

## COMPREHENSIVE ZONING REVIEW

**TOWN OF MIDDLETON**

**October 11, 2023**

### SECTION 2.0 DISTRICTS

| SECTION                     | TOPIC                                       | CHANGE  | SOURCE DOCUMENT           |
|-----------------------------|---|---|---------------------------|
| <b>2.0</b>                  | Districts                                   | Amend districts to allow/improve variety of housing options   | HPP <sup>1</sup>          |
|                             |   | Extend district boundaries of R2 districts to cover more land area/acreage (currently only 0.5%)  | HPP                       |
|                             |   | Review parcels greater than 5 acres for development opportunities/potential   | HPP                       |
|                             |   | Consider Green Space Preservation Development District to allow development and professional business office use in residential districts   | Master Plan <sup>2</sup>  |
| <b>2.2</b>                  | Overlay Districts                           | Amend by eliminating Institutional Overlay District   | Zoning Audit <sup>3</sup> |
| <b>2.4.2</b>                | District Boundary Lines shown approximately | Delete or revise to rely on current zoning map (GIS)  | Zoning Audit              |
| <b>2.4.5</b>                | Lot Split by District Lines                 | Amend language to remove “Less restricted”, therefore allowing the 30-foot extension to move in either direction.   | Zoning Audit/Bylaws       |
| SECTION 3.0 USE REGULATIONS |   |   |                           |
| <b>3.0</b>                  | Use Regulations                             | Consider allowing rezoning of manufacturing districts to allow for healthcare, skilled nursing facilities, and assisted living facilities. Update regulations to provide for these categories as “mixed-use”. | Master Plan               |
| <b>3.1</b>                  | Principal Uses                              | Add new section 3.1.5<br>Add language: “Except as may be otherwise expressly allowed herein, there may be only one principal structure and principal use on a lot”  | Zoning Audit              |
| <b>3.2.1.3</b>              | Removal of sod (Earth Removal)              | Amend section by adding “Subject to receipt of approvals as required under Section 6.2 of this Bylaw”   | Zoning Audit              |

<sup>1</sup> Middleton Housing Production Plan 2019-2024 prepared by: Metropolitan Area Planning

<sup>2</sup> Town of Middleton Master Plan 2018-2028 prepared by: Metropolitan Area Planning February 2019

<sup>3</sup> Middleton Zoning Audit May 2022 prepared by the Zoning Bylaw Review Committee

| SECTION | TOPIC   | CHANGE  | SOURCE DOCUMENT |
|---------|---|---|-----------------|
| 3.3.2   | Non-conforming uses   | Amend by adding language:<br>“...special permit to change, <b>alter or modify</b> a nonconforming use...”<br>And:<br>“nonconforming use to the neighborhood, <b>and provided that such change, alteration or modification is not different in kind, character or degree.</b> ”  | Zoning Audit    |
| 3.3.4   | Non-conforming structures: variance required                | Variances to be required for the extension or structural changes in such a manner that create a new non-conformity and/or does not increase the nonconforming “nature” of the lot -Variance required for all new nonconformities.<br>“(1) Except as provided in Subsection 3.3.5, below, the reconstruction, extension or structural change of a nonconforming <b>single or two-family residential</b> structure in such a manner as to <b>increase an existing create a new</b> nonconformity shall require the issuance of a variance from the Board of Appeals; <b>and (2) The reconstruction extension or structural change of all other structures in such a manner as to increase an existing nonconformity, or create a new nonconformity shall require the issuance of a variance from the Board of Appeals,</b> provided, however,...” | Zoning Audit    |
| 3.3.5   | Non-conforming Single and two-family residential structures | Amend to clarify by adding:<br><i>“the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood, <b>provided that a variance will be required for all new non-conformities.</b></i> The following circumstances <b>shall may, at the Building Inspector’s reasonable discretion,</b> not be deemed to increase the nonconforming nature of said structure...”   | Zoning Audit    |
|         |   | Amend by-laws to allow for greater variety of housing types.  | Zoning Audit    |
| 3.3.7.3 | Reconstruction after catastrophe...                         | Post-catastrophe or demolition- a Variance required if new construction is non-conforming   | Zoning Audit    |

| SECTION | TOPIC | CHANGE | SOURCE DOCUMENT |
|---------|-------|--------|-----------------|
|---------|-------|--------|-----------------|

| SECTION 4.0 DIMENSIONAL REQUIREMENTS |  |   |              |
|--------------------------------------|--|---|--------------|
| 4.0                                  | Dimensional Requirements                         | Downsize the minimum sq. ft. requirement to increase neighborhood density and walkability.<br>R1 has a 20,000 sq. ft. single-family/40,000 two-family lot requirement<br>R-1b has a 40,000 sq. ft. single-family/80,000 lot requirement   | Bylaws /HPP  |
| 4.1.2.1                              | Lot Width  | To simplify and avoid confusion, change the language to add after “dwelling”:<br><i>“in a straight line parallel to a line connecting the lot frontage endpoints”</i><br>And delete: <b>“In the event of an irregularly shaped lot and a question as to the identification of the appropriate side lot lines for the foregoing measurement, the matter shall be decided by the Building Commissioner with the advice of the Planning Board”</b> | Zoning Audit |
|                                      | Lot Width  | Only to be measured in a straight parallel line between frontage endpoints  | Zoning Audit |
| 4.1.2.4                              | Business/Light Industry District (North Main St) | Allow less than 100 ft setbacks by special permit from the Zoning Board of Appeals.   | Zoning Audit |
| 4.1.2.5                              | Business/Light Industry abutting Residential     | Add protection, natural/barriers/buffers/space, etc., for residential abutters.   | Zoning Audit |
| 4.1.2.6                              | Business District-Front Yard                     | Remove “be green and open” to support water conservation efforts.   | Zoning Audit |
| 4.2.5                                | Business District – special permit               | Add language to read: <b>“A residentially used lot in the Business District which does not meet the area or frontage requirements of this Section 4.0 may be converted to an allowed use and apply for a special permit”</b>  | Zoning Audit |

| SECTION | TOPIC | CHANGE | SOURCE DOCUMENT |
|---------|-------|--------|-----------------|
|---------|-------|--------|-----------------|

| <b>SECTION 5.0 GENERAL REGULATIONS</b> |                        |   |              |
|--|------------------------|---|--------------|
| 5.1.5                                  | Parking lot plantings  | All business properties should have the same parking lot landscape requirements   | Zoning Audit |
| 5.1.7                                  | Pedestrian Circulation | Add this as a new section:<br>"All parking areas or parking lots that require five (5) or more spaces shall be designed to safely accommodate pedestrian access and circulation." | Zoning Audit |
|  |                        |   |              |
| 5.3.2                                  | Landscaping            | Change the planted buffer area for Property lines from "10" to "25" feet.   | Zoning Audit |
| 5.4                                    | Performance standards  | Add Multi-family development to projects that fall under the listed performance standards. Add Planning Board to ensure standards are met.  |              |
| 5.4                                    |                        | Add "Multi-Family Residential Development" to Section 5.4 to control size, scale & impact and to ensure development standards   | Zoning Audit |
| 5.4.5                                  |                        | Suggested language re MassDOT to work on/develop an access/traffic assessment   | Zoning Audit |

| SECTION | TOPIC | CHANGE | SOURCE DOCUMENT |
|---------|-------|--------|-----------------|
|---------|-------|--------|-----------------|

| SECTION 6.0 SPECIAL REGULATIONS |                                 |  |              |
|---------------------------------|---------------------------------|--|--------------|
| 6.0                             | Use Regulations                 | Update use regulations to include Skilled Nursing Facilities, Assisted Living Facilities and Congregate Living   | Master Plan  |
| 6.1                             | Trailers and movable structures | May use structures as dwellings with approval from the Board of Appeals. "by the applicable procedures under Special Permit".  | Zoning Audit |
| 6.2                             | Earth Removal                   | See 3.2.1.3 and Section 130 of the Town Code   |              |
| 6.3                             | Driveways                       | Variance should be required for driveways longer than 500 feet for safety purposes. Delete bolded language: " of 500 feet", <b>unless the Board of Appeals grants a special permit after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles"</b> .   | Zoning Audit |
| 6.6.1                           | Industrial Park                 | Preclude a landowner from using residentially zoned land to meet the minimum area requirement for an Industrial Park.<br>Add language "applicable Business districts":<br>"An industrial park shall have a minimum lot size of at least 320,000 square feet (7.346 acres) <b>within the M-1 District or applicable Business districts</b> . This requirement does not prohibit the construction of more than one building on a lot of less than 320,000 square feet in the M-1 District or <b>applicable Business districts</b> , provided that the lot meets all other requirements of the M-1 District <b>or applicable Business district</b> ." | Zoning Audit |
| 6.7                             | Approved Street Plan            | Change section to read:<br>"General. No building permit shall be issued unless the lot to be built upon has frontage on a street, as defined in this Zoning Bylaw, or, if it is on an unconstructed way, such way shall be constructed in accordance with the Planning Board <b>Subdivision</b> rules and regulations providing adequate access to existing lots, <b>with said plan being subject to receipt of Special Permit approval</b> . "[DELETE: A street plan based on the criteria set forth in the regulations relating to adequate access shall be approved by the Middleton Planning Board.]"  | Zoning Audit |

| SECTION  | TOPIC                                      | CHANGE   | SOURCE DOCUMENT          |
|--|--|--|--------------------------|
| 6.8  | Marijuana Establishment                    | Delete section – Temporary Moratorium  | Bylaws/Zoning Audit      |
| <b>SECTION 7.0 SPECIAL RESIDENTIAL REGULATIONS</b> |  |  |                          |
| 7.0  | Special Residential Regulations            | There is little open land left in Middleton and only .05% zoned for multi-family. Consider creating additional multi-family zoned land. Town Counsel suggested the exploration of a temporary allowance of 2-family development. | Zoning Audit/Master Plan |
|  |  | Create more flexible zoning in key areas to increase mixed-use districts.  | Master Plan              |
|  |  | Provide less restrictive residential use regulations.  | HPP                      |
|  | “As-of-right”                              | Consider exploring a range of as-of-right designations rather than requiring the application for a special permit (i.e., townhouses, duplexes, triple-deckers)   | HPP                      |
|  |  | Allow ADUs as retrofits and conversions.   | HPP                      |
|  | Shared Living                              | Amend zoning bylaw text and maps to include shared living spaces, local supportive living and congregate residences. This zoning amendment would better serve nonfamily households, younger homeowners and senior residents.     | HPP                      |
|  | Cottage-Style Housing                      | Consider use of “cottage-style” housing zoning amendment to provide for 55+ living community development   | Master Plan              |
|  | Village-Style development                  | Consider Village Mixed-Use Zoning to encourage mixed-use development around common open space.<br>Update bylaw to include “village-styled” mixed-use developments  | Master Plan              |
| 7.1  | Multi-family or attached dwelling          | Allow for more multi-family zoned land   | Zoning Audit             |
|  | 7.1.7                                      | States: “Any proposed multi-family or attached dwelling complex shall be served by water and sewer systems...”   | Bylaws                   |
|  | Accessory Dwelling Units (ADUs)            | Allow Accessory Dwelling Units. Not currently addressed in bylaw regulations. ADUs allow senior population the option to age in place.   | Bylaws/HPP               |
| 7.2  | Conversion of single-family dwelling in R2 | Allow “as-of-right” or “by right” in R-1a and R-1b   | Zoning Audit             |
|  | 7.2.1                                      | Is there A “Village Residential District”?   | Bylaws                   |

| SECTION   | TOPIC                          | CHANGE  | SOURCE DOCUMENT     |
|---|--------------------------------|---|---------------------|
| 7.3   | Flexible Development           | Why not being used by Developers? Seek methods to reduce number of roadways construction for new homes. | Zoning Audit        |
| 7.4   | Development Schedule           | Expired in 2015 - Delete  | Bylaws/Zoning Audit |
| <b>SECTION 8.0 SPECIAL DISTRICT REGULATIONS</b> |                                |   |                     |
| 8.0   | Special Districts              | Consider Scenic Overlay District to preserve open farmland view off South Main Street                   | Master Plan         |
| 8.1   | Floodplain Overlay District    | Adopt FEMA Model Floodplain Overlay District bylaw  | Zoning Audit        |
| 8.3   | Institutional Overlay District | Delete – serves no purpose – already protected under Sec. 3 MGL C.40A                                   | Zoning Audit        |

| SECTION | TOPIC | CHANGE | SOURCE DOCUMENT |
|---------|-------|--------|-----------------|
|---------|-------|--------|-----------------|

**SECTION 9.0 ADMINISTRATION AND PROCEDURES**

|       |                                |  |              |
|-------|--------------------------------|--|--------------|
| 9.0   | Site Plan Review/Development   | Identify sites/area suitable for a larger variety of housing types (amend zoning)  | Zoning Audit |
| 9.4.8 | Special permits – Lapse        | Extend time frame to act on a special permit from 24 to 36 months  | Zoning Audit |
| 9.5.2 | Site Plan Review Applicability | <p>Add the following language:</p> <p>3. An addition to or alteration of an existing building for commercial <u>or industrial use.</u></p> <p><b>4. <u>Any changes to commercial uses in residentially zoned districts</u></b></p> <p><b>5. <u>Any educational use, as defined under G.L. c. 40A, §3.</u></b></p> <p><b>6. <u>Any other use or structure for which Site Plan Approval is prescribed under these Zoning Bylaws.</u></b></p> <p>Adding 4: The town should require legally Nonconforming commercial/industrial uses in residential zones to obtain site plan approval for modifications to the structure/site.</p> <p>Adding 5: The Town has the right to require site plan review for any new construction, alterations, additions, etc.</p> <p>Adding 6: There are other uses that require a special permit</p> | Zoning Audit |
| 9.5.5 | Contents of Plan               | <p>Add a subsection 9.5.5.1f:</p> <p><b>“f. The Board may adopt regulations requiring additional information consistent with this Bylaw and may require filing via electronic means.”</b></p>  | Zoning Audit |

**SECTION 10.0 DEFINITIONS**

|  |  |  |  |
|--|--|--|--|
|  |  | <b>[Update definitions as necessary]</b> |  |
|--|--|--|--|



| SECTION | TOPIC | CHANGE | SOURCE DOCUMENT |
|---------|-------|--------|-----------------|
|---------|-------|--------|-----------------|

| CHAPTER 40R                               |  |   |             |
|---|--|---|-------------|
| <b>Ch. 40R</b>                            |  | Identify area/sites for Smart Growth Overlays to improve housing and walkable shopping village goals  | Master Plan |
|   |  | Look to qualify for State 40R offers for (financial) assistance   | Master Plan |
|   |  | Consider the creation of Open Residential Design subdivisions with open space and affordable housing incentives   | Master Plan |
| <b>Subsidized Housing Inventory (SHI)</b> |  | Make a demonstrated effort to progress toward the 10% SHI as required under CH. 40B (work to be afforded “Safe Harbor” control)   | HPP         |
|   |  | Develop and Open Space Residential Design (OSRD) bylaw to be used as default subdivision style  | Master Plan |
| <b>Planning and Design</b>                |  | Use Health assessment tool in planning and design decision making, i.e., NACCHO <a href="http://www.naccho.org">www.naccho.org</a>  | Master Plan |
|   |  | Use Racial Equity Impact Assessment in planning and decision making i.e., race forward: The Center for Racial Justice Innovation <a href="http://www.raceforward.org">www.raceforward.org</a> | Master Plan |
| <b>Town-owned</b>                         |  | Review Town-owned parcels for potential affordable housing development, land swaps or partnerships  | HPP         |
| <b>Existing Affordable Units</b>          |  | Protect and preserve exiting affordable units. Prevent expiration of affordability status in existing units.  | HPP         |
|   |  |   |             |
| <b>Resiliency/Climate</b>                 |  | Review and update bylaws on a five-year basis to coincide with hazard mitigation planning process (federally mandated)  | Master Plan |
|   |  | Consider Green Space Preservation Development District to allow development and professional business office use in residential districts   | Master Plan |