and comprise no more than one-third of the façade length. The appearance of a gated community is discouraged. The architecture should also provide visual and acoustical screening of HVAC units

Site planning, Set-Backs, Screening, Landscaping, and Lighting: Sudbury prefers developments that have appropriate setbacks to abutting properties in order to provide visual screening to the maximum extent feasible. See Chart B for setback guidelines that the Town believes would be most appropriate for 40B developments. It is the developer's responsibility to work out mutually agreeable mitigation measures such as additional fencing, grading, or landscaping with abutters. The development should embrace natural features of the site such as meadows, hillsides and open vistas through careful location of buildings and selection of plantings. Entrance signs and street-side landscaping should be tasteful and understated. Exterior lighting should not impact adjacent residential areas or degrade adjacent wildlife habitat functions. Wherever practical, the design should incorporate a common or green to foster a sense of community. The design should include extensive landscaping using native species and fieldstone walls. The design should be people-oriented instead of automobile-oriented and include a safe and appropriately landscaped area for a school bus stop. Grass pavers should be considered where a design includes limited-access roadways (emergency vehicle access). Recognizing that building height compounds the adverse impact of a dense development on adjacent neighborhoods, the height of each building should not exceed the height shown in Chart A, to the extent feasible.

Development Infrastructure: To avoid adverse environmental and public health impacts, costly future maintenance problems for systems by unit owners, and impacts to abutters from the future failure of systems, the Town encourages the design of conventional stormwater and wastewater management systems. While all systems must be in compliance with State requirements of Title V and DEP regulations, the Town prefers that these systems also comply with local regulations, to the extent feasible, to ensure protection of the environment and public safety. Placement of these systems under roadways or buildings is strongly discouraged. Low impact development techniques are encouraged, including the retention of natural vegetation as a means of stormwater control. The use of a rainwater catchments system for landscaping irrigation shall be investigated and implemented to the extent feasible.

Other public benefits: Developments that provide public benefits in addition to the required percentage of affordable housing units are preferable to developments that provide no other public benefits, particularly where those developments are so sizable that they create entirely new neighborhoods within the community. Examples of such benefits might include recreational space, open space linkages, permanent protection of important natural resources and resource functions, intersection/traffic improvements, walkways linking the development to commercial or recreational areas, as well as adjoining neighborhoods, and the preservation of any historically significant buildings. The potential for such benefits for a project should be discussed with the Town during the planning process.

Conservation: Conservation of natural resources (wildlife, native plants, and drinking water supplies) is important to our community. An applicant will be expected to demonstrate that a project will not have adverse environmental impacts. Unlike many other communities in the Boston suburbs, Sudbury obtains its drinking water exclusively from ground water wells. Sudbury's homes have individual septic systems. Therefore, to maintain the quality of our drinking water, the Town prefers that applicants comply with the Sudbury Wetlands Administration Bylaw and regulations, which exceed the minimum State requirements, whenever feasible, to ensure protection of the environment.

Parking: Sufficient parking should be provided within the development to avoid creation of public safety hazards and to avoid guests parking in adjoining neighborhoods. The parking shall be located throughout the development in small, well screened areas or along appropriate internal roads so as to avoid the creation of large parking lots.

Handicapped accessibility: Units accessible to the disabled are encouraged. Depending on the total number of affordable units in a development, the applicant may be required to create accessible units if a person with disabilities wins the housing assignment lottery.

Operations: Recognizing that low-income owners may have difficulty in maintaining or repairing mechanical systems, any items needing periodic maintenance or replacement (e.g., fire suppression systems, package sewage treatment systems) shall be included in covenant restrictions and funded by the homeowner's organization, with appropriate mechanisms to ensure that funding does not create a hardship for affordable unit residents.

Green Development Practices: Sudbury encourages projects that include strategies for environmentally responsible design as formalized in Leadership in Energy and Environmental Design (LEED) standards, which minimize the depletion of natural resources; control erosion and minimize impact on natural areas; use native and water efficient plants in landscaping; increase energy efficiency in construction and operations; reduce the heat island effect; conserve water through use of efficient fixtures and appliances and irrigation systems using rainwater and greywater; and use more environmentally friendly materials.

AFFORDABLE COMPONENT

Increasing the total number of affordable units over the minimum percentage required by Chapter 40B is encouraged. In certain cases, the Town may assist a developer in providing additional affordable units through the use of Community Preservation Act funds or other funding mechanisms.

1. The affordable units will be identified on the overall plan and should be integrated with the market-rate units.
2. The affordable units shall have the same exterior appearance and architectural design, as the market-rate units. Before the Comprehensive Permit is issued, the developer shall indicate how the affordable units differ from the market-rate units in terms of size, finishes and any other component.
3. Condominium fee assessments, including increases, shall be discounted for the affordable units.

4. The following guidelines shall be used when calculating the sales price of different sized units:
 - 1 bedroom units shall utilize income figures for a 2 person household
 - 2 bedroom units shall utilize income figures for a 3 person household
 - 3 bedroom units shall utilize income figures for a 4 person household
 - Age restricted affordable units of 2 bedrooms or fewer shall utilize income figures for a 2 person household. Age restricted units larger than 2 bedrooms shall follow the above guidelines.
5. Calculations for determining sales prices shall be disclosed in the project description, including the assumptions for household sizes and income levels used, and interest rates. Calculations shall follow the guidelines and include PMI, hazard insurance and condo fees.
6. No Certificate of Occupancy shall be issued for any market-rate units until 25 percent of the affordable units have a Certificate of Occupancy. No Certificate of Occupancy shall be issued to 75 percent of the market-rate units until 100 percent of the affordable units have a Certificate of Occupancy.
7. Increasing the total number of affordable units over the minimum percentage required by Chapter 40B is encouraged, as is providing affordable units to households below 70% of Area Median Income. The Town may assist a developer in providing additional affordable units through the use of Community Preservation Act funds, or work with the developer to provide units to lower income levels. Creative strategies for increasing the number of affordable units shall be considered, such as:
 - a. Splitting larger units into 2 smaller units to create 1 affordable and 1 market-rate unit
 - b. Moving existing residential structures that may be on the development parcel onto designated town lands for affordable housing purposes.
8. Local Preference shall be encouraged to the maximum extent allowed under the law for the purchase/occupancy of affordable units, currently 70%. (rounding down) Marketing plans, local advertising, and other means to notify Sudbury residents and the following groups of people of the availability of affordable units shall be required. Local preference is defined as those who:
 - currently live in Sudbury; or
 - are children or parents of current Sudbury residents; or
 - are a former resident of Sudbury; or
 - have children currently participating in the METCO program of the Sudbury/LS schools

Also included are employees of the:

 - Town of Sudbury; or
 - Lincoln-Sudbury Regional High School system; or
 - Sudbury Public School system; or
 - Sudbury Water District; or
 - Sudbury Housing Authority

9. In developments with five (5) or more affordable units, 20% of the affordable units (using conventional rounding) shall be offered for purchase by the Sudbury Housing Authority as rental units, to the extent allowed under the law
10. The Town of Sudbury prefers to be appointed Monitoring Agent as well as Lottery Agent for the affordable component.

CHART A
DENSITY AND HEIGHT

Parcel Size (buildable acreage*)	Density**	Height
Up to 5 acres	Up to 4 units/buildable acre	28'
+5 to 10 acres	Up to 5 units/buildable acre	32'
10+ acres	Up to 6 units/buildable acre	35'

*Buildable acreage is calculated by subtracting all wetland area, all 100 year flood plain and slopes greater than 15% grade from the total parcel size.

** The density preference is stated as a general goal, based on experience with c.40B projects and associated impacts. Each site is somewhat unique due to its location, topography, neighboring properties and street configuration, and these density preferences are therefore subject to individual project review. The Town will evaluate each site application on a case by case basis.

CHART B
LOCATION, SETBACKS, AND OPEN SPACE

# of units	Setbacks†	Open Space Recommended‡	Location
1-4	Meet min. zoning	0	All zoning districts
5-10	1.5 times min. side and rear yard setbacks	15% of total lot area	All zoning districts
11-20	2.0 times min. side and rear yard setbacks	20% of total lot area	All zoning districts
21-40	2.5 times min. side and rear setbacks	25% of total lot area	On properties with direct access onto a through street (with 2 usable means of access)
41-60	3 times min. side and rear setbacks	25% of total lot area	On properties with direct access onto a major roadway with traffic volume >10,000 cars/day
61+	3 times min. setbacks	25% of total lot area	On properties with direct access onto a major roadway with traffic volume >10,000 cars/day

† The setback preference is stated as a general goal, based on experience with c.40B projects and associated impacts. Each site is unique due to its location, topography, neighboring properties and street configuration, and these setback preferences are therefore subject to individual project review. The Town will evaluate each application on a case-by-case basis. Allowances may be made for projects that demonstrate public benefit.

‡ Open Space shall be defined as land that is not covered with buildings, roadways, parking or any other structure or impervious surface. The land area above a wastewater disposal system may count as Open Space provided any above-ground disturbance is temporary and the disturbed area is revegetated to replace or provide areas with maximum natural resource area values and functions. Up to 50% of the minimum required open space may be wetlands, but the remaining 50% must be upland area. Open Space shall be selected to maximize the value of wildlife habitat, shall be contiguous to the extent required to preserve significant habitat, shall be configured to maximize the perimeter to surface area ratio in order to preserve large blocks of undisturbed land and shall encourage passive and/or active recreational opportunities for residents and the public where possible. Open Space shall predominantly be left in a natural, undisturbed state. Any landscaping of Open Space areas shall utilize native vegetation to the extent practical, and shall complement the values and functions of the natural resources on the site.

A CHECKLIST FOR DEVELOPMENT

It is understood that every 40B development cannot include all of the following features. This checklist represents a list of potentially beneficial features for a development.

General

- ___ Pre-application meeting held with town staff and board representative
- ___ Density lower than site conditions allow with traditional septic
- ___ Units not age restricted
- ___ Combines existing developed or otherwise disturbed lots
- ___ Units accessible to the disabled included

Affordability

- ___ Greater than 25% affordability
- ___ Unit mix meets current needs of the Town in terms of unit sizes
- ___ Prorated condo fee assessments for the owners of affordable units, including fee increases
- ___ Units available for purchase by the Sudbury Housing Authority (Number of units ___)
- ___ Creative strategies to increase the total number of affordable units (please describe):

Design Features

- ___ Public streetscape reflects existing neighborhood
- ___ Affordable units have same exterior appearance and architecture as market rate units

___ Design of buildings visible from the public street is varied and not completely internally focused. Specify design features (dormers, porches, etc.)

___ Garages not prominent feature of streetscape

___ Building design reflects local architectural traditions

___ External walkways included

___ Internal walkways included

___ Guest parking areas not visible from existing public street

___ Open space included (give percent: _____%)

___ Maintains/redevelops existing structure(s) where appropriate

___ Maintains historic building(s) and/or features

___ Complies with setback in Chart B

___ Site plan preserves and incorporates natural features (e.g., meadow, pond, scenic vista)

___ Site plan incorporates a common or green

___ Site plan is people-oriented, rather than car-oriented

___ Site plan incorporates landscaped area for school bus stop

___ Architecture provides for visual and acoustical screening of HVAC units

___ Site plan incorporates grass pavers for limited access roadways (used primarily by emergency vehicles)

___ Green design features are included in the development plans, please specify:

___ Publicly available amenities, please specify

___ Maximum height ____ ft.