

Memorandum

To: Deputy City Solicitor Jonah Temple and Planning & Development Deputy Director Jennifer Caira
From: Councilors Marc Laredo, Pam Wright, Julia Malakie, Christopher Markiewicz, John Oliver, Tarik Lucas, Emily Norton, President Emeritus R. Lisle Baker, David Kalis, Leonard Gentile, and President Susan Albright
Cc: Mayor Ruthanne Fuller; Chief Operating Officer Jonathan Yeo, Planning Director Barney Heath; Chief Assessor James Shaughnessy; City Solicitor Alissa Giuliani; City Council; Council Clerk Carol Moore
Re: Questions and comments regarding Chapter 40B Safe Harbor Memorandum
Date: September 7, 2022

We are writing in regard to your recent memorandum regarding the Chapter 40B safe harbor provisions.

First, thank you for your comprehensive review and analysis of the Chapter 40B requirements and where Newton stands in regarding to achieving safe harbor status.

Our understanding is that Newton is close to meeting the safe harbor requirement of ten percent SHI housing and so our questions and comments will mainly focus on that aspect of the statute rather than the land area safe harbor. Given that the percentage may fluctuate over the next several years, it is critically important that we fully understand and properly measure our compliance level as we make policy decisions. Here are our initial questions and comments:

1. **Chart of our percentage of SHI housing in Newton over the last ten years.** Tracking our progress towards meeting our SHI goal is very important. Therefore, we would like to see a chart that shows what percentage of housing was considered SHI each year since 2012 (and if the information was not calculated in a particular year, please explain why). Since the methodology for making these calculations has changed over time, please note the changes as well. Please provide a similar chart for the land area analysis.
2. **“Missing” SHI units.** Are there individual units and/or entire buildings in the city that meet the definition of affordable but are not included in the SHI inventory? If so, why are they not included and is there anything that can be done to make them eligible for inclusion?
3. **What can be done to speed up the LAU approval process for projects approved by the City Council?** What is the earliest date when we can apply for LAU approval for these projects? If we are not applying on the earliest possible date, why not? How many LAU units are “pending” today?

4. **Please clarify why the number of units in the city listed on the Assessors database may differ from the number of units listed in your memorandum.**
5. **What will be the effect of achieving the 10% and/or 1.5 % safe harbor levels on our eligibility to require that all new construction and major renovations be electric?**
6. **If we achieve the 10% and/or 1.5% 40B safe harbor levels, but then drop below one or both of those levels in subsequent years, will we still be able to require electrification in new construction and major renovation projects?**
7. **What effect, if any, will reaching the 10% and/or 1.5 % safe harbor levels have on our obligations to comply with the new MBTA communities zoning requirement?**
8. **Why is this information only updated when a new 40B application is filed?**
This is information that Newton should maintain “in real time” and post prominently on our website.

Thank you in advance for assisting us in understanding how we can reach the SHI safe harbor.