Town of Watertown
Committee on Economic Development and Planning
Meetings: June 9 and June 27, 2016
Report: July 12, 2016

The Committee convened at 6:15 pm on Thursday June 9, 2016 in the Richard E. Mastrangelo Council Chambers. Present were Susan Falkoff, chair; Kenneth Woodland, vice-chair; and Vincent Piccirilli, secretary. Also present were members of the Watertown Housing Partnership: Fred Reynolds, Clifford Cook, David Leon, Helen Oliver, and Brian Costello, Executive Director of the Housing Authority; as well as Andrea Adams, Senior Planner in the Department of Community Development & Planning; and Council President Mark Sideris.

The meeting was to discuss a recommendation for increasing Affordable Housing to 15% in the Watertown Zoning Ordinance.

The Watertown Housing Partnership presented a recommendation, dated May 24, 2016 (copy attached). The recommendation has two key changes:

- Create a two-tiered system, with smaller projects under 20 units remaining at 12.5%.
- For projects of 20 or more units, increase to 15%. For rental projects, 1/3 of the units must be for lower-income households at 65% AMI (Area Median Income), and 2/3 at the current 80% AMI. For ownership projects, the entire 15% would be at 80% AMI.

The recommendation also included some housekeeping changes to the ordinance.

Discussion covered the following points:

- This provides some relief for smaller developers, and incentivizes smaller projects.
- Provide new housing where the biggest need was identified in the recently adopted Housing Production Plan, for lower-income households at the 65% AMI threshold.
- Adding at the 65% AMI level would also free up Housing Authority units to address their long waiting list, by allowing some households in this group to move to private rental units.
- Ownership projects would remain at 80% AMI because of the difficulty of lower-income household to obtain financing, resulting in little demand below this level.
- Any changes to section 5.07 of the ordinance would automatically apply to the new RMUD zone because of the wording of 5.18 (g).

Councilor Aaron Dushku and President Sideris had asked the committee consider zoning changes to include middle-income or workforce housing for households above 80% AMI. The Committee discussed this in depth, and decided to accept the Housing Partnership's recommendation to not include this, for the following reasons:

- The data collected for the Housing Production Plan shows the greatest need in the community is at the lower level, or 65% AMI.
- There are currently many market rate housing options in Watertown for middle-income households between 80% and 120% AMI.
- Any housing above 80% AMI does not count towards the state mandated affordable housing percentage, and leaves Watertown vulnerable to a 40B challenge.
- Cambridge did a pilot program for this type of housing, and had trouble filling it because of low demand.

Two issues were identified that required clarification before the Committee could make a recommendation:

<u>Section 5.07(e)(2) for the method of cash-in-lieu of units</u>: The question was raised how to calculate this value for rental units, and if rental units should be excluded. Councilor Piccirilli made a motion, seconded by Councilor Woodland, to ask the Housing Partnership to examine this section and propose language to clarify this. The motion was affirmatively voted 3-0.

<u>Section 5.07(j)(3) for affordable units in excess of the requirement to be exempt from FAR and minimum lot area</u>: It appears that the language of the ordinance does not make it clear that any units provided in this section must be at or below the 65% AMI level. Councilor Piccirilli made a motion, seconded by Councilor Woodland, to ask the Housing Partnership to examine this section and propose language to clarify this. The motion was affirmatively voted 3-0.

The Housing Partnership agreed to work on these two issues at its next meeting. A follow up Committee meeting was scheduled for June 27 at 6:15 pm.

The meeting adjourned at 7:20 pm.

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The Committee re-convened at 6:15 pm on Monday June 27, 2016 in the Louis P. Andrews Upper Conference Room. Present were Ms. Falkoff, Mr. Woodland, and Mr. Piccirilli. Also present were Mr. Reynolds, Mr. Leon, Ms. Adams and Mr. Sideris; as well as Steven Magoon, Director of the Department of Community Development & Planning/Assistant Town Manager; and resident Elodia Thomas.

The Watertown Housing Partnership presented additional recommendations, dated June 23, 2016, on the two issues that were raised at the last meeting (copy attached), for discussion.

Action Item: Councilor Piccirilli made a motion, seconded by Councilor Woodland, recommending that the Town Council proceed with the changes to Affordable Housing Requirements in the Watertown Zoning Ordinance per the Housing Partnership memo dated 5/14/16, as amended by their memo dated 6/23/16. The motion was affirmatively voted 3-0.

(Note: A copy of the recommended changes to Watertown's Inclusionary Zoning Requirements as voted was prepared by Ms. Adams and is attached to this report.)

The Committee thanked the members of the Housing Partnership for their very detailed, balanced, and well-reasoned approach to increasing affordable housing in Watertown.

The meeting adjourned at 6:35 pm.

Report prepared by Vincent Piccirilli

Suggested Changes to Watertown's Inclusionary Zoning Requirements

SECTION 5.07 AFFORDABLE HOUSING REQUIREMENTS

(a) Intent and Purpose

The purposes of this Section are to encourage the expansion and improvement of the Town of Watertown's housing stock; to provide for housing choices for households of all incomes, ages, and sizes; to prevent the displacement of low- and -moderate-income residents; to produce affordable housing units in order to meet existing and anticipated employment needs within the Town; to provide opportunities for conventional residential and mixed-use development to contribute to increasing the supply of affordable housing; and to establish standards and guidelines in order to implement the foregoing.

(b) Definitions

1. AFFORDABLE HOUSING PROGRAM

Collectively, §5.07 and other provisions of the Watertown Zoning Ordinance that pertain to the development and preservation of affordable housing in the Town of Watertown.

2. AFFORDABLE HOUSING RESTRICTION

A deed restriction, contract, mortgage agreement, or other legal instrument, acceptable in form and substance to the Town of Watertown, that effectively restricts occupancy of an affordable housing unit to qualified purchaser or qualified 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 of time allowed by law, and be enforceable under the provisions of Chapter 184, Sections 26 or 31-32 of the General Laws.

3. AFFORDABLE HOUSING FUND

A fund account established by the Town for the purpose of creating or preserving affordable housing in the Town of Watertown.

4. AFFORDABLE HOUSING UNIT

A dwelling unit that is affordable to and occupied by a low- or -moderate-income household and meets the requirements of the Massachusetts Department of Housing and Community Development (DHCD), Local Initiative Program, for inclusion on the Chapter 40B Subsidized Housing Inventory.

5. AREA MEDIAN INCOME

The median family income for the metropolitan area that includes the Town of Watertown, as defined in the annual schedule of low- and -moderate-income limits published by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size.

6. COVERED DEVELOPMENT

Any development required to provide affordable housing in accordance with §5.07.

7. ELIGIBLE HOUSEHOLD

A low- or -moderate-income household that purchases or rents an affordable housing unit **and occupies it as their domicile and principal residence.** ~~as its sole residence.~~

8. INCLUSION UNIT

An affordable housing unit built on the same site as the market-rate units in a covered development under §5.07.

9. LOCAL INITIATIVE PROGRAM

A program administered by DHCD pursuant to 760 CMR 56.00 to develop and implement local housing initiatives that produce low- and -moderate-income housing, with or without a

Comprehensive Permit as defined in Chapter 40B, Section 20 through Section 23 of the General Laws.

10. LOW- OR MODERATE-INCOME HOUSEHOLD
A household with income at or below 80% of area median income, adjusted for household size, for the metropolitan area that includes the Town of Watertown, as determined annually by HUD.

11. MARKET-RATE DWELLING UNIT
All dwelling units in a development subject to this §5.07 that are not affordable housing units as defined herein.

12. MAXIMUM AFFORDABLE PURCHASE PRICE OR RENT
A purchase price or monthly rent that complies with **the requirements and Table shown in §5.07(d)(4) and that complies with** the regulations and guidelines of the DHCD Local Initiative Program and the Watertown Planning Board, except that developments subject to § 5.07(j)(3) shall comply with the maximum purchase price or rent requirements of that section. For homeownership units, the maximum affordable purchase price shall account for the monthly cost of a mortgage payment, property taxes, insurance, and condominium fees where applicable**.**~~; and~~ **F**~~f~~or rental units, the maximum affordable rent shall account for the monthly cost of rent and utilities. The household income used to compute the maximum affordable purchase price or rent shall be adjusted for household size, considering the household size for which a proposed affordable unit would be suitable under guidelines of the Local Initiative Program or any successor affordable housing program established by the State.

13. SMALL-SCALE INCLUSION DEVELOPMENT
A covered development that provides 6 or more up to 10 dwelling units.

14. SUBSIDIZED HOUSING INVENTORY
The Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 31.04.

(c) Applicability

(1) §5.07 applies to any development, whether new construction, conversion, adaptive reuse or expansion of an existing structure, involving the creation of more than five dwelling units or more than five (5) lots for residential use. Assisted living, outside of the Assisted Living Overlay Zone, Section 5.11, shall be considered institutional and shall be exempt from §5.07.

Developments may not be segmented to avoid compliance with this Section. “Segmentation” shall mean any development, whether new construction, adaptive reuse or redevelopment, or any division of land that would cumulatively result in an increase by five or more residential lots or dwelling units above the number existing on a parcel of land or contiguous parcels in common ownership twenty-four months prior to the application. Where such segmentation occurs, it shall be subject to this Section as a covered development. A subdivision or division of land shall mean any subdivision as defined in the Subdivision Control Law, G.L. c.41, Sections 81K-81GG, or any division of land under G.L. c.41, §81P, into lots for residential use.

(2) This Section does not apply to the rehabilitation of any building or structure, all of or substantially all of which is destroyed or damaged by fire or other casualty or a natural disaster; provided, however, no rehabilitation nor repair shall increase the density, bulk or size of any such building or structure which previously existed prior to the damage or destruction thereof except in conformance with this Section.

(d) Basic Requirements

(1) Projects having more than five (5) units: No Special Permit for a development requiring a special permit and no Building Permit for a use permitted as of right, shall be issued for a development subject to this Section unless the Petitioner provides **the percentage of** ~~at least twelve and one-half percent (12.5%)~~ the total dwelling units in the development as affordable housing as described herein, **within §5.07(d)(4)**and otherwise consistent with this Section.

(2) Nothing in this Section shall preclude a developer from providing **additional** ~~more~~ affordable units**, or greater affordability, or both,** than the minimum requirements. In no instance shall any permit or special permit approval create less than one affordable housing unit, and for purposes of this Section, any calculation of required affordable housing units that results in the fractional or decimal equivalent of one-half or above shall be increased to the next highest whole number.

(3) Affordable units shall be made available to eligible low- or **-**moderate-income households at purchase prices or rents that comply with the Massachusetts Department of Housing and Community Development Local Initiative Program regulations, 760 CMR 56.00, or any successor program as may be determined by the Special Permit Granting Authority (SPGA) **upon recommendation of** ~~in consultation with~~ the Watertown Housing Partnership (WHP) **and as indicated in §5.07(d)(4)**

(4) The Rent and Ownership Price Requirements are as follows:

Total Project Size	**Affordable Units**	**Rental Price**	**Ownership Price**
1 to 5 units	**0**	**NA**	**NA**
6 to 19 units	**12.5%**	**80% AMI**	**80% of AMI**
20 and over units	**15.0%**	**No less than 5% of the total units at 65% AMI**	**80% AMI**
		10% of total units at 80% AMI	**80% AMI**

(e) Methods of Providing Affordable Units

(1) A covered development with more than five (5) and up to ten (10) units, shall have the option of providing an affordable unit on site or making a cash payment **in lieu of**. A covered development with more than ten (10) units shall provide the affordable units on site. However, approval for cash payment in lieu of on-site affordable units may be granted by the SPGA in certain **extraordinary** ~~exceptional~~ circumstances. The SPGA must find that the developer has clearly demonstrated that providing such unit(s) on-site would create significant hardship and that a cash payment in lieu of on-site unit(s) is in the best interest of the Town**'s affordable housing needs**.

Any request for alternative means of compliance shall be reviewed by the WHP, which shall then make its recommendation to the SPGA.

(2) The SPGA **may** ~~shall~~ authorize that an alternative method of compliance be used, in accordance with the following:

~~(A)~~ Cash Payment: The SPGA may grant a special permit to provide affordable housing through a cash payment to the Watertown Affordable Housing Fund, in lieu of providing one or more of the affordable units required under this Section~~; provided, however, that a fee in lieu of affordable units may be authorized only for a covered developments with more than five (5) and up to ten (10) rental, for-sale or homeownership units.~~ The cash payment shall be equal to **the most current Total Development Cost as articulated in the MA Department of Housing & Community Development's Qualified Allocation Plan for Low Income**

Housing Tax Credit, for the areas described as Within Metro Boston/Suburban Area, as adjusted for the type of project and number of units. The cash payments ~~the difference between the fair market value for a typical market-rate housing unit and the price of the affordable housing unit consistent with DHCD LIP Guidelines and~~ shall **also** be in accordance with a schedule of affordable housing payments as outlined in §5.07(h)(6) and guidelines adopted and amended from time to time by the SPGA, following a public hearing, in consultation with the WHP and the Watertown Department of Community Development and Planning (DCDP).

(f) Location and Comparability of Affordable Units

(1) Affordable units shall be proportionately distributed throughout the building(s) in a covered development.

(2) Affordable units shall be indistinguishable from market-rate units in exterior building materials and finishes; overall construction quality; and energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems, as determined by the Building Inspector

(3) Affordable units may differ from market-rate units in type of appliances, finishes; however, the affordable units shall be comparable to the base market-rate units in such instances.

(4) Affordable units shall have the same floor area as the median market-rate units of the same number of bedrooms within a margin of 20%; provided that units are not less than the minimum square foot required by DHCD.

(5) The bedroom mix in the affordable units shall be proportionate to the market-rate units, unless the SPGA authorizes a different mix by special permit upon the recommendation of the WHP.

(6)~~(5)~~ The SPGA may adopt regulations or guidelines to further define comparability of the foregoing requirements.

(7)~~(6)~~ The WHP shall provide the Petitioner and SPGA as provided in §5.07**(i)** ~~(j)~~ with its recommendations with reference to the Petitioner's proposal in meeting the requirements for affordable housing.

(g) Affirmative Marketing and Local Preference Policy

Affordable units shall be made available for purchase or rent to eligible low- or -moderate-income households under an affirmative marketing plan that complies with federal and state fair housing laws, and fair housing and local preference guidelines established by the Watertown Housing Partnership. No Building Permit for a covered development shall be issued unless the DCDP has determined that the Petitioner's affirmative marketing plan complies with this requirement. The affirmative marketing costs for the affordable housing units shall be the responsibility of the Petitioner.

(h) Preservation of Affordability

(1) Affordable units provided under this Section shall be subject to an Affordable Housing Restriction that contains limitations on use, occupancy, resale and rents, and provides for periodic monitoring to verify compliance with and enforce said restriction. Affordability restrictions shall be contained in applicable affordable housing restrictions, regulatory agreements, deed covenants, contractual agreements, land trust arrangements and/or other mechanisms to ensure compliance with the affordability requirements of this §5.07 (collectively, "Affordable Housing Restriction").

(2) The Affordable Housing Restriction shall run with the land and be in force in perpetuity or for the maximum period allowed by law, and be enforceable under the provisions of Chapter 184, Section 26 or Sections 31-32 of the General Laws.

(3) The Affordable Housing Restriction shall provide that initial sales and rental of affordable housing units and their subsequent re-sales and re-rentals shall comply with federal, state and local fair housing laws, regulations and policies.

(4) The Affordable Housing Restriction shall provide that in the event that any affordable rental unit is converted to a condominium unit, the condominium unit shall be restricted in perpetuity in the manner provided for by §**5.07**(h)(1) above to ensure that it remains affordable to households in the same income range as prior to the condominium conversion.

(5) For a covered development that provides Inclusion Units:

(A) No building permit shall be issued until an Affordable Housing Restriction has been executed by the Petitioner and the SPGA and the Petitioner provides evidence acceptable to the Director of DCDP that the agreement has been recorded at the Middlesex County Registry of Deeds.

(B) For a rental, for sale or homeownership unit, the DCDP shall not authorize or sign off on a Certificate of Occupancy until the Petitioner submits documentation acceptable to the Director of DCDP that an affordable housing deed rider has been signed by affordable unit homebuyer and recorded at the Middlesex County Registry of Deeds.

(6) For a covered development that provides affordable housing through a cash payment in lieu of affordable units:

(A) For a covered development having 10 units or less that provides affordable housing through a cash payment in lieu of affordable units; the following reduced percentage (%) of the difference between fair-market value and affordable housing unit as described in § **5.07(**e**)(**~~.~~2**)**. A. shall apply: 10 units – 100%; 9 units- 90%; 8 units – 80%; 7 units – 70% and 6 units – 60%.

(B) The DCDP shall not sign off on **C**~~c~~ertificate(s) of **O**~~o~~ccupancy ~~for Unit 6~~ until the Petitioner pays **100%** ~~50%~~ of the required **cash in lieu payment.**~~fee~~**.**~~; or payment in full if it is a 6-unit covered development. Before a certificate of occupancy can be issued for Units 7-10, the Petitioner must pay the remaining 50% or payment in full for covered developments having 7, 8, and 9 units and provide evidence to the Director of DCDP that the cash payment has been paid in full to the Affordable Housing Fund. For projects above 10 units, the remaining fee must be paid prior to the issuance of the certificates of occupancy for unit 11 and above.~~

(7) All legal documentation in connection with the affordable housing units shall be in the standard form provided by the Town of Watertown, as approved by legal counsel to the Town. If the Petitioner proposes to use documentation other than that provided by the Town, any and all costs associated with review by legal counsel to the Town shall be paid by the Petitioner.

(i) <u>Submission Requirements and Procedures</u>
Projects requiring the provision of affordable units under this Section must submit a proposal as to the method of meeting the affordable housing requirements with the application for zoning relief and a copy to the WHP. The WHP shall, in writing, provide the **SPGA** ~~Petitioner~~ with their recommendations no later than forty (40) days from submission. The SPGA may adopt additional submission requirements and procedures not inconsistent with this Section, following a public hearing and consultation with the WHP.

(j) <u>Special Regulations for Inclusion Units</u>
(1) <u>Use Regulations:</u> Developments with Inclusion Units shall comply with §5.01, Table of Use Regulations; provided, however, that a covered development with not more than ten (10) multi-family units shall be a permitted use when at least 12.5% of the units are Inclusion Units as defined

hereunder, in which case the development shall qualify for review as a Small-Scale Inclusion Development.

(2) Small-Scale Inclusion Development Submission Requirements and Procedures: No Building Permit for a Small-Scale Inclusion Development shall be issued until the SPGA has approved a site plan in accordance with §9.03 and the provisions of this Section. The SPGA may adopt regulations for submission requirements and procedures not inconsistent with this Section, following a public hearing.

(3) Cost Offsets and Affordability Requirements: Inclusion Units **provided in excess of what is required in §5.07(d)(4)** shall be exempt from the minimum lot area per dwelling unit and/or maximum floor area ratio, as set forth in §5.04, provided that the Inclusion Units comply with the following affordability requirements:

~~(A)~~ *Rental Units*: For the affordable units, the maximum affordable rent shall be affordable to a household with income at or below 65% area median income (AMI), adjusted for household size**.**~~; provided, however, that the SPGA may grant a special permit for a development in which the affordable unit rents are, on average, affordable for a household with income at 65% AMI. For example, in a development with two Inclusion Units, the maximum rent for each unit may be that which is affordable to a household with income at 65% AMI, or one unit may be affordable to a household with income at 50% AMI and the second unit may be affordable to a household with income at 70% AMI. However, no affordable unit in a rental development shall be priced for affordability to a household with income exceeding 80% AMI.~~
~~(B) *Homeownership Units*: For the affordable units, the maximum purchase price shall be affordable to a household with income at 70% AMI, adjusted for household size.~~

(**k**) Local Initiative Program Requirements. The Petitioner shall be responsible for preparing and complying with any documentation that may be required by DHCD to qualify affordable units for listing on the Chapter 40B Subsidized Housing Inventory. **The Petitioner shall also be responsible for providing annual compliance monitoring and certification to the Town, or to cover the costs of the Town for provision of such compliance monitoring.**

(**l**) Severability
If any portion of this Section is declared to be invalid, the remainder shall continue to be in full force and effect.

SECTION 5.08 REVITALIZATION OVERLAY SPECIAL PERMIT (R0)

(d) Dimensional Criteria: The uses noted in subsection (c) above shall be subject to the following criteria:

(8) Bonus Density: A project developed by a Revitalization Overlay special permit **which complies with the requirements of Section 5.07, except that the allowance for a cash contribution in lieu of units shall not apply,**~~which provides that ten percent (10%) of its residential units be made affordable to low and moderate income persons as defined by Executive Office of Communities and Development (EOCD), subject to the criteria set forth in Section 5.07(d),~~ may increase its Floor Area Ratio to a maximum of 2.0.

SECTION 9.07 SPECIAL PERMIT CRITERIA FOR I-3 DISTRICT

(a) Commercial Uses: Applicants for a special permit for mixed-use development in the I-3 district shall be permitted to use up to twenty percent (20%) of the total gross floor area for general retail or service purposes, provided, however, that no drive-in facility of any kind is permitted. The commercial space shall be limited to the first floor but may be located in one or more buildings located on the Lot.

~~(b) Inclusionary Zoning Requirements: Applicants for a special permit for residential use shall provide ten percent (10%) of the total number of dwelling units subject to a special permit for affordable housing purposes as provided in §5.07(c).~~

TOWN OF WATERTOWN
HOUSING PARTNERSHIP

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Watertown, MA 02472
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To:	Honorable Town Council Michael J. Driscoll, Town Manager
From:	Watertown Housing Partnership HHReynolds chair
Date:	May 24, 2016
Subject:	Housing Partnership Recommendation on Changes to Inclusionary Zoning

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The Watertown Housing Partnership (Partnership) met on April 19, 2016, April 27, 2016 and on May 17, 2016 to consider changes to Watertown's Inclusionary Zoning requirements in response to the Town Council's referral to the Economic Development Subcommittee and to address whether the increase to 15% the Inclusionary Zoning set aside in the newly RMUD district should be applied town-wide.

Attached to this Memo is language the Partnership suggests should be replace language in Section 5.07 of the Zoning Ordinance, and in certain other key sections in the Ordinance where affordable housing is mentioned.

The key changes to Section 5.07 that the Partnership recommends are:

1. Create a two-tiered system for the unit set-aside based on project size. Smaller projects with up to 19 units should be required to set aside 12.5% of the total units as affordable. Larger projects with 20 or more units should be required to set aside 15.0% of total units as affordable. The high market rate housing cost and recent increases shown on Table I point out a need for more affordable housing. Numbers of affordable units set aside at 12.5 and 15 percent are shown on Table IIA.

2. For larger projects create ***RENTAL UNITS*** affordable to households below 65% Area Median Income (AMI). To accomplish this require projects containing 20 and larger number of rental units to provide 1/3 of the affordable units at 65% AMI. Tables II A/B illustrates the impact to developers in the number of set aside units and degree of affordability. Home-ownership units would remain at 80% AMI.

The Partnership also recommends other housekeeping changes to the Inclusionary Zoning text and to several other sections of the Zoning Ordinance.

The Partnership believes these changes to Watertown's Inclusionary Zoning (noted above) are warranted for several reasons:

A. They are consistent with and promote Watertown's 2014 Housing Production Plan. Specifically, the increase to a 15% set aside will help Watertown create more affordable units, and progress toward the State's goal to meet the Chapter 40(B) requirement to make 10% of its total housing stock affordable.

B. They are consistent with and promote the affordable housing goals in Watertown's 2015 Comprehensive Plan, specifically Goal 1 to *promote and maintain a diverse housing stock with increased funding for housing creation and more opportunities for lower- and middle-income households.*

C. Housing options continue to be limited for those on the lower tiers of the income spectrum, particularly those below 65% of AMI, and these proposed changes aim to help address that continued affordability gap, and meets the needs of those households in Watertown that are most cost-burdened.

D. The two tiers of project size address and balance the potential for impacts on small to medium sized projects (6 to 19 units) by holding the requirements for affordable units as they are now.

E. The upper tier for larger project sizes (20 or more units) can provide for greater affordability of 65% AMI while not changing the effect on small or medium sized projects. High rent levels in Watertown are currently preventing household movement from State Public Housing into affordable or market rate rental housing.

F. The provision for greater affordability has additional impact by helping Watertown Housing Authority residences access these rental units, thus freeing up much needed public housing units as explained in the attachment submitted by Brian Costello of the Watertown Housing Authority.

G. For home-ownership projects, setting the affordability at 80% AMI, in concert with existing HUD regulations and safeguards, helps to insure ability of low to moderate income households to purchase housing and maintain their household financial stability.

The Partnership also notes that Section 5.07(j)(3) is being retained, which exempts affordable units in excess of what is required to be set aside at 65% of AMI from the maximum lot area per dwelling and/or the maximum floor area ratio. The Partnership recognizes these tools are important to a project's financial proforma, and may therefore provide an additional incentive for private developers to offer units at a lower income level.

The Partnership also discussed and considered the need of middle income residents. While there is a need for housing for middle income residents, the greater and more urgent need is for low and moderate income households (between 50% and 80% AMI). Therefore, the Partnership recommends that any provision for "middle income" households be on top of, not in lieu of the 15%.

The Partnership noted that units above 80% AMI would not increase progress toward the 10% state target and would not be counted on the Subsidized Housing Inventory.

The Partnership thanks the Town Council for its work on this critical issue, and for the opportunity to provide recommendations to address the affordable housing needs in Watertown consistent with the Watertown Housing Production Plan and Comprehensive Plan.

Attachments:

1. The Watertown Housing Partnership suggested replacement language for Section 5.07 of the Zoning Ordinance,
2. Table I Watertown Market Rate Housing Costs and Recent Increases
3. Table IIA Number of Affordable Units Set Aside and Affordability
4. Comments from the Watertown Housing Authority Perspective.

SUGGESTED CHANGES TO WATERTOWN'S INCLUSIONARY ZONING REQUIREMENTS

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The Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 31.04.

(c) Applicability

(1) §5.07 applies to any development, whether new construction, conversion, adaptive reuse or expansion of an existing structure, involving the creation of more than five dwelling units or more than five (5) lots for residential use. Assisted living, outside of the Assisted Living Overlay Zone, § 5.11, shall be considered institutional and shall be exempt from §5.07.

Developments may not be segmented to avoid compliance with this Section. "Segmentation" shall mean any development, whether new construction, adaptive reuse or redevelopment, or any division of land that would cumulatively result in an increase by five or more residential lots or dwelling units above the number existing on a parcel of land or contiguous parcels in common ownership twenty-four months prior to the application. Where such segmentation occurs, it shall be subject to this Section as a covered development. A subdivision or division of land shall mean any subdivision as defined in the Subdivision Control Law, G.L. c.41, Sections 81K-81GG, or any division of land under G.L. c.41, §81P, into lots for residential use.

(2) This Section does not apply to the rehabilitation of any building or structure, all of or substantially all of which is destroyed or damaged by fire or other casualty or a natural disaster; provided, however, no rehabilitation nor repair shall increase the density, bulk or size of any such building or structure which previously existed prior to the damage or destruction thereof except in conformance with this Section.

(d) Basic Requirements

(1) Projects having more than five (5) units: No special permit for a development requiring a special permit and no building permit for a use permitted as of right, shall be issued for a development subject to this section unless the Petitioner provides the percentage of ~~at least twelve and one-half percent (12.5%)~~ the total dwelling units in the development as affordable housing as described herein,

within §5.07(d)(4)~~including the Table in Section 3a~~and otherwise consistent with this Section.

(2) Nothing in this Section shall preclude a developer from providing additional ~~more~~ affordable units, or greater affordability, or both, than the minimum requirements. In no instance shall any permit or special permit approval create less than one affordable housing unit, and for purposes of this Section, any calculation of required affordable housing units that results in the fractional or decimal equivalent of one-half or above shall be increased to the next highest whole number.

(3) Affordable units shall be made available to eligible low- or -moderate-income households at purchase prices or rents that comply with the Massachusetts Department of Housing and Community Development (DHCD) Local Initiative Program regulations, 760 CMR 56.00, or any successor program as may be determined by the Special Permit Granting Authority (SPGA) upon recommendation of ~~in consultation with~~ the Watertown Housing Partnership (WHP) and as indicated in §5.07(d)(4)

(4) The Rent and ~~/Purchase~~ownership ~~P~~price and eligibility ~~Schedule~~requirements are as follows: (The table below is new)

Total Project Size	Affordable Units	Rental Price	Ownership Price
1 to 5 units	0	NA	NA
6 to 19 units	12.5%	80% AMI	80% of AMI
20 and over units	15.0%	No less than 5% of the total units at 65% AMI	80% AMI
		10% of total units at 80% AMI	80% AMI

(e) Methods of Providing Affordable Units

(1) A covered development with more than five (5) and up to ten (10) units, shall have the option of providing an affordable unit on site or making a cash payment in lieu of. A covered development with more than ten (10) units shall provide the affordable units on site. However, approval for cash payment in lieu of on-site affordable units may be granted by the SPGA in certain exceptional circumstances. The SPGA must find that the developer has clearly demonstrated that providing such unit(s) on-site would create significant hardship and that a cash payment in lieu of on-site unit(s) is in the best interest of the Town's affordable housing needs.

Any request for alternative means of compliance shall be reviewed by the WHP, which shall then make its recommendation to the SPGA.

(2) The SPGA shall authorize that an alternative method of compliance be used, in accordance with the following:

~~(A).~~ Cash Payment: The SPGA may grant a special permit to provide affordable housing through a cash payment to the Watertown Affordable Housing Fund, in lieu of providing one or more of the affordable units required under this Section; provided, however, that a fee in lieu of affordable units may be authorized only for a covered developments with more than five (5) and up to ten (10) units of for rental, for-sale or homeownership units. The cash payment shall be equal to the difference between the fair market value for a typical market-rate housing unit and the price of the affordable housing unit consistent with DHCD LIP Guidelines and shall be in accordance with a schedule of affordable housing payments as outlined in §5.07(h) (6) and guidelines adopted and amended from time to time by the SPGA, following a public hearing, in consultation with the WHP and the Watertown Department of Community Development and Planning (DCDP).

(f) Location and Comparability of Affordable Units

(1) Affordable units shall be proportionately distributed throughout the building(s) in a covered development.

(2) Affordable units shall be indistinguishable from market-rate units in exterior building materials and finishes; overall construction quality; and energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems, as determined by the Building Inspector

(3) Affordable units may differ from market-rate units in type of appliances, finishes; however, the affordable units shall be comparable to the base market-rate units in such instances.

(4) Affordable units shall have the same floor area as the median market-rate units of the same number of bedrooms within a margin of 20%; provided that units are not less than the minimum square foot required by DHCD.

(5) The bedroom mix in the affordable units shall be proportionate to the market-rate units, unless the SPGA authorizes a different mix by special permit upon the recommendation of the WHP.

(6)~~(5)~~ The SPGA may adopt regulations or guidelines to further define comparability of the foregoing requirements.

(7)~~(6)~~ The WHP shall provide the Petitioner and SPGA as provided in §5.07(i) ~~(j)~~ with its recommendations with reference to the Petitioner's proposal in meeting the requirements for affordable housing.

(g) Affirmative Marketing and Local Preference Policy

Affordable units shall be made available for purchase or rent to eligible low- or -moderate-income households under an affirmative marketing plan that complies with federal and state fair housing laws, and fair housing and local preference guidelines established by the Watertown Housing Partnership. No building permit for a covered development shall be issued unless the DCDP has determined that the Petitioner's affirmative marketing plan complies with this requirement. The affirmative marketing costs for the affordable housing units shall be the responsibility of the Petitioner.

(h) Preservation of Affordability

(1) Affordable units provided under this Section shall be subject to an Affordable Housing Restriction that contains limitations on use, occupancy, resale and rents, and provides for periodic monitoring to verify compliance with and enforce said restriction. Affordability restrictions shall be contained in applicable affordable housing restrictions, regulatory agreements, deed covenants, contractual agreements, land trust arrangements and/or other mechanisms to ensure compliance with the affordability requirements of this §5.07 (collectively, "Affordable Housing Restriction").

(2) The Affordable Housing Restriction shall run with the land and be in force in perpetuity or for the maximum period allowed by law, and be enforceable under the provisions of Chapter 184, Section 26 or Sections 31-32 of the General Laws.

(3) The Affordable Housing Restriction shall provide that initial sales and rental of affordable housing units and their subsequent re-sales and re-rentals shall comply with federal, state and local fair housing laws, regulations and policies.

(4) The Affordable Housing Restriction shall provide that in the event that any affordable rental unit is converted to a condominium unit, the condominium unit shall be restricted in perpetuity in the manner provided for by §5.07(h)(1) above to ensure that it remains affordable to households in the same income range as prior to the condominium conversion.

(5) For a covered development that provides Inclusion Units:

(A) No building permit shall be issued until an Affordable Housing Restriction has been executed by the Petitioner and the SPGA and the Petitioner provides evidence acceptable to the Director of DCDP that the agreement has been recorded at the Middlesex County Registry of Deeds.

(B) For a rental, for sale or homeownership unit, the DCDP shall not authorize or sign off on a certificate of occupancy until the Petitioner submits documentation acceptable to the Director of DCDP that an affordable housing deed rider has been signed by affordable unit homebuyer and recorded at the Middlesex County Registry of Deeds.

(6) For a covered development that provides affordable housing through a cash payment in lieu of affordable units:

(A) For a covered development having 10 units or less that provides affordable housing through a cash payment in lieu of affordable units; the following reduced percentage (%) of the difference between fair-market value and affordable housing unit as described in § e. 2. A. shall apply: 10 units – 100%; 9 units- 90%; 8 units – 80%; 7 units – 70% and 6 units – 60%.

(B) The DCDP shall not sign off on certificate(s) of occupancy for Unit 6 until the Petitioner pays 50% of the required fee; or payment in full if it is a 6-unit covered development. Before a certificate of occupancy can be issued for Units 7-10, the Petitioner must pay the remaining 50% or payment in full for covered developments having 7, 8, and 9 units and provide evidence to the Director of DCDP that the cash payment has been paid in full to the Affordable Housing Fund. For projects above 10 units, the remaining fee must be paid prior to the issuance of the certificates of occupancy for unit 11 and above.

(7) All legal documentation in connection with the affordable housing units shall be in the standard form provided by the Town of Watertown, as approved by legal counsel to the Town. If the Petitioner proposes to use documentation other than that provided by the Town, any and all costs associated with review by legal counsel to the Town shall be paid by the Petitioner.

(i) Submission Requirements and Procedures

Projects requiring the provision of affordable units under this Section must submit a proposal as to the method of meeting the affordable housing requirements with the application for zoning relief and a copy to the WHP. The WHP shall, in writing, provide the SPGA ~~Petitioner~~ with their recommendations no later than forty (40) days from submission. The SPGA may adopt additional submission requirements and procedures not inconsistent with this Section, following a public hearing and consultation with the WHP.

(j) Special Regulations for Inclusion Units

(1) Use Regulations: Developments with Inclusion Units shall comply with §5.01, Table of Use Regulations; provided, however, that a covered development with not more than ten (10) multi-family units shall be a permitted use when at least 12.5% of the units are Inclusion Units as defined hereunder, in which case the development shall qualify for review as a Small-Scale Inclusion Development.

(2) Small-Scale Inclusion Development Submission Requirements and Procedures: No building permit for a Small-Scale Inclusion Development shall be issued until the SPGA has approved a site plan in accordance with §9.03 and the provisions of this Section. The SPGA may adopt regulations for submission requirements and procedures not inconsistent with this Section, following a public hearing.

(3) Cost Offsets and Affordability Requirements: Inclusion Units shall be exempt from the minimum lot area per dwelling unit and/or maximum floor area ratio, as set forth in §5.04, provided that the Inclusion Units comply with the following affordability requirements and provide a number of units in excess of what is required in §5.07(d)(4):

~~(A)~~ *Rental Units*: For the affordable units, the maximum affordable rent shall be affordable to a household with income at or below 65% area median income (AMI), adjusted for household size; provided, however, that the SPGA may grant a special permit for a development in which the affordable unit rents are, on average, affordable for a household with income at or less than ~~at~~ 65% AMI. ~~For example, in a development with two Inclusion Units, the maximum rent for each unit may be that which is affordable to a household with income at 65% AMI, or one unit may be affordable to a household with income at 50% AMI and the second unit may be affordable to a household with income at 70% AMI. However, no affordable unit in a rental development shall be priced for affordability to a household with income exceeding 80% AMI.~~

~~(B) *Homeownership Units*: For the affordable units, the maximum purchase price shall be affordable to a household with income at 70% AMI, adjusted for household size.~~

(k) Local Initiative Program Requirements. The Petitioner shall be responsible for preparing and complying with any documentation that may be required by DHCD to qualify affordable units for listing on the Chapter 40B Subsidized Housing Inventory. The Petitioner shall also be responsible for providing annual compliance monitoring and certification to the Town, or to cover the costs of the Town for provision of such compliance monitoring.

(l) Severability

If any portion of this Section is declared to be invalid, the remainder shall continue to be in full force and effect.

SUGGESTED CHANGES TO OTHER SECTIONS OF ZONING REQUIREMENTS THAT REFER TO INCLUSIONARY ZONING

SECTION 5.08 REVITALIZATION OVERLAY SPECIAL PERMIT (R0)

(d) Dimensional Criteria: The uses noted in subsection (c) above shall be subject to the following criteria:

(8) Bonus Density: A project developed by a Revitalization Overlay special permit which complies with the requirements of Section 5.07, except that the allowance for a cash contribution in lieu of units shall not apply,~~which provides that ten percent (10%) of its residential units be made affordable to low and moderate income persons as defined by Executive Office of Communities and Development (EOCD), subject to the criteria set forth in Section 5.07(d),~~ may increase its Floor Area Ratio to a maximum of 2.0.

SECTION 9.07 SPECIAL PERMIT CRITERIA FOR I-3 DISTRICT

(a) Commercial Uses: Applicants for a special permit for mixed-use development in the I-3 district shall be permitted to use up to twenty percent (20%) of the total gross floor area for general retail or service purposes, provided, however, that no drive-in facility of any kind is permitted. The commercial space shall be limited to the first floor but may be located in one or more buildings located on the Lot.

~~(b) Inclusionary Zoning Requirements: Applicants for a special permit for residential use shall provide ten percent (10%) of the total number of dwelling units subject to a special permit for affordable housing purposes as provided in §5.07(c).~~

TABLE I WATERTOWN MARKET RATE HOUSING COSTS AND RECENT INCREASES

A) WATERTOWN CONDO AVERAGE SALES PRICES AND THREE YEAR PRICE INCREASE

YEAR OR INCREASE	AVG. PRICE ($) ONE BEDROOM	AVG. PRICE ($) TWO BEDROOM	AVG. PRICE ($) THREE BEDROOM
2015	315,586	396,235	548,560
2012	253,774	309,121	426,984
THREE YEAR PRICE INCREASE	61,812	87,114	121,576

B) WATERTOWN MONTHLY AVERAGE APPARTMENT RENT AND THREE YEAR RENT INCREASE

YEAR OR INCREASE	AVG. MONTHLY RENT ($) ONE BEDROOM	AVG. MONTHLY RENT ($) TWO BEDROOM	AVG. MONTHLY RENT ($) THREE BEDROOM
2015	1,688	1,937	2,373
2012	1,517	1,705	2,285
THREE YEAR, MONTHLY RENT INCREASE	171	232	88

NUMBERS CALCULATED USING DATA OBTAINED FROM MULTIPLE LISTING SERVICE H3 PINERGY, WHICH INCLUDES ALL MLS SALES AND RENTALS IN WATERTOWN FOR THE TIME PERIODS

TABLE II, AFFORDABLE UNITS SET ASIDE

TABLE II A: AFFORDABLE RENTAL AND OWNERSHIP UNITS RESULTING AT 12.5% AND 15% SET ASIDE

TOTAL UNITS IN PROJECT	AFFORDABLE UNITS AT 12.5% AMI	AFFORDABLE UNITS AT 15% AMI	TOTAL UNITS IN PROJECT	AFFORDABLE UNITS AT 12.5% AMI	AFFORDABLE UNITS AT 15% AMI
1-5	0	0	21	3	3
6	1	1	22	3	3
7	1	1	23	3	3
8	1	1	24	3	4
9	1	1	25	3	4
10	1	2	50	6	8
11	1	2	75	9	11
12	2	2	100	13	15
13	2	2	125	16	19
14	2	2	150	19	23
15	2	2	175	22	26
16	2	2	200	25	30
17	2	3	300	38	45
18	2	3	400	50	60
19	2	3	500	63	75
20	3	3			

TABLE II B: AFFORDABLE RENTAL UNIT SET ASIDE AS PROPOSED BY WATERTOWN HOUSING PARTNERSHIP

12.5% SET ASIDE THROUGH 19 TOTAL-PROJECT-UNITS AND 15% SET ASIDE THEREAFTER

(1/3 OF AFFORDABLE UNITS AT 65% AMI BEGINNING AT 20 TOTAL- PROJECT-UNITS)

TOTAL NUMBER OF UNITS IN PROJECT	TOTAL NUMBER OF AFFORDABLE UNITS SET ASIDE	NUMBER OF AFFORDABLE UNITS AT 65% AMI	NUMBER OF AFFORDABLE UNITS AT 80% AMI
1-5	0	0	0
6	1	0	1
10	1	0	1
15	2	0	2
20	3	1	2
25	4	1	3
50	8	3	5
75	11	4	7
100	15	5	10
150	23	8	15
200	30	10	20
300	45	15	30
400	60	20	40
500	75	25	50

WATERTOWN HOUSING AUTHORITY

55 WAVERLEY AVENUE
WATERTOWN, MASSACHUSETTS 02472-3613

(617) 923-3950 - Office
(617) 923-3961 - Maintenance

TDD
1-800-545-1833 ext. 569

(617) 923-3954 - Leased Housing
(617) 923-2466 - FAX

Attachment to Recommended Section 5.07 Zoning Changes

The Current Situation of State Family Public Housing Units Owned and Operated by the Watertown Housing Authority

By: Brian Costello, Executive Director, Watertown Housing Authority

There are 240 State Family Public Housing Units owned and operated by the Watertown Housing Authority. As you know, rent is calculated at 30% of residents' monthly gross income (minus certain allowed deductions) with heat and hot water included in the rent. The average monthly rent per apartment in our family developments as of May 1, 2016 is- $ 482.00. This equates to an average annual income of approximately $ 19,000.00. Just five years ago average rent was approximately $ 350.00 with average annual incomes at around $ 14,000.00. This represents an increase in rent/income greater than 35% in just five short years.

Two basic variables contribute to this increase in monthly average rents and annual income. The first variable is an indication that residents have progressed since their initial occupancy in Public Housing via better jobs through education, training and hard work. The second variable involves limited options in the Watertown area to secure market rate housing.

Prior to the explosive cost of housing, both rental and ownership, experienced in the greater Boston Metropolitan Area and especially in Watertown, it was a very rare occurrence to find a resident household in the family developments paying in excess of $ 1,000.00 per month towards rent. Rent at this amount represents an annual income of around $ 40K or a starting teacher's salary. In the past when I reviewed the monthly rent roll, you could anticipate and expect a vacancy was coming when a family was paying that level of rent. This, of course, presented opportunity for another family at a very low income (usually <= 14K) to move in and start their progression. This is the mission of Family low income Public Housing.

Over the past few years when I review the family rent roll I see a very disturbing trend. Currently the WHA has 27 family households paying in excess of $ 1,000.00 per month towards rent (40K+ annual income) and even more unsettling of the 27 family households, nine (9) family households pay >/= to $ 1,400.00 per month (56K+ annual income).

Eleven percent (11%) of our families are experiencing limited options to move into ownership or the private rental housing market. These are residents with good work histories and solid rent payment positions with the WHA. This 11% would represent 26 vacancies to assist local applicants on our multiple year waiting list to gain truly safe, decent and affordable housing. It is important to note that all mentioned do not become over-income and ineligible until their income/rent exceeds the Section 8 Fair Market Rents (FMR) which currently for a two bedroom is $ 1,723.00 per month and a three bedroom is $ 2,139.00.

Housing Units Created by Inclusionary Zoning Bylaw
4/4/2016

Name of Project	Street Address	Year Permit Issued	Total # of Units	# Affordable Units as Required % of Total Units	Actual Number of Affordable Units From Various Databases/Sources
Archstone Apartments in Watertown Square (SEE NOTE)	20 Watertown Street	2000	134	18	18
Bell Properties (Formerly Alta at the Estate) (Apartments) (Double counted)	200 Waltham Street *10 - 300 Woodview Way*	2013	155	16	16
Bell Tower/Saint Theresa's Church (Cash Payment)	444 Mount Auburn Street	2007	9	Offered 2 Off Site Units	Cash in Lieu of Offsite Units
Charlesbank Residences (Apartments) (Double counted)	140 Pleasant Street	2012	44	4	4
Charles River Towers/Messassian (Condos; Affordable Unit an Apartment)	131 - 151 Coolidge Avenue	1980 (No Inclusionary Zoning)	192	0	1 (Per 1993 Special Permit Amendment)
The Coolidge School	319 Arlington Street	1997?	38	38	38
Criterion; Residences/Riverbend on the Charles (Apartments) (Double counted)	270 Pleasant Street and Lot Across the Street	2011	170	17	17
Elan/Greystar/Union Market (Apartments) (NOT YET ON SHI)	56-60 Irving Street	2015	282	35	35
The Gables (Hanover/Cressett) (Apartments) (NOT YET ON SHI)	202-204 Arsenal Street	2014	296	30	30
Nally Estates/Chatham Estates (Apartments) (Double counted)	73 - 91 Waverly Avenue	2010	18	2	2
Main Care LLC (Cash Payment)	590 Main Street	2005	13	1	Cash in Lieu of On Site Units
Mount Auburn Village Condos/First Baptist Church (Cash Payment)	128-134 Mount Auburn Street *18 Common Street*	2008	14	1	Cash in Lieu of Offsite Units
Repton Place (Condos) (Double counted)	555 Pleasant Street	2008	179	18	28
Riverbank Lofts (Condos) (Double counted)	290 Pleasant Street	2004	57	6	7
River Park Lofts (Apartments) (NOT YET ON SHI)	60 Howard & 45 Bacon Streets	2013	65	6	7
192 Pleasant Street (Cash Payment)	192 Pleasant Street	2013	7	1	Cash Payment for One Unit
Watertown Mews (Mill Creek) (Apartments) (Double counted)	555 Pleasant Street	2013	206	21	32
	TOTALS	Units Permitted After 2010	1,048		124
		Total Units	1,879		234

Notes:
Repton/Mews agreed to provide 15% or 60 total units in two groups: 28 + 32
Archstone Apartments can't count towards the SHI. See project folder.
2014 HPP sets a goal of creating 78 units per year.

2010 Census: Year Round Housing Units		15,521	
Affordable Units			
DHCD Total SHI Units Counted	As of 10/29/15	1,065	*(Includes WHA, Group Homes, etc.)*
Add Units Not Yet On SHI		78	
Subtract Doubles (On SHI per DHCD)		111	
Total Affordable Units		1,032	
Percentage Affordable Units		6.65	
# Needed in 12 Months for 40B Safe Harbor		11,641	

# Units Created Per Year (Year Permitted)	
Up to Year 2000	56
2001 to 2010	9
Year 2011	17
Year 2012	4
Year 2013	55
Year 2014	30
Year 2015	35
Total Number of Units Created	91

TOWN OF WATERTOWN
HOUSING PARTNERSHIP
Administration Building
149 Main Street
Watertown, MA 02472
Phone: 617 972 6417
Fax: 617 972 6484
www.watertown-ma.gov

To: Economic Development Subcommittee of the Honorable Town Council
Michael J. Driscoll, Town Manager

From: Watertown Housing Partnership

Date: June 23, 2016

Subject: Housing Partnership Recommendation on Changes to Inclusionary Zoning

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The Watertown Housing Partnership (Partnership) met on with the Economic Development & Planning Subcommittee (Subcommittee) of the Town Council on June 9, 2016 to consider changes to Watertown's Inclusionary Zoning requirements.

This was in response to the Town Council's referral to the Economic Development Subcommittee and to address whether the increase to 15% the Inclusionary Zoning set aside in the newly RMUD district should be applied town-wide.

Since the Partnership's meeting with the Subcommittee on June 9, 2016, the Partnership met again on June 21, 2016 to consider two additional changes:

1. Establishment of a methodology of a cash-in-lieu of units payment for rental projects [§5.07(e)(2)]

2. A clarification of projects are eligible for the exemption from minimum lot area per dwelling unit, and/or the maximum floor area ratio [§5.07(j)(3)]

Attached to this Memo is revised language the Partnership suggests should replace the language in Section 5.07 of the Zoning Ordinance, and in certain other key sections in the Ordinance where affordable housing is mentioned. The changes to Section 5.07 that the Partnership has made since the meeting with the Subcommittee have been highlighted in yellow. The remainder of the *Track Changes* shown in the attached document were provided previously to the Subcommittee in advance of the June 9, 2016 meeting.

The proposed methodology for a cash-in-lieu-of-units payment has been revised for both rental and home-ownership units. The Partnership proposes that the Town adopt the MA Department of Housing and Community Development's Total Development Cost figure, adjusted for Watertown, the type of unit (new or rehabilitated), and the number of units to be "bought out." This figure is currently between $329,000 and $349,000, depending on the size of the unit. The Partnership suggests this methodology is appropriate for both rental and homeownership, as it reflects a development cost to create units that would have normally been built by the developer.

The draft Ordinance has also been clarified, such that projects that provide more units at 65% of Area Median Income (AMI) than what the draft Text Amendment would require are exempt from the minimum lot area per dwelling unit, and/or the maximum floor area ratio. Language was removed that suggested that an average AMI figure could be used.

The Partnership also made an additional change, to require that cash-in-lieu payments occur before the first Certificate of Occupancy is issued for a project. This change is based on the difficulty the Town has experienced on prior projects in enforcing a staggered payment.

The Partnership thanks the Subcommittee and Town Council for its work on this critical issue, and for the opportunity to provide recommendations to address the affordable housing needs in Watertown.

SUGGESTED CHANGES TO WATERTOWN'S INCLUSIONARY ZONING REQUIREMENTS

SECTION 5.07 AFFORDABLE HOUSING REQUIREMENTS

(a) Intent and Purpose

The purposes of this Section are to encourage the expansion and improvement of the Town of Watertown's housing stock; to provide for housing choices for households of all incomes, ages, and sizes; to prevent the displacement of low- and -moderate-income residents; to produce affordable housing units in order to meet existing and anticipated employment needs within the Town; to provide opportunities for conventional residential and mixed-use development to contribute to increasing the supply of affordable housing; and to establish standards and guidelines in order to implement the foregoing.

(b) Definitions

1. AFFORDABLE HOUSING PROGRAM
Collectively, §5.07 and other provisions of the Watertown Zoning Ordinance that pertain to the development and preservation of affordable housing in the Town of Watertown.

2. AFFORDABLE HOUSING RESTRICTION
A deed restriction, contract, mortgage agreement, or other legal instrument, acceptable in form and substance to the Town of Watertown, that effectively restricts occupancy of an affordable housing unit to qualified purchaser or qualified 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 of time allowed by law, and be enforceable under the provisions of Chapter 184, Sections 26 or 31-32 of the General Laws.

3. AFFORDABLE HOUSING FUND
A fund account established by the Town for the purpose of creating or preserving affordable housing in the Town of Watertown.

4. AFFORDABLE HOUSING UNIT
A dwelling unit that is affordable to and occupied by a low- or -moderate-income household and meets the requirements of the Massachusetts Department of Housing and Community Development (DHCD), Local Initiative Program, for inclusion on the Chapter 40B Subsidized Housing Inventory.

5. AREA MEDIAN INCOME
The median family income for the metropolitan area that includes the Town of Watertown, as defined in the annual schedule of low- and -moderate-income limits published by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size.

6. COVERED DEVELOPMENT
Any development required to provide affordable housing in accordance with §5.07.

7. ELIGIBLE HOUSEHOLD
A low- or -moderate-income household that purchases or rents an affordable housing unit **and occupies it as their domicile and principal residence.** ~~as its sole residence.~~

8. INCLUSION UNIT
An affordable housing unit built on the same site as the market-rate units in a covered development under §5.07.

9. LOCAL INITIATIVE PROGRAM
A program administered by DHCD pursuant to 760 CMR 56.00 to develop and implement local housing initiatives that produce low- and -moderate-income housing, with or without a

Comprehensive Permit as defined in Chapter 40B, Section 20 through Section 23 of the General Laws.

10. LOW- OR MODERATE-INCOME HOUSEHOLD
A household with income at or below 80% of area median income, adjusted for household size, for the metropolitan area that includes the Town of Watertown, as determined annually by HUD.

11. MARKET-RATE DWELLING UNIT
All dwelling units in a development subject to this §5.07 that are not affordable housing units as defined herein.

12. MAXIMUM AFFORDABLE PURCHASE PRICE OR RENT
A purchase price or monthly rent that complies with **the requirements and Table shown in §5.07(d)(4) and that complies with** the regulations and guidelines of the DHCD Local Initiative Program and the Watertown Planning Board, except that developments subject to § 5.07(j)(3) shall comply with the maximum purchase price or rent requirements of that section. For homeownership units, the maximum affordable purchase price shall account for the monthly cost of a mortgage payment, property taxes, insurance, and condominium fees where applicable.~~; and~~ **F**~~f~~or rental units, the maximum affordable rent shall account for the monthly cost of rent and utilities. The household income used to compute the maximum affordable purchase price or rent shall be adjusted for household size, considering the household size for which a proposed affordable unit would be suitable under guidelines of the Local Initiative Program or any successor affordable housing program established by the State.

13. SMALL-SCALE INCLUSION DEVELOPMENT
A covered development that provides 6 or more up to 10 dwelling units.

14. SUBSIDIZED HOUSING INVENTORY
The Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 31.04.

(c) Applicability

(1) §5.07 applies to any development, whether new construction, conversion, adaptive reuse or expansion of an existing structure, involving the creation of more than five dwelling units or more than five (5) lots for residential use. Assisted living, outside of the Assisted Living Overlay Zone, Section 5.11, shall be considered institutional and shall be exempt from §5.07.

Developments may not be segmented to avoid compliance with this Section. "Segmentation" shall mean any development, whether new construction, adaptive reuse or redevelopment, or any division of land that would cumulatively result in an increase by five or more residential lots or dwelling units above the number existing on a parcel of land or contiguous parcels in common ownership twenty-four months prior to the application. Where such segmentation occurs, it shall be subject to this Section as a covered development. A subdivision or division of land shall mean any subdivision as defined in the Subdivision Control Law, G.L. c.41, Sections 81K-81GG, or any division of land under G.L. c.41, §81P, into lots for residential use.

(2) This Section does not apply to the rehabilitation of any building or structure, all of or substantially all of which is destroyed or damaged by fire or other casualty or a natural disaster; provided, however, no rehabilitation nor repair shall increase the density, bulk or size of any such building or structure which previously existed prior to the damage or destruction thereof except in conformance with this Section.

(d) Basic Requirements

(1) Projects having more than five (5) units: No Special Permit for a development requiring a special permit and no Building Permit for a use permitted as of right, shall be issued for a development subject to this Section unless the Petitioner provides **the percentage of** ~~at least twelve and one-half percent (12.5%)~~ the total dwelling units in the development as affordable housing as described herein, **within §5.07(d)(4)~~including the Table in Section 3a~~**and otherwise consistent with this Section.

(2) Nothing in this Section shall preclude a developer from providing **additional** ~~more~~ affordable units**, or greater affordability, or both,** than the minimum requirements. In no instance shall any permit or special permit approval create less than one affordable housing unit, and for purposes of this Section, any calculation of required affordable housing units that results in the fractional or decimal equivalent of one-half or above shall be increased to the next highest whole number.

(3) Affordable units shall be made available to eligible low- or -moderate-income households at purchase prices or rents that comply with the Massachusetts Department of Housing and Community Development Local Initiative Program regulations, 760 CMR 56.00, or any successor program as may be determined by the Special Permit Granting Authority (SPGA) **upon recommendation of** ~~in consultation with~~ the Watertown Housing Partnership (WHP) **and as indicated in §5.07(d)(4)**

(4) The Rent and ~~/Purchase~~Ownership ~~P~~price ~~and eligibility~~Rrequirements are as follows:

Total Project Size	Affordable Units	Rental Price	Ownership Price
1 to 5 units	0	NA	NA
6 to 19 units	12.5%	80% AMI	80% of AMI
20 and over units	15.0%	No less than 5% of the total units at 65% AMI	80% AMI
		10% of total units at 80% AMI	80% AMI

(e) Methods of Providing Affordable Units

(1) A covered development with more than five (5) and up to ten (10) units, shall have the option of providing an affordable unit on site or making a cash payment **in lieu of**. A covered development with more than ten (10) units shall provide the affordable units on site. However, approval for cash payment in lieu of on-site affordable units may be granted by the SPGA in certain **extraordinary** ~~exceptional~~ circumstances. The SPGA must find that the developer has clearly demonstrated that providing such unit(s) on-site would create significant hardship and that a cash payment in lieu of on-site unit(s) is in the best interest of the Town**'s affordable housing needs**.

Any request for alternative means of compliance shall be reviewed by the WHP, which shall then make its recommendation to the SPGA.

(2) The SPGA **may** ~~shall~~ authorize that an alternative method of compliance be used, in accordance with the following:

~~(A)~~ Cash Payment: The SPGA may grant a special permit to provide affordable housing through a cash payment to the Watertown Affordable Housing Fund, in lieu of providing one or more of the affordable units required under this Section~~; provided, however, that a fee in lieu of affordable units may be authorized only for a covered developments with more than five (5) and up to ten (10) rental, for-sale or homeownership units.~~ The cash payment shall be equal to **the most current Total Development Cost as articulated in the MA Department of**

Housing & Community Development's Qualified Allocation Plan for Low Income Housing Tax Credit, for the areas described as Within Metro Boston/Suburban Area, as adjusted for the type of project and number of units. The cash payments ~~the difference between the fair market value for a typical market-rate housing unit and the price of the affordable housing unit consistent with DHCD LIP Guidelines and~~ shall **also** be in accordance with a schedule of affordable housing payments as outlined in §5.07(h)(6) and guidelines adopted and amended from time to time by the SPGA, following a public hearing, in consultation with the WHP and the Watertown Department of Community Development and Planning (DCDP).

(f) Location and Comparability of Affordable Units

(1) Affordable units shall be proportionately distributed throughout the building(s) in a covered development.

(2) Affordable units shall be indistinguishable from market-rate units in exterior building materials and finishes; overall construction quality; and energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems, as determined by the Building Inspector

(3) Affordable units may differ from market-rate units in type of appliances, finishes; however, the affordable units shall be comparable to the base market-rate units in such instances.

(4) Affordable units shall have the same floor area as the median market-rate units of the same number of bedrooms within a margin of 20%; provided that units are not less than the minimum square foot required by DHCD.

(5) The bedroom mix in the affordable units shall be proportionate to the market-rate units, unless the SPGA authorizes a different mix by special permit upon the recommendation of the WHP.

(6)~~(5)~~ The SPGA may adopt regulations or guidelines to further define comparability of the foregoing requirements.

(7)~~(6)~~ The WHP shall provide the Petitioner and SPGA as provided in §5.07**(i)** ~~(j)~~ with its recommendations with reference to the Petitioner's proposal in meeting the requirements for affordable housing.

(g) Affirmative Marketing and Local Preference Policy

Affordable units shall be made available for purchase or rent to eligible low- or -moderate-income households under an affirmative marketing plan that complies with federal and state fair housing laws, and fair housing and local preference guidelines established by the Watertown Housing Partnership. No Building Permit for a covered development shall be issued unless the DCDP has determined that the Petitioner's affirmative marketing plan complies with this requirement. The affirmative marketing costs for the affordable housing units shall be the responsibility of the Petitioner.

(h) Preservation of Affordability

(1) Affordable units provided under this Section shall be subject to an Affordable Housing Restriction that contains limitations on use, occupancy, resale and rents, and provides for periodic monitoring to verify compliance with and enforce said restriction. Affordability restrictions shall be contained in applicable affordable housing restrictions, regulatory agreements, deed covenants, contractual agreements, land trust arrangements and/or other mechanisms to ensure compliance with the affordability requirements of this §5.07 (collectively, "Affordable Housing Restriction").

(2) The Affordable Housing Restriction shall run with the land and be in force in perpetuity or for the maximum period allowed by law, and be enforceable under the provisions of Chapter 184, Section 26 or Sections 31-32 of the General Laws.

(3) The Affordable Housing Restriction shall provide that initial sales and rental of affordable housing units and their subsequent re-sales and re-rentals shall comply with federal, state and local fair housing laws, regulations and policies.

(4) The Affordable Housing Restriction shall provide that in the event that any affordable rental unit is converted to a condominium unit, the condominium unit shall be restricted in perpetuity in the manner provided for by §**5.07**(h)(1) above to ensure that it remains affordable to households in the same income range as prior to the condominium conversion.

(5) For a covered development that provides Inclusion Units:

(A) No building permit shall be issued until an Affordable Housing Restriction has been executed by the Petitioner and the SPGA and the Petitioner provides evidence acceptable to the Director of DCDP that the agreement has been recorded at the Middlesex County Registry of Deeds.

(B) For a rental, for sale or homeownership unit, the DCDP shall not authorize or sign off on a Certificate of Occupancy until the Petitioner submits documentation acceptable to the Director of DCDP that an affordable housing deed rider has been signed by affordable unit homebuyer and recorded at the Middlesex County Registry of Deeds.

(6) For a covered development that provides affordable housing through a cash payment in lieu of affordable units:

(A) For a covered development having 10 units or less that provides affordable housing through a cash payment in lieu of affordable units; the following reduced percentage (%) of the difference between fair-market value and affordable housing unit as described in § **5.07(e)(**~~.~~2**)**. A. shall apply: 10 units – 100%; 9 units- 90%; 8 units – 80%; 7 units – 70% and 6 units – 60%.

(B) The DCDP shall not sign off on **C**~~c~~ertificate(s) of **O**~~o~~ccupancy ~~for Unit 6~~ until the Petitioner pays **100%** ~~50%~~ of the required **cash in lieu payment.**~~fee.; or payment in full if it is a 6-unit covered development. Before a certificate of occupancy can be issued for Units 7-10, the Petitioner must pay the remaining 50% or payment in full for covered developments having 7, 8, and 9 units and provide evidence to the Director of DCDP that the cash payment has been paid in full to the Affordable Housing Fund. For projects above 10 units, the remaining fee must be paid prior to the issuance of the certificates of occupancy for unit 11 and above.~~

(7) All legal documentation in connection with the affordable housing units shall be in the standard form provided by the Town of Watertown, as approved by legal counsel to the Town. If the Petitioner proposes to use documentation other than that provided by the Town, any and all costs associated with review by legal counsel to the Town shall be paid by the Petitioner.

(i) Submission Requirements and Procedures

Projects requiring the provision of affordable units under this Section must submit a proposal as to the method of meeting the affordable housing requirements with the application for zoning relief and a copy to the WHP. The WHP shall, in writing, provide the **SPGA** ~~Petitioner~~ with their recommendations no later than forty (40) days from submission. The SPGA may adopt additional submission requirements and procedures not inconsistent with this Section, following a public hearing and consultation with the WHP.

(j) Special Regulations for Inclusion Units

(1) Use Regulations: Developments with Inclusion Units shall comply with §5.01, Table of Use Regulations; provided, however, that a covered development with not more than ten (10) multi-family

units shall be a permitted use when at least 12.5% of the units are Inclusion Units as defined hereunder, in which case the development shall qualify for review as a Small-Scale Inclusion Development.

(2) Small-Scale Inclusion Development Submission Requirements and Procedures: No Building Permit for a Small-Scale Inclusion Development shall be issued until the SPGA has approved a site plan in accordance with §9.03 and the provisions of this Section. The SPGA may adopt regulations for submission requirements and procedures not inconsistent with this Section, following a public hearing.

(3) Cost Offsets and Affordability Requirements: Inclusion Units **provided in excess of what is required in §5.07(d)(4)** shall be exempt from the minimum lot area per dwelling unit and/or maximum floor area ratio, as set forth in §5.04, provided that the Inclusion Units comply with the following affordability requirements:

> ~~(A)~~ *Rental Units*: For the affordable units, the maximum affordable rent shall be affordable to a household with income at or below 65% area median income (AMI), adjusted for household size.~~; provided, however, that the SPGA may grant a special permit for a development in which the affordable unit rents are, on average, affordable for a household with income at 65% AMI. For example, in a development with two Inclusion Units, the maximum rent for each unit may be that which is affordable to a household with income at 65% AMI, or one unit may be affordable to a household with income at 50% AMI and the second unit may be affordable to a household with income at 70% AMI. However, no affordable unit in a rental development shall be priced for affordability to a household with income exceeding 80% AMI.~~
> ~~(B) *Homeownership Units*: For the affordable units, the maximum purchase price shall be affordable to a household with income at 70% AMI, adjusted for household size.~~

(k) Local Initiative Program Requirements. The Petitioner shall be responsible for preparing and complying with any documentation that may be required by DHCD to qualify affordable units for listing on the Chapter 40B Subsidized Housing Inventory. **The Petitioner shall also be responsible for providing annual compliance monitoring and certification to the Town, or to cover the costs of the Town for provision of such compliance monitoring.**

(l) Severability
If any portion of this Section is declared to be invalid, the remainder shall continue to be in full force and effect.

Suggested Changes to Other Sections of Zoning Requirements That Refer to Inclusionary Zoning

SECTION 5.08 REVITALIZATION OVERLAY SPECIAL PERMIT (R0)

(d) Dimensional Criteria: The uses noted in subsection (c) above shall be subject to the following criteria:

(8) Bonus Density: A project developed by a Revitalization Overlay special permit **which complies with the requirements of Section 5.07, except that the allowance for a cash contribution in lieu of units shall not apply,**~~which provides that ten percent (10%) of its residential units be made affordable to low and moderate income persons as defined by Executive Office of Communities and Development (EOCD), subject to the criteria set forth in Section 5.07(d),~~ may increase its Floor Area Ratio to a maximum of 2.0.

SECTION 9.07 SPECIAL PERMIT CRITERIA FOR I-3 DISTRICT

(a) Commercial Uses: Applicants for a special permit for mixed-use development in the I-3 district shall be permitted to use up to twenty percent (20%) of the total gross floor area for general retail or service purposes, provided, however, that no drive-in facility of any kind is permitted. The commercial space shall be limited to the first floor but may be located in one or more buildings located on the Lot.

~~(b) Inclusionary Zoning Requirements: Applicants for a special permit for residential use shall provide ten percent (10%) of the total number of dwelling units subject to a special permit for affordable housing purposes as provided in §5.07(c).~~