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MEMORANDUM

To	Katrina O’Leary, Town Planner, Town of Middleton
From	Emily Keys Innes, AICP, LEED AP ND
Date	February 8, 2023
Project	23122 – Zoning Bylaw Update
Subject	Draft Zoning – Version 7
Cc:	Mage Pate, Research Analyst

This memorandum and its accompanying attachments provide the draft text of three zoning articles for discussion. These three articles are the ones identified by the Planning Board for the Spring 2024 Annual town Meeting.

- Article A: Two-family Dwellings (p. 2)
- Article B: Accessory Dwelling Units (p. 4)
- Article C: MBTA Communities Multifamily Overlay District. (p. 9)

Article A: Allow Two-Family Dwellings

On petition of the Middleton Planning Board to see if the Town will vote to amend the Middleton Zoning Bylaw by removing Section 7.2 “Conversion of single-family dwelling in R2 District” and replacing with a new Section 7.2 “Standards for Two-Family Dwelling,” modifying the Table of Use Regulations, modifying the Table of Dimensional Requirements, and that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Middleton:

7.2 Standards for Two-Family Dwelling

Two-family dwellings are allowed as-of-right in any Residential District.

7.2.1 General Requirements for all Two-Family Dwellings

1. A Two-Family Dwelling may be created by:
 - a. Conversion of part of an existing single-family dwelling, including new or existing additions, into a second dwelling unit;
 - b. Constructing a new Two-family Dwelling structure.
2. Lot area requirements shall be in conformance with the Table of Dimensional Requirements.
3. Sufficient parking shall be provided in accordance with the Table of Minimum Requirements in Section 5.1.
4. The methods of waste disposal must satisfy Board of Health requirements.
5. Driveways and curb cuts must be shared between the two units. A special permit from the Planning Board is required for separate driveways and curb cuts.

7.2.3 General Requirements for a Two-Family Dwelling Structure

1. Garage doors shall not comprise more than 40% of the linear length of the same architectural plane of the elevation facing the front yard.

Modify the Table of Use Regulations as follows:

Table of Use Regulations

Use	Districts						
	R-1a	R-1b	RA	R-2	B	M-1	IH
B. Residential							
1. Single-family detached dwelling	Y	Y	Y	Y	N	N	N

2. Two-family dwelling (See Section 7.2)	PB Y	PB Y	N Y	PB Y	N	N	N
3. Conversion of single family nonconforming dwelling into two-family dwelling (See Section 7.2)	PB	PB	N	PB	N	N	N
3. 4. Multifamily dwelling; conversion of existing single family dwelling into multifamily dwelling (See Section 7.1)	N	N	N	PB	N	N	N
4. 5. Flexible development (See Section 7.3)	N	PB	PB	N	N	N	N
5. 6. Rooming or boarding house with not more than 2 boarders.	Y	Y	Y	N	N	N	N

Modify the Table of Dimensional Requirements as follows:

Table of Use Dimensional Requirements

Requirement	Districts			
	R-1a	R-1b	RA	R-2
Minimum Area (square feet)	20,000 for a single-family, 40,000 for a two-family	40,000 for a single-family, 80,000 for a two-family	2 acres for a single-family, 4 acres for a two-family	20,000 for a single family, 40,000 for a two-family, See Section 7.1 for Multi-family

Requirement	Districts		
	B	M-1	IH
Minimum Area (square feet)	40,000	80,000	160,000

Explanation: This article would replace the existing Section 7.2, which allows the conversion of Single-Family Dwellings in the R-2 District to homes with more than one unit by Special Permit, only if in conformance with Section 7.1 which requires 20,000 SF per unit. Currently, two-family dwellings are also allowed by Special Permit in the R-1a and R-1b districts if the lots have twice the required lot area for a single-family dwelling.

The new Section 7.2 would allow Two-Family Dwellings in any residential district, either as conversions of Single-Family Homes or as new construction, as long as the lot is twice the current minimum lot area of the residential district in which the proposed Two-Family is located.

The Two-Family Dwelling unit would be allowed as-of-right, which means a building permit would be required. A special permit from the Planning Board is required for separate driveways and curb cuts.

All dimensional standards in the relevant district would need to be met. Septic systems may be shared or separate, must be sized appropriately, and must follow the Board of Health's regulations.

On petition of the Middleton Planning Board to see if the Town will vote to amend the Middleton Zoning Bylaw by adding Section 7.5 “Accessory Dwelling Units,” modifying Section 3.1, Table of Use Regulations, Section 3.2, Accessory Uses & Structures, modifying Section 10. “Definitions,” and that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Middleton:

Article B: Allow Accessory Dwelling Units

Section 7.5 Accessory Dwelling Units

7.5.1 Purpose and Intent. The intent of permitting accessory dwelling units is to:

1. Provide homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.
2. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households who might otherwise have difficulty finding housing.
3. Develop housing units in single-family neighborhoods that are appropriate for households of various sizes.
4. Provide housing units for persons with disabilities.
5. Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's traditional residential neighborhoods.
6. Protect stability, property values, and the residential character of a neighborhood.

7.5.2 Ownership.

An Accessory Dwelling Unit shall not be owned separately than the Principal Dwelling with which the Accessory Dwelling Unit is associated. A Building with an Accessory Dwelling Unit may not be divided into condominiums, even if owned by the same person or entity.

7.5.3 General Requirements

1. The Building Commissioner may issue a Building Permit authorizing the installation and use of an attached Accessory Dwelling Unit within an existing or new owner-occupied, single-family dwelling only when the following conditions are met:

- a. The unit shall be a complete, separate housekeeping unit containing both kitchen and bath and otherwise meet the requirements of the definition of "Accessory Dwelling Unit" in Section 1A of chapter 40A of the General Laws and Section 10 of these bylaws.
- b. There shall be no more than one Accessory Dwelling Unit on a lot. Only a Single-Family Dwelling is eligible to have an Accessory Dwelling Unit.
- c. The owner(s) of the residence in which the Accessory Dwelling Unit is created shall continue to occupy at least one of the dwelling units as their primary residence. The ADU Property Owner may not lease the Owner Unit for any duration during periods when the ADU Property Owner is not residing in the Owner Unit. For the purposes of this section, the "owner" shall be one or more individuals who hold title directly or indirectly to the dwelling and for whom the dwelling is the primary residence.
- d. Once an Accessory Dwelling Unit has been added to a single-family residence or lot, the accessory dwelling unit shall never be enlarged beyond the nine hundred (900) square feet allowed by statute or this bylaw.
- e. To encourage the development of housing units for individuals with disabilities and persons with limited mobility, the Planning Board may allow reasonable deviation from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons.

7.5.4 Physical Requirements

The Accessory Dwelling Unit shall:

- 1. Satisfy the requirements to be a Dwelling Unit as set forth in this Zoning Bylaw, the State Building Code and the State Fire Code, the Wetlands Protection Act, and applicable Town regulations, including having a separate entrance sufficient to meet requirements for safe egress.
- 2. Remain subordinate in appearance to the Principal Dwelling. No more than 5 permits for Accessory Dwelling Units can be issued in any 12-month period.
- 3. The Accessory Dwelling Unit shall comply with all dimensional regulations for single-family homes applicable to the lot on which it is located.
- 4. An Accessory Dwelling Unit shall have no more than two bedrooms and shall not have more than nine hundred (900) square feet of floor area.

5. In addition to the parking spaces required in Section 5.1 for the principal dwelling, a minimum of one additional off-street parking space shall be provided for the Accessory Dwelling Unit. The Planning Board may issue a special permit to modify or waive this parking requirement.
6. Prior to issuance of a permit, a floor plan shall be submitted to the Building Commissioner showing the proposed interior and exterior changes to the building.

7.5.5 Special Requirements for Detached Accessory Dwelling Units

1. All newly constructed detached Accessory Dwelling Units or those which are constructed as part of other accessory structures on a property, including carriage houses, barns, or detached garages, will require a Special Permit to be issued by the Planning Board as Special Permit Granting Authority in accordance with Section 9.4 under these bylaws and only when the following conditions are met:
 - a. All conditions under 7.5.3 and 7.5.4, above.
 - b. Any structure containing a detached Accessory Dwelling Unit may be located only in the Rear Yard and/or Side Yard of the principal dwelling and must conform to the rear and side yard setback requirements.
 - c. Exterior staircases shall not be visible from a public way and shall be designed to complement the Principal Dwelling.

7.5.6 Administration and Enforcement

1. It shall be the duty of the Building Commissioner to administer and enforce the provisions of this Bylaw in accordance with Section 9.0 of these bylaws.
2. Approval for an Accessory Dwelling Unit requires that the owner shall occupy one of the dwelling units. The zoning approval and the notarized affidavit required in a. and c. below shall be recorded in the Southern Essex District Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Commissioner, prior to the occupancy of the accessory dwelling unit.
 - a. Prior to issuance of a permit, the owner(s) shall send a notarized affidavit stating that the owner will occupy one of the dwelling units on the premises as the owner's primary residence, except for bona fide temporary absences.
 - b. The Accessory Dwelling Unit shall not be legally separated or sold apart from the single-family dwelling.

- c. When a structure, which has received a permit for an Accessory Dwelling Unit is sold, the new owner(s), if they wish to continue to exercise the Permit, shall, within thirty (30) days of the sale, submit a notarized affidavit to the Building Commissioner stating that they will occupy one of the dwelling units on the premises as their primary residence, except for bona fide temporary absences. If such notice is not received within thirty (30) days, the structure shall be nonconforming under this bylaw and the new owner will have to submit a new application for the Accessory Dwelling Unit under the provisions of this bylaw and bring the Accessory Dwelling Unit up to date with the Building Code in effect at the time of the new application before the new application can be approved.
3. The minimum leasing term for the unit that is not occupied by the ADU Property Owner shall be the greater of 30 days or such other period governing short term rentals which may be set forth from time to time in the Town Bylaws. The Accessory Dwelling Unit may not be leased more than once in any 30-day period.
4. If the Accessory Dwelling Unit has been built or is being operated in violation of the provisions of this Section the Building Commissioner may, in addition to other remedies, order the removal of any one or more of the provisions that create a separate dwelling unit, such as living, sleeping, cooking, and eating.

7.5.7 Effective Date and Compliance of Existing Non-Conforming Units

1. This Section 7.5 shall apply to all building permits issued after the effective date of this bylaw or September 1, 2024, whichever is later, for construction of new Accessory Dwelling Units.
2. All Single-Family Dwellings prior to the date of adoption of this Section 7.5 that contain a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling are illegal and shall be brought into compliance with this Section 7.5 or discontinued. If building permits for such work are issued prior to December 31, 2025, and associated construction completed by December 31, 2026, owners shall not be subject to penalties otherwise applicable to correction of non-conforming structures.

Modify the Table of Use Regulations as follows:

Table of Use Regulations

Use	Districts						
	R-1a	R-1b	RA	R-2	B	M-1	IH
B. Residential							
6. Attached Accessory Dwelling Unit (See Section 7.5)	Y	Y	Y	Y	N	N	N
7. Detached Accessory Dwelling Unit (See Section 7.5)	PB	PB	PB	PB	N	N	N

Modify Section 10 Definitions as follows:

Under DWELLING:

ACCESSORY DWELLING UNIT – A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller; and (iii) is subject to such additional restrictions as may be imposed by a municipality, including but not limited to additional size restrictions, owner-occupancy requirements and restrictions or prohibitions on short-term rental of accessory dwelling units, and does not include use of trailers or mobile homes, however mounted.

Modify Section 3.2 Accessory Uses & Structures

Under Section 3.2.1 Add:

7. Accessory Dwelling Units that comply with Section 7.5

Under Section 3.2.3, Add the bold-underlined text below to the following excerpt:

Accessory building. An accessory building including a detached garage, **but not including an Accessory Dwelling Unit under Section 7.5,** located on any lot shall not be located closer than 25 feet to the street on which the lot is located and shall not be any closer to any side or rear lot line than the greater of the height of such accessory building above the ground or 20 feet. No accessory building shall be located closer than 20 feet to any dwelling or main structure on a lot unless both structures conform to regulations relative to fire safety.

Explanation: This article would add a new Section 7.5, which allows a homeowner to add an Accessory Dwelling Unit (ADU) in an existing or new single-family dwelling as-of-right and in a detached structure by Special Permit from the Planning Board. ADUs are important additions to a community's housing strategy, allowing for multi-generational living, private space for caretakers to enable seniors to stay in their homes longer, or rental income to support the homeowner. Accessory Dwelling Units may be allowed by right within an existing Single-Family Dwelling, in an attached building, such as a garage or newly built extension, or by special permit as a detached building. ADUs are limited in size to 900 sq. ft. and a maximum of two bedrooms. They may not be sold separately from the Single-Family Dwelling and any rental must be for more than 30 days. This triggers public health laws related to tenants and prevents the use from being considered a transient use, which would require additional building code considerations.

On petition of the Middleton Planning Board to see if the Town will vote to amend the Middleton Zoning Bylaw and map by adding Section 8.8 “Allow Multifamily Dwellings,” , modify Section 2.2 Overlay Districts, modify Section 9.5 “Site Plan Review,” modify Section 10. “Definitions,” and that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of Middleton:

Article C: Allow Multifamily Dwellings

Modify Section 2.2 Overlay Districts, as follows:

Add “**MBTA Communities Multi-family Overlay District (MCMOD)**” to the list of Overlay Districts.

Add new Section 8.8 MBTA Communities Multifamily Overlay District

8.8.1. Purpose

1. The purpose of the MBTA Communities Multi-family Overlay District (MCMOD) is to allow multi-family housing as of right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A). This zoning provides for as of right multi-family housing to accomplish the following purposes:
 - a. Encourage the production of a variety of housing sizes and typologies to provide equal access to new housing throughout the community for people with a variety of needs and income levels;
 - b. Preserve open space in the community by locating new housing within or adjacent to existing developed areas and infrastructure.
 - c. Increase the municipal tax base through private investment in new residential developments.

8.8.2. Establishment and Applicability

1. **Overlay District.** This MCMOD is an overlay district that is superimposed over the underlying zoning district (s) and is shown on the Zoning Map.
2. **Applicability of MCMOD.** An applicant may develop multi-family housing located within the MCMOD in accordance with the provisions of this Section 8.8.
3. **Underlying Zoning.** The MCMOD is an overlay district superimposed on underlying zoning districts. The regulations for use, dimensions, and all other provisions of this Zoning Bylaw governing the respective underlying zoning

district(s) shall remain in full force, except for uses allowed as of right as specified under this section 8.8. Uses that are not identified in this Section 8.8 are governed by the requirements of the underlying zoning district(s).

OPTION 1

4. **Location of Sub-districts.** The MCMOD contains the following sub-districts, all of which are shown on the MCMOD Boundary Map:
 - a. Northeast District A. Map/Parcel #: 21/12 and 21/14.
 - b. Northeast District B. Map/Parcel #: 21/12A
 - c. Southwest District A. Map/Parcel #: 30/2
 - d. Southwest District B. Map/Parcel #: 30/1

OPTION 2

5. **Location.** The MCMOD contains the following parcels: Map 21, Parcels 4, 5, 12, 12A, 14, 15 ,16

8.8.3. Definitions.

For purposes of this Section 8.8, the following definitions shall apply.

1. **AFFORDABLE UNIT.** A multi-family housing unit that is subject to a use restriction recorded in its chain of title limiting the sale price or rent or limiting occupancy to an individual or household of a specified income, or both.
2. **AFFORDABLE HOUSING.** Housing that contains Affordable Units as defined by this Section 8.8.
3. **AREA MEDIAN INCOME (AMI).** The median family income for the metropolitan statistical region that includes the Town] of Middleton, as defined by the U.S. Department of Housing and Urban Development (HUD).
4. **DEVELOPMENT STANDARDS.** Provisions of **Section 8.8.7 General Development Standards** made applicable to projects within the MCMOD.
5. **SITE PLAN REVIEW AUTHORITY.** The Board of Appeals for the Town of Middleton.
6. **SUBSIDIZED HOUSING INVENTORY (SHI).** A list of qualified Affordable Housing Units maintained by EOHLC used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.

8.4. Permitted Uses

1. **Uses Permitted As of Right.** The following uses are permitted as of right within the MCMOD.
 - a. Multi-family housing, as defined in Section 10. This use may included one or more of the following building types defined in Section 10 of the Bylaw: Duplex Dwelling Unit (minimum of two such units per lot), Multifamily Dwelling, Garden Apartment, Mid-Rise Apartment, or High-Rise Apartment.
2. **Accessory Uses.** The following uses are considered accessory as of right to any of the permitted uses in Section 8.4.1.
 - a. Parking, including surface parking and parking within a structure such as an above ground or underground parking garage or other building on the same lot as the principal use.

8.5. Dimensional Standards

1. **Table of Dimensional Requirements.** Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable in the MCMOD are as follows:

OPTION 1

Dimensional Standard	Subdistricts			
	Northeast		Southwest	
	A	B	A	B
Minimum Area (square feet)	160,000	160,000	80,000	80,000
Minimum frontage (feet)	400	400	150	150
Minimum Lot Width (feet)	400	400	150	150
Minimum Front Setback (feet)	50	50	50	50
Minimum Side Yard (feet)	50	50	25	25
Minimum Rear Yard (feet)	50	50	25	25
Lot coverage by buildings (%)	35	35	35	35

Minimum Open Space (%)	50	50	50	50
Minimum Building Height (feet)	75	35	35	35
Maximum Building Height (stories)	7	3	3	3
Lot Area per Dwelling Unit (square feet)	None	4,000	4,000	5,000

OPTION 2

Dimensional Standard	
Minimum Area (square feet)	160,000
Minimum frontage (feet)	400
Minimum Lot Width (feet)	400
Minimum Front Setback (feet)	50
Minimum Side Yard (feet)	50
Minimum Rear Yard (feet)	50
Lot coverage by buildings (%)	35
Minimum Open Space (%)	50
Minimum Building Height (feet)	35
Maximum Building Height (stories)	3
Lot Area per Dwelling Unit (square feet)	2,500

2. **Multi-Building Lots.** In the MCMOD, lots may have more than one principal building.
3. **Exceptions.** The limitation on height of buildings shall not apply to chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings, which features are in no way used for living purposes and do not constitute more than 25% of the ground floor area of the building.
4. **Exceptions: Renewable Energy Installations.** The Site Plan Review Authority may waive the height and setbacks in Section 8.8.5 Dimensional Standards to accommodate the installation of solar photovoltaic, solar thermal, living, and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of

noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.

8.8.6. Off-Street Parking

1. All requirements of Section 5.1 in this Bylaw apply except that 1.5 spaces per dwelling unit are required for a Residential Dwelling Unit within the MCMOD.
2. Parking spaces shall be permitted either as surface parking or within garages or other structures.
3. One bicycle parking space shall be provided for each unit.
4. For a multi-family dwelling development of 25 units or more, covered bicycle parking spaces shall be provided for twenty-five percent of the required spaces.

8.8.7. General Development Standards

1. Development standards in the MCMOD are applicable to all multi-family development in a MCMOD Overlay District. These standards are components of the MCMOD Site Plan Review process in Section 8.8.9. Site Plan Review.
2. Site Design.
 - a. **Connections.** Sidewalks shall provide direct connections among building entrances, the public sidewalk (if applicable), bicycle storage, and parking.
 - b. **Vehicular access.** Where feasible, curb cuts shall be minimized, and shared driveways encouraged.
 - c. **Open Space Land.** Open Space Land as defined in Section 10 of this Bylaw shall be contiguous undeveloped land and, where feasible, connected to Open Space Land in adjacent lots.
 - d. **Screening for Parking.** Surface parking adjacent to a public sidewalk shall be screened by a landscaped buffer of sufficient width to allow the healthy establishment of trees, shrubs, and perennials, but no less than 6 (six) feet in width. The buffer may include a fence or wall of no more than three feet in height unless there is a significant grade change between the parking and the sidewalk.
 - e. **Parking Materials.** The parking surface may be concrete, asphalt, decomposed granite, bricks, or pavers, including pervious materials but not including grass or soil not contained within a paver or other structure.

- f. **Plantings.** Plantings shall include species that are native or adapted to the region. Plants on the Massachusetts Prohibited Plant List, as may be amended, shall be prohibited.
- g. **Lighting.** Light levels shall meet or exceed the minimum design guidelines defined by the Illuminating Engineering Society of North America (IESNA) and shall provide illumination necessary for safety and convenience while preventing glare and overspill onto adjoining properties and reducing the amount of skyglow.
- h. **Mechanicals.** Mechanical equipment at ground level shall be screened by a combination of fencing and plantings. Rooftop mechanical equipment shall be screened if visible from a public right-of-way.
- i. **Dumpsters.** Dumpsters shall be screened by a combination of fencing and plantings. Where possible, dumpsters or other trash and recycling collection points shall be located within the building.
- j. **Stormwater Management.** Strategies that demonstrate compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the Town of Middleton’s Stormwater Permit, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirements.
- k. **Noise.** The proposed development shall not unreasonably interfere with the reasonable use and enjoyment of property within the Town as a result of the generation of noise. Practices and systems shall reduce noise pollution in order to preserve and enhance the natural and aesthetic qualities of the Town; preserve property values; and preserve neighborhood character.

3. **Buildings: General.**

- a. **Position relative to principal street.** The primary building shall have its principal façade and entrance facing the principal street or principal common driveway. See also Section 8.8.7. Buildings: Corner Lots.
- b. **Entries.** Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.

4. **Buildings: Multiple buildings on a lot.**

- a. Parking and circulation on the site shall be organized so as to reduce the amount of impervious surface. Where possible, parking and loading areas shall be connected to minimize curb cuts onto public rights-of-way.
 - b. A paved pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.
 - c. The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building façade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.
 - d. The building(s) adjacent to the public street shall have a pedestrian entry facing the public street.
5. **Buildings: Shared Outdoor Space.** Multi-family housing shall have common outdoor space that all residents can access. Such space may be located in any combination of ground floor, courtyard, rooftop, or terrace. All outdoor space shall count towards the project's minimum Open Space requirement, as defined in Section 8.8.5.
6. **Buildings: Corner Lots.** A building on a corner lot shall indicate a primary entrance either along one of the street-facing façades or on the primary corner as an entrance serving both streets.
 - a. Such entries shall be connected by a paved surface to the public sidewalk, if applicable.
 - b. All façades visible from a public right-of-way shall be treated with similar care and attention in terms of entries, fenestration, and materials.
 - c. Fire exits serving more than one story shall not be located on either of the street-facing façades.
7. **Buildings: Principal Façade and Parking.** Parking shall be subordinate in design and location to the principal building façade.
 - a. **Surface parking.** Surface parking shall be located to the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way.
 - b. **Integrated garages.** The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.

- c. **Parking structures.** Building(s) dedicated to structured parking on the same lot as one or more multi-family buildings or mixed-use development shall be subordinate in design and placement to the multi-family or mixed-use building(s) on the lot.
8. **Waivers.** Upon the request of the Applicant and subject to compliance with the Compliance Guidelines, the Site Plan Review Authority may waive the requirements of this Section 8.8.7. General Development Standards, in the interests of general safety, design flexibility, and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the MCMOD.

8.8.8 Affordability Requirements.

1. Purpose.
 - a. Promote the public health, safety, and welfare by encouraging a diversity of housing opportunities for people of different income levels;
 - b. Provide for a full range of housing choices for households of all incomes, ages, and sizes;
 - c. Increase the production of affordable housing units to meet existing and anticipated housing needs; and
 - d. Work to overcome economic segregation allowing Middleton to be a community of opportunity in which low and moderate-income households have the opportunity to advance economically.
2. **Applicability.** This requirement is applicable to all residential developments with 10 or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion (Applicable Projects). No project may be divided or phased to avoid the requirements of this section.
3. **Affordability requirements.**
 - a. **Subsidized Housing Inventory.** All units affordable to households earning 80% or less of AMI created in the MCMOD under this section must be eligible for listing on EOHLC's Subsidized Housing Inventory.
4. **Provision of Affordable Housing.** In Applicable Projects, not fewer than ten percent (10%) of housing units constructed shall be Affordable Housing Units. For the purpose of calculating the number of units of Affordable Housing required within a development project, a fractional unit shall be rounded up to the next whole number. The Affordable Units shall be available to households earning income up to eighty percent (80%) of the AMI.

5. Fee in Lieu.

- a. As an alternative to the requirements of paragraph (3) of this section, and at the sole discretion and majority vote of the Select Board upon a recommendation of the Affordable Housing Trust, the developer or property owner shall contribute a fee to the Municipality's Affordable Housing Trust Fund in lieu of providing all or a portion of the required Affordable Housing Units within the proposed development. Approval of a payment in lieu of affordability from the Select Boards and a recommendation from the Affordable Housing Trust must be obtained prior to application and submitted with the initial Application for Site Plan Review.
- b. The payment shall be an amount equal to the required number of affordable housing units multiplied by the median price of a Middleton market-rate home comparable in type, size, and number of bedrooms proposed for the market rate units reported for a minimum of three (3) home sales over a period of twelve (12) months prior to the date of application submission, if available. Median home cost utilized in the formula must be approved by the Middleton Affordable Housing Trust, or designee. The applicant shall calculate the proposed sum based on an appraisal of the comparable home sales and submit documentation of the relevant data source(s) as part of the application.
- c. Any payment to the Affordable Housing Trust Fund as an in lieu contribution for Affordable Housing Units shall be made as follows: at least 50 percent of the total owed prior to the issuance of a building permit; and the remaining total owed prior to the issuance of an occupancy permit.

6. Development Standards. Affordable Units shall be:

- a. Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and/or lots;
- b. Dispersed throughout the development;
- c. Located such that the units have equal access to shared amenities, including light and air, and utilities (including any bicycle storage and/or Electric Vehicle charging stations) within the development;
- d. Located such that the units have equal avoidance of any potential nuisances as [market-rate units] within the development;
- e. Distributed proportionately among unit sizes; and

- f. Distributed proportionately across each phase of a phased development.
- g. Occupancy permits may be issued for market-rate units prior to the end of construction of the entire development provided that occupancy permits for Affordable Units are issued simultaneously on a pro rata basis.

7. **Administration.**

- a. The Building Commissioner shall be responsible for administering and enforcing the requirements in this section.

8.8.9. Site Plan Review

1. **Applicability.** Site Plan Review under Section 9.5 of the Middleton zoning bylaw is required for all projects within the MCMOD. An application for Site Plan Review shall be reviewed by the Zoning Board of Appeals for consistency with the purpose and intent of Sections 8.8.4 through 8.8.8 and Section 9.5.11
2. **Submission Requirements.** As part of any application for Site Plan Review for a project within the MCMOD submitted under Sections 8.8.5 through 8.8.8, the Applicant must meet the requirements of this section and Section 9.5 Site Plan Review of this Bylaw and the requirements contained in the Zoning Board of Appeals Rules.
3. **Site Plan Approval.** Site Plan approval for uses listed in Section 8.8.4 Permitted Uses shall be granted upon determination by the Zoning Board of Appeals that the following conditions have been satisfied. The Zoning Board of Appeals may impose reasonable conditions, at the expense of the applicant, to ensure that these conditions have been satisfied.
 - a. The Applicant has submitted the required fees and information as set forth in the Town of Middleton’s requirements for a Building Permit and Site Plan Review; and
 - b. The project as described in the application meets the development standards set forth in Section 8.8.7. General Development Standards and the objectives under Section 9.5.11.
4. **Project Phasing.** An Applicant may propose, in a Site Plan Review submission, that a project be developed in phases subject to the approval of the Site Plan Review Authority, provided that the submission shows the full buildout of the project and all associated impacts as of the completion of the final phase. However, no project may be phased solely to avoid the provisions of Section 8.8.8 Affordability Requirements.

J. Severability.

If any provision of this Section 8.8 is found to be invalid by a court of competent jurisdiction, the remainder of Section 8.8 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 8.8 shall not affect the validity of the remainder of the Town of Middleton's Zoning Bylaw.

Modify Section 9.5 Site Plan Review, as follows

Add the following to Section 9.5.2 Applicability.

9.5.2. Applicability. The following types of activities and uses require site plan review by the Zoning Board of Appeals:

1. Garden apartments in a residence district;
2. Any new buildings or structures in a Business District, Light Industrial District, Institutional Overlay District, or Interstate Highway Business District;
3. An addition to or alteration of an existing building for commercial use-;
4. **Multifamily Dwellings under Section 8.8; or**

Modify Section 10.0 Definitions, as follows:

Add the following definitions to Section 10.0 Definitions:

APPLICANT – A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.

AS-OF-RIGHT – Development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

PARKING, SURFACE — One or more parking spaces without a built structure above the space.

PARKING, STRUCTURED — A structure in which vehicle parking is accommodated on multiple stories; a vehicle parking area that is underneath all or part of any story of a structure; or a vehicle parking area that is not underneath a structure, but is entirely covered, and has a parking surface at least eight feet below grade. Structured Parking does not include surface parking or carports, including solar carports.

Replace the existing definition of Multifamily Dwelling with the following new definition:

MULTIFAMILY DWELLING— A building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

Replace the existing definition of Dwelling Unit with the following new definition:

RESIDENTIAL DWELLING UNIT— A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Explanation: This article would bring the Town of Middleton into compliance with Section 3A of Massachusetts General Laws Chapter 40A. This law is commonly referred to as the MBTA Communities Act. Middleton qualifies as an Adjacent Community as defined by the Compliance Guidelines, which were distributed by the Executive Office of Housing and Livable Communities (EOHLC) to provide guidance on how to comply with the law. In addition to the Compliance Guidelines, EOHLC provided two major tools to help communities comply: the Compliance Model and the Sample Zoning.

As an Adjacent Community, the Town of Middleton must pass zoning that is compliant with the law by December 31, 2024. The Town is required to zone a minimum of 50 acres for multifamily housing as-of-right. The calculated unit capacity of the zoning district must be a minimum of 750 units. The Compliance Model is used to determine whether the Town of Middleton meets the minimum requirements and to test zoning options to bring the Town into compliance. The Town held a public forum in November 2023 to discuss geographic options for potential districts and plans to hold a second public forum on January 30, 2024 to discuss the results of that meeting and how those results were incorporated into this draft article. The draft is based on the Sample Zoning provided by EOHLC and modified to fit Middleton’s existing Zoning Bylaw.

The Town already allows multifamily by Special Permit in the R-2 District. The requirement for a special permit means that this district does not comply with Section 3A’s requirement for as-of-right multifamily zoning. Participants at the November forum also indicated their concern with adding more units, and more traffic, along Route 114 which is where the R-2 districts are located.

The following section is the Explanation for Option 1.

An example of a new multifamily development in Middleton is the Blu Haven Residences at the corner of Routes 114 and 62. This multifamily development has 45 townhouses. However, this development is age-restricted; such development does not comply with Section 3A, which requires that the buildings be suitable for families. With 45 units on 23.62 acres, the existing density of 1.91 units per acre is far below the 15 dwelling units per acre required by Section 3A.

Ferncroft Towers is another example of existing multifamily development in Middleton. This is a condominium tower and is in one of the few areas within town that has access to sewer, rather than septic (through the South Essex Sewer District). Ferncroft Towers is currently zoned IH or Interstate Highway Business. According to ResiDensity, this site has 177 units on 4.87 acres, and thus a density of 36.37 units per acre; well over the required minimum density of 15 units per acre.

Adjacent to that parcel are the two towers of Ironwood on the Green, with 204 units on 7.82 acres and a density of 26.10 units per acre. The third parcel along Village Road is the Villas at Ironwood on the Green, with 30 townhouses on 5.84 acres for a total density of 5.13 units per acre. While this is below the required density, the three parcels together have an existing 411 units on 18.53 acres for a total density of just over 22 units per acre.

Rezoning this area to meet or slightly exceed the existing units would meet over half of the Town's minimum required unit capacity and is over the required density. However, the area does not meet the required geographic area of 50 acres.

Another possible area is the site known as the Bostik site, which is in the southwestern corner of town. This site is currently zoned M1 for Light Industry, and there are two parcels, one with 19.03 acres and the second with 37.099 acres.

Participants in the November workshop identified both these areas as suitable for multifamily housing. For example, the Ironwood/Ferncroft area has easy access to Route 1 and I-95 and access to sewer. This area is also within a 20-minute drive of either the Hamilton-Wenham or the North Beverly commuter rail stations. The Bostik area is an already developed site adjacent to the Independence Greenway and the Ipswich River Reservoir. This site is about a fifteen-minute drive from the Reading commuter rail platform.

The Town does not anticipate that the Bostik parcels will be available for residential use in the near term. However, rezoning the larger site would allow the Town to meet its geographic requirements and allowing for an appropriate level of residential use would provide an incentive for a future developer to provide the needed infrastructure for a residential development on that site. With the adjacent amenities, a multifamily development could be attractive to future residents.

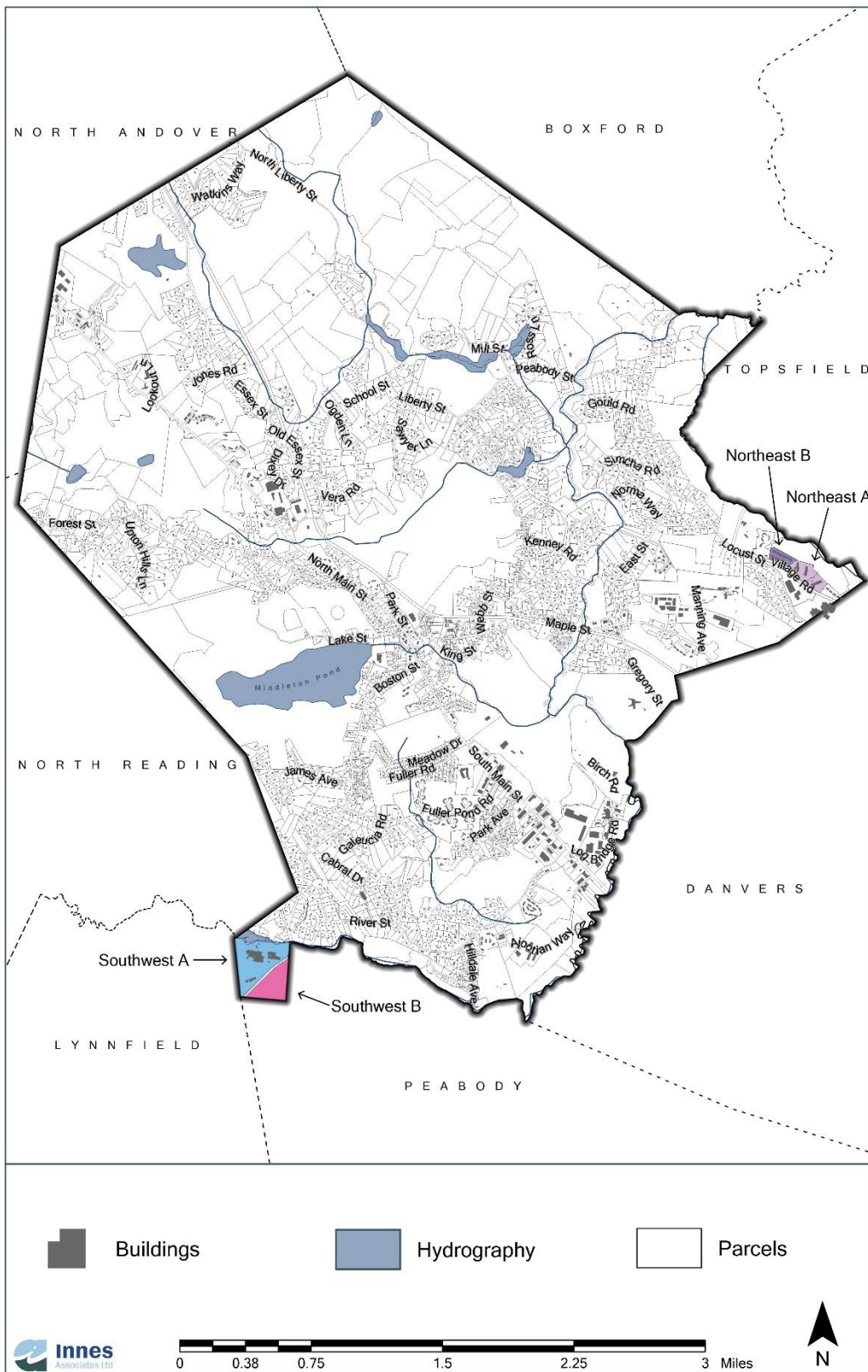
Option 1 in this article is designed to allow multifamily as of right in both places – the existing three parcels for Ironwood/Ferncroft (the northeast subarea) and the two Bostik parcels (the southwest subarea). The dimensional standards are designed to preserve the existing unit capacity and density in the northeast subarea while projecting sufficient capacity at the southwest subarea to make residential a viable use if the current use changes.

The following section is the Explanation for Option 2.

At the public meeting on January 30, 2024, some participants indicated a preference for zoning the entire Interstate Highway Business (IH) district as the town's compliance multifamily district. Option 2 is an overlay district on all parcels in the IH district. This would include the three parcels discussed earlier, the Ferncroft Country Club, the portion of the Doubletree Danvers that is within Middleton, the office building at 35 Village Road, the condominiums along Callaway Drive, and some smaller pieces of undevelopable land. Of those sites, only the condominiums on Calloway Drive have residential units now: 8 units on 3.98 acres for a total density of 2.01 units per acre.

It is possible that EOHLC might reject the Ferncroft Country Club as a developable parcel as it does not have frontage on a street; it would have to be combined with a parcel with sufficient frontage. All other parcels in the area appear to have the minimum required frontage. Without the acreage provided by the Ferncroft Country Club, this option is not compliant.

Option 1



Option 2

