



Received 4/11/2024  
RW

April 3, 2024

Joseph Laydon  
Town Manager  
Town of Upton  
1 Main Street  
Upton MA 01568

**The Commonwealth of Massachusetts**  
William Francis Galvin, Secretary of the Commonwealth  
Massachusetts Historical Commission

Dear Mr. Laydon:

Thank you for your inquiry to the Massachusetts Historical Commission (MHC) pertaining to a proposed 40B comprehensive permit project.

Because the Chapter 40B process is a municipal project review, the Massachusetts Historical Commission (MHC) has no role in the municipal decision-making. The MHC only reviews and comments about projects that involve state and/or federal government agency funding, permits, or approvals.

As I understand it, conditions proposed to be included by a municipal Zoning Board of Appeals (ZBA) in a Chapter 40B comprehensive permit, are limited to fulfilling local permit requirements. All the town departments that would ordinarily issue individual permits for the project comment to the ZBA to request that the ZBA impose the same conditions that the departments would impose in issuing their individual department permits.

When there is a permitting process involving historic properties, such as through the historic building demolition delay bylaw (Upton General Bylaws, Chapter 130, demolition permit is issued by the Building Commissioner), if a 40B project proposed to demolish an historic building, the ZBA could impose the same conditions as the Building Commissioner would do, as part of the ZBA Comprehensive permit. The bylaw indicates that the Upton Historical Commission only advises the Building Commissioner. The UHC does not have a permitting authority in that bylaw.

Because Upton does not have a permitting bylaw for Native American and other historic features, it would not appear that the ZBA can address any concerns about them in their comprehensive permit.

I expect you already know of it, but this state webpage has a lot of information about the Chapter 40B process.  
<https://www.mass.gov/info-details/comprehensive-permit-information>

Perhaps a staff member at the Housing Appeal Committee (HAC) (within the Executive Office of Housing & Livable Communities) can assist about other topics of potential concern, and how the issues may or may not relate to any local permit process, and what and how the ZBA can include in the comprehensive permit. This is the HAC's website: <https://www.mass.gov/info-details/housing-appeals-committee-hac>. There are case decisions posted on that website where HAC decided that ZBAs improperly included conditions that had nothing to do with a local permit, and they ordered the ZBA to revise the comprehensive permit conditions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edward L. Bell".

Edward L. Bell  
Deputy State Historic Preservation Officer & Senior Archaeologist  
Massachusetts Historical Commission