

TOWN OF MERRIMAC Housing Production Plan

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Merrimac Valley Planning Commission
Haverhill, Massachusetts

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I. COMMUNITY STATEMENT OF SUPPORT FOR AFFORDABLE HOUSING

Merrimac wants to maintain a housing stock that can accommodate every age group, family size and income level. We are proud of our existing mix of housing and the choices available to people who want to live in our town. The Board of Selectmen and Planning Board continue to endorse the goals for future housing as recommended in the 202 Merrimac Master Plan and the 2005 Housing Plan.

- Provide housing choice throughout the community
- Protect and enhance the historic, intimate character of existing neighborhoods
- Use regulations effectively to promote neighborhood scale design in new residential developments

We will continue work to implement the major housing and land use recommendations in the Master Plan and in the 2005 Housing Plan goals and policies by encouraging development or reuse of housing units that are affordable. Many recommendations from these plans have been adopted and implemented in the past few years:

- Encourage a mix of residential use types throughout Merrimac, but focus higher density housing in existing developed areas with adequate infrastructure along Route 110, when carried out in support of mixed-use development, around Merrimac Square, and as replacement uses if the town's mobile home parks cease to operate.
- Encourage housing for restricted occupancy by elderly residents -assisted living facilities and "over-55" housing developments
- Tailor local policies to encourage work-at-home activity.
- Establish a Village Residential District to encourage a greater mix of housing stock, reuse of existing structures and more affordable housing near Merrimac Square, including accessory apartments and multifamily conversions that meet the requirements of the Local Initiative Program (LIP).
- Establish a local housing trust to develop, advise, and promote affordable housing.
- Seek, obtain and use public and private resources to provide housing units that are affordable to and suitable to low and moderate-income and middle-income families and the disabled and elderly: CDBG, HOME.
- Identify town owned land, including tax title parcels that can support small-scale affordable housing development by such organizations as Habitat for Humanity

II. INTRODUCTION

Merrimac is a small town in northern Essex County, bounded by Amesbury, West Newbury, Haverhill, and Newton, N.H. From its distinctive Town Square to the unspoiled hills and farms near the state line, Merrimac has much to offer: an unusual mix of homes, breathtaking views of the Merrimack River, villages and lakeside neighborhoods, and a pastoral countryside. Like most rural economic centers, Merrimac is geographically small –about 8.6 square miles –and it is organized around a compact industrial village with adjacent, densely settled neighborhoods. Agricultural land and forests characterize the town’s outlying areas, yet largely because of regional market forces, both the supply of open space and the agricultural economy it supported have declined considerably over the past 30 years. In 1971, 68% of Merrimac’s total land area was forested or used for farming. By 1999, forests and agricultural land had dropped to 55% of the town.

Evidence of modern ideas about development can be found just about everywhere in Merrimac today: larger house lots with homes set back uniformly from the street, and new subdivision roads lined with granite curbing, wider than some of the old country ways that collect and move the majority of traffic in Merrimac. The force that accelerated Merrimac’s growth, I-495, serves as imposing testimony to the irrevocable land use changes that many small towns faced during the last half of the 20th century. For Merrimac, regional highway improvements meant more than its discovery by a new generation of homebuyers. I-495 also severed the entire southern end of Merrimac from the rest of town, leaving intact only a few of the old roads that once led from New Hampshire south to the Merrimack River.

Out of concern about the impacts of residential development, a weak tax base and the incremental loss of open space along Merrimac’s rural roads, the Town decided to prepare a new master plan at the end of the 1990s. For nearly two years, a committee of local officials and interested citizens worked with a consulting team and steered the plan’s development. In August 2001, the Merrimac Master Plan was adopted by the Planning Board. The Master Plan promotes guiding future growth toward established neighborhoods around Merrimac Square and along Route 110 – areas with adequate infrastructure and utilities to support more development – while reducing pressure on the agricultural and forested landscapes of northern Merrimac. Specifically, the Master Plan recommended the following land use policies, and to the Towns credit, several of the recommendations have been enacted and adopted and are now in place.

1. A variety of regulatory options to encourage multifamily housing, elderly housing and a mix of residential and office uses adjacent to Merrimac Square;
2. Upper story residential uses in Merrimac Square’s commercial buildings;
3. Infill residential development in the Town Center neighborhoods;
4. Mixed use, predominantly commercial development along Route 110, subject to strong site plan and design review guidelines;
5. More flexible regulations for the use of vacant land in Merrimac’s industrial district;

6. No extensions of sewer service into outlying parts of Town in order to preserve remaining treatment plant capacity for future growth along Route 110;
7. Open space zoning and flexible development regulations for rural areas; and
8. Stronger protection for wetland resources, scenic roads and historic buildings.

Against the backdrop of these and other Master Plan recommendations, the Planning Board established a special committee to work on zoning bylaw amendments. Merrimac requested and received permission to use most of an Executive Order 418 grant to update its zoning regulations. However, the entire bylaw was so weak that the committee and consulting team opted for a comprehensive zoning revision. In May 2004, town meeting gave nearly unanimous support to the proposed Zoning Bylaw and a new zoning map.

This Affordable Housing Plan relies on the Merrimac Zoning Bylaw, Chapter 40B and access to state and federal financial resources to assure that Merrimac remains affordable to people living in or seeking to move to the Merrimack Valley region. Merrimac is a pleasant, low-key town that values its close-knit neighborhoods, charming town square, working farms, and views of the water. Its small local government and limited financial resources have not prevented the Town from successfully negotiating the best possible outcomes for several Chapter 40B developments. Unlike many communities across the state, Merrimac has not resisted every comprehensive permit that reached the Board of Appeals, and the Town has 6.5% of its housing stock as affordable. Its accomplishments are impressive, and if all 40B projects that were approved had been built, Merrimac would be over the statutory minimum of 10% affordable housing. Due to the housing collapse which began around 2006, the "Chellis Hill" 40B project was never constructed. This project alone would have put the Town at 10%. In addition, the Town has lost some "expiring-use" housing units; thus the total number of affordable housing units has dropped to 146. Currently, the Town's Subsidized Housing Inventory (SHI) is 82 units short of the 10% statutory minimum.

PLANNED PRODUCTION

A community's growth from village to modern suburb can be traced through the styles, age and location of its homes. As fields and forests gradually gave way to development, the homes that replaced them tell a story about the physical evolution of each city and town. This can be seen in Merrimac, where a Victorian town square surrounded by late 19th-century homes serves as a legacy of the Town's renowned horse drawn carriage industry. In many communities across the Commonwealth, however, the loss of open space to new growth has led residents to oppose more housing developments. Concerned about town character, natural resources and the cost of public schools, local officials seek ways to limit growth. Oftentimes, the techniques they choose bring unintended consequences, one of which is the demise of housing choice. In Merrimac, housing choice is not a euphemism for low-income housing. Rather, it means a range of housing types and prices so that homebuyers and renters have meaningful choices about where they will live.

In 2002 and again in 2008, the Massachusetts Department of Housing and Community Development (DHCD) issued new regulations that reward communities for making steady progress toward providing their regional "fair share" of housing affordable to low and moderate-

Income people. Known as “planned production,” the 2002 regulation invited local governments to develop a plan for increasing the supply of affordable housing at an annual rate of at least .75 of 1% of their year-round homes. The plan must meet a series of state requirements, and ultimately it must be approved by DHCD. Once a community issues permits for enough units to satisfy the regulatory minimum, local officials may deny new applications from affordable housing developers for up to 12 months and in some cases, 24 months if a 1.5% threshold was met.

The production plan regulation offers an incentive to cities and towns that do not meet a statewide affordable housing goal established by the legislature in 1969. When less than 10% of a community’s housing units are affordable to low and moderate-income people, G.L. c.40B, Sections 20-23 (“Chapter 40B”) all but directs local officials to grant a “comprehensive permit” to qualified affordable housing developers. A comprehensive permit overrides zoning and other local requirements that interfere with the feasibility of building affordable housing units. By consolidating the approval powers of multiple town boards into one permit issued by the Board of Appeals, legislators hoped to accelerate low-income housing production in the suburbs. Chapter 40B allows a board of appeals to approve, conditionally approve or deny a comprehensive permit, but in communities that do not meet the 10% statutory minimum, a denied or conditionally approved permit can be appealed by the developer to the state Housing Appeals Committee (HAC). After achieving the statutory minimum of 10%, a board of appeals may still approve comprehensive permits, but its denial of one is no longer vulnerable to a state appeal process. By taking the lead in affordable housing development, the Town can avoid the HAC, and achieve a greater level of local control.

In the absence of a state approved production plan, communities that fall below the 10% goal are vulnerable to poorly planned developments. Other regulations that went into effect more several years ago buffer towns from very large affordable housing developments and establish a “grace period” for denying additional comprehensive permits even without a production plan. For example, the “large-scale project cap” limits a single affordable housing development to a maximum of 150 units in Merrimac, and under the “recent progress rule,” Merrimac would be able to deny a comprehensive permit for 12 months after approving one (or more) with at least 46 low-income units. With a DHCD approved and certified production plan however, under the new 2008 guidelines, Merrimac could deny a comprehensive permit for 12 months following the approval of at least 12 new low-income housing units. According to DHCD regulations, if a community has achieved certification within 15 days of the opening of a local Comprehensive Permit hearing, the ZBA shall provide written notice to the applicant, with a copy to DHCD, that it considers that a denial of the permit or the imposition of conditions or requirements would be “consistent with local needs”, the grounds that it believes have been met, and the factual basis for that position, including any necessary supportive documents. If the applicant wishes to challenge the ZBA’s assertion, it must do so by providing written notice to DHCD, with a copy to the ZBA, within 15 days of its receipt of the ZBA’s notice, including any documentation to support its position. DHCD shall review the materials provided by both parties and issue a decision within 30 days. The ZBA shall have the burden of proving satisfaction of the grounds for asserting that a denial or approval with conditions would be consistent with local needs, provided, however, that any failure of the DHCD to issue a timely decision shall be deemed a determination in favor of the municipality. This procedure shall toll the requirement to terminate the hearing within 180 days.

By offering the production plan option, DHCD hoped to inspire communities to become more proactive about affordable housing. An issue for Merrimac and most towns in Massachusetts was

whether the 2002 planned production standard of .75 of 1% was realistic. The new 2008 guidelines lowered the threshold to .5 of 1% for a 12 month comprehensive permit denial and to 1% for a 24 month denial. Given the housing recession, these thresholds may also be unrealistic. If the Town relied entirely on new construction to provide more affordable housing units, Merrimac's production pipeline would have to increase significantly, with new affordable units supplementing market rate housing development. In fact, Merrimac's minimum annual planned production requirement of 12 units is roughly the same as the total number of new market rate homes built per year since 2000. So until the housing market rebounds these thresholds, as stated, appear unrealistic. Nonetheless, the Town will certainly attempt to achieve the production goal.

The decision to prepare a Chapter 40B production plan is important because it signals a commitment by cities and towns to produce affordable housing. Several communities have submitted production plans to DHCD because they anticipated a large Chapter 40B development and hoped to gain some protection after issuing a comprehensive permit, but Merrimac has different interests. The Town has already thought through such basic issues as locations suitable for higher density development, the kinds of residential uses it wants to encourage, the relationship between higher density development and the location of goods and services, public transportation, and access to sewer service. What is most impressive is that the Town has adopted new zoning bylaws to insure this vision would become reality. It also has boards and committees with considerable experience reviewing Chapter 40B projects. The Town has by no means shied away from 40B, but has approved several, and worked very hard to make sure they were appropriate projects for the Town. With no professional planning staff to serve the town of 6,500 (2008 Town census), Merrimac has demonstrated a commitment to and progress in the development of affordable housing.

III. COMPREHENSIVE NEEDS ASSESSMENT

HOUSING NEEDS

Chapter 40B focuses on low and moderate-income units, so it is not surprising to find that most local housing plans emphasize ways to create more low-income housing. Under Chapter 40B, a community is said to have unmet housing needs when less than 10% of its homes are affordable to low and moderate-income people. "Low and moderate-income" means households with income at or below 80% of area median income (AMI), adjusted for household size, for the urban or rural area in which a community is located. In Merrimac (Lawrence PMSA), a family of four with annual income of \$48,650 is "moderate income" and would qualify for affordable housing. According to the most recent Subsidized Housing Inventory, the state recognizes 6.40% all 2,281 year-round homes in Merrimac as housing affordable to low and moderate-income people.²

Unfortunately, using Chapter 40B as the basis for measuring housing need means that communities often strive to meet an affordability target that does not match local reality. Three factors make Chapter 40B statistics a poor tool for estimating unmet housing needs. First, economic areas do not follow town boundaries. Second, Chapter 40B developments are not designed to meet local housing needs; instead, they respond to the strength of a regional housing market, and this is exactly what has happened in Merrimac. Third, the 10% statutory minimum was intended to promote a regional distribution of affordable housing, not to suggest that only 10% of the Commonwealth's households are low and moderate income. Throughout the state and in Merrimac's own region, low and moderate-income households comprise a significantly larger percentage of all households than 10%.

Under Chapter 40B definitions, 6.4% of Merrimac's housing units are currently affordable. With 146 of Merrimac's housing units now appearing on the state's Subsidized Housing Inventory (SHI), 83 new SHI units are needed for Merrimac to meet its Chapter 40B threshold of 10%. Assuming no loss of SHI units through expiring use, Merrimac would qualify for a one-year comprehensive permits exemption with 12 SHI units produced annually, and a two year exemption for 23 SHI units produced annually. It must be remembered that Chapter 40B percentages represent the ratio of SHI units to the total stock of housing units as measured in the most recent federal Census. Currently, the count of units from the 2000 Census is being used. The ratio may change significantly once 2010 Census data are released.

Understanding housing needs requires an analysis of housing needs and barriers that exist within a regional market area. For Merrimac's plan, the regional area includes Merrimac, Amesbury, Salisbury, Newbury, Newburyport, Rowley, Georgetown, Haverhill, Groveland and West Newbury. According to the Subsidized Housing Inventory, these ten cities and towns have a combined total of 4,045 Chapter 40B units today, or 7.44% of their total year-round homes. Only one of the ten communities –Georgetown –currently exceeds the 10% statutory minimum. Meeting the state's 10% target on a region wide basis requires 5,440 affordable units, or 1,395 Chapter 40B units in addition to the existing inventory. However, there are about 21,759 low and moderate-income households in Merrimac and the surrounding cities and towns.³ The

²Massachusetts Department of Housing and Community Development (DHCD), Subsidized Housing Inventory, Rev. 1 April 2010 <<http://www.mass.gov/dhcd/Toolkit/shi.htm>>.

potential to underestimate housing needs is obvious, for even if all ten communities satisfied the state's goal, there would be 4.01 low and moderate-income households for every one Chapter 40B unit, although this is not to say no other housing in the community is affordable to them. The same condition exists statewide.

It is tempting to measure housing needs by looking only at conditions in a single city or town, without regard for problems that exist in larger regions or among communities with overlapping market demands. Nearly 83,000 of all 275,419 households in Essex County qualify as low or moderate income and 46% live in non-urban communities like Merrimac. Federal census data indicate that 41% of Essex County's present population is comprised of people who moved into their present home after 1995 and more than 75% of them came from elsewhere within Essex County or another part of Massachusetts.⁴ Although local officials in most cities and towns worry about the social, economic and fiscal impacts that affordable housing developments may bring to their communities, many households can choose to move from one town to another because they have economic mobility. For low or moderate-income households, there are fewer housing choices.

Chapter 40B focuses on low and moderate-income units, but housing needs are not limited to low or moderate-income people. Accessible homes for households with a disabled family member, small housing units for older people who do not want the maintenance responsibilities of a single-family home and a base of modestly priced rental units for young citizens entering the workforce are common needs in communities across the state. About 9% of Merrimac's working age population has a disability,⁵ but except for elderly public housing and a small inventory of group homes, Merrimac has no barrier free housing. In addition, while Merrimac's region has attracted over-55 housing developments, most are expensive condominiums or cottage size single-family homes with sale prices that far exceed the means of many senior citizens, especially households headed by people over 75. Although many age restricted Chapter 40B developments have been approved in Massachusetts, the income and asset tests for eligibility to buy a Chapter 40B homeownership unit create more marketing and sales challenges than many people realize. Merrimac has already seen evidence of this dilemma in the over-55 comprehensive permit development on West Main Street, The Village at Merrimac. In recent years, developers of many over 55 projects have been requesting to sell the units without the restriction in place because the supply exceeds the demand.

HOUSING BARRIERS

Planning & Zoning

The conditions that impede affordable housing development are complex, intertwined and deeply rooted. The most oft-cited barrier to new affordable housing is the shortage of available land in Eastern Massachusetts. The land shortage stems from three conditions: the mature land use pattern in communities near Boston, physical constraints, and regulatory barriers to new growth. During the 1990s, land prices skyrocketed as the demand for homes outpaced the land supply. Zoning regulations that require homes to consume a large amount of land per dwelling unit contribute to this problem. In suburbs and small towns, most land is zoned for single-family residential development, primarily on one acre or larger lots; in Merrimac, the minimum lot size for most of the Town's remaining land is 80,000 square feet. While some communities have multi-

family zoning districts, the land is largely built out. Merrimac has addressed this challenge by offering several options for higher density development in areas with sewers near the Town Center and along Route 110. Regionally, however, there is a lack of developable land zoned for two-family and multi-family housing.

The word “density” is mainly discussed and embraced at “smart growth workshops”, yet resistance to zoning for a mix of high, moderate, and low-density development contributes to the conditions that suburban and small-town residents protest about growth. Excessive traffic, the loss of open and forested land along rural byways, and the fragmentation of wildlife habitat have occurred primarily due to a widespread, non-strategic application of low-density zoning. Merrimac has adopted zoning that couples low-density with higher-density development policies, but the Town is unusual. Here, local officials identified the resource areas that merit protection and consciously zoned other areas to receive development.

Environmental & Public Health Regulations

Zoning makes affordable housing difficult to build, but it is not the only regulatory barrier to housing production. Federal and state authorities administer environmental laws to protect wetlands and water resources, clean up hazardous waste contamination, reduce non-point source pollution, manage storm water runoff, and remove lead paint from older homes. About 13.5% of Merrimac is comprised of wetlands and open water, which helps to explain the prevalence of poorly drained soils and Title V constraints in many parts of town.⁶ Title V regulations effectively require more land per dwelling unit in areas that directly influence drinking water supplies. While shared septic systems and alternative wastewater technologies may increase the development potential of marginal land, few alternative systems have been approved by DEP and they tend to be expensive. Finally, the presence of lead paint in older homes is particularly significant because many communities want to use existing housing stock for affordable units. Lead-based paint was banned in the United States in the 1970s, but large inventories of pre-1970 housing stock exist in Merrimac and throughout the immediate region. In Merrimac, 54% of all housing units and 57% of all renter-occupied units are in structures built prior to 1970.⁷

Race, Class and Cultural Divides

Lack of population diversity usually signals a short supply of affordable housing and reinforces geographic barriers for minorities, low-income families and the elderly. Even though the state’s population has become more diverse, its suburbs and small towns remain fairly homogenous. In Merrimac and nearly all neighboring communities, more than 94% of the population is white and less than 1% of all white people are Hispanic. In addition, the overall aging of the region’s population has created a market for over-55 housing, but most over-55 developments and assisted living facilities built since 1995 are priced for high-end homebuyers and renters. A limited inventory of affordable, accessible housing exists for low-income people, but outside of Haverhill, the most accessible housing affordable to those of modest means is the 40B housing units built in the last several years.

⁶MassGIS, DEP Wetlands (1:12,000) [GIS Database](http://www.mass.gov/mgis/wetdep.htm). <<http://www.mass.gov/mgis/wetdep.htm>>.

⁷Census 2000, Summary File 3 Tables P34, P3