

Article III.
Section 3-180
WESTFIELD SMART GROWTH ZONING OVERLAY DISTRICTS
(SGZOD)

Passed 12-20-07

Section 3-180.1 – Purposes

The purposes of this Section 3-180 are:

1. to establish a Westfield Smart Growth Zoning Overlay District, to encourage smart growth in accordance with the purposes of G. L. Chapter 40R;
 - a) to increase the stock of affordable housing in Westfield, and assist the city in meeting the Commonwealth of Massachusetts’ goal of 10% affordable housing in each community;
3. to encourage downtown revitalization and economic development;
4. to promote mixed use development, including a variety of housing types and commercial uses;
5. to create an increased variety or mix of attractive housing options, which will encourage residents of all income types to live and work downtown;
6. to promote well-designed projects, which enhance and support the historic character and architectural styles of downtown Westfield; and
7. to promote the re-development and adaptive re-use of existing structures in the Smart Growth District.

3-180.2 – Definitions

For purposes of this Section 3-180, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or Section 2.0, or as set forth in the PAA Regulations. To the extent that there is any conflict between the definitions set forth in Section 2.0 or the Plan Approval Authority (PAA) Regulations and the Enabling Laws, the terms of the Enabling Laws shall govern.

Administering Agency – the Westfield Housing Authority shall be designated to review and implement the Affordability requirements affecting Projects under Section 3-180.7.

Affordable Homeownership Unit - an Affordable Housing unit required to be sold to an Eligible Household.

Affordable Housing - housing that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction - a deed restriction of Affordable Housing meeting statutory requirements in G.L. Chapter 184, Section 31 and the requirements of Section 3-180.7 of this Ordinance.

Affordable Rental Unit - an Affordable Housing unit required to be rented to an Eligible Household.

Applicant – the individual or entity that submits a Project for Plan Approval.

As-of-right - a use allowed under Section 3-108.5 without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Project that requires Plan Approval by the PAA pursuant to Sections 3-180.10 through 3-180.13 shall be considered an as-of-right Project.

Department or DHCD - the Massachusetts Department of Housing and Community Development.

Design Standards – means provisions of the attached standards made applicable to Projects within the SGZOD that are subject to the Plan Approval process.

Double or triple-decker 2 and 3 family residential uses— is a two or three-story building, where each floor consists of one dwelling unit. Each unit typically has a front and/or back porch and, because the buildings are usually freestanding, windows on all four sides.

Eligible Household - an individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Enabling Laws – M.G.L. Chapter 40R and 760 CMR 59.00.

Mixed-Use Development Project – a Project containing a mix of residential uses and non-residential uses, as allowed in Section 3-180.5, and subject to all applicable provisions of this Section.

PAA Regulations – the rules and regulations of the Plan Approval Authority adopted pursuant to Section 3-180.10.

Plan Approval - standards and procedures which [certain categories of] Projects in the SGZOD must meet pursuant to Sections 3-180.10 through 3-180.14 and the Enabling Laws.

Plan Approval Authority (PAA) - The Westfield Planning Board shall be the local approval authority authorized under Section 3-180.10 to conduct the Plan

Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGZOD.

Project - a Residential Project or Mixed-use Development Project undertaken within the SGZOD in accordance with the requirements of this Section.

Residential Project - a Project that consists solely of residential, parking, and accessory uses, as further defined in Section 3-180.5.

SGZOD – the Smart Growth Zoning Overlay District established in accordance with this Section.

Townhouse Style Single Family Residential Uses, Attached— a row of houses connected by common side walls, each unit generally having two or more floors. Each unit is on its own separate lot where the use of the lot is within the exclusive control of the owner of the lot though it may be subject to a homeowners association controls on architectural design, landscaping and maintenance.

Wetland Resource Area- defined in the Wetlands Protection Act (310 CMR 10.04).

Zoning Ordinance - the Zoning Ordinance of the City of Westfield.

3-180.3 - Overlay Districts

1. Establishment. The Westfield Smart Growth Zoning Overlay Districts, hereinafter referred to as the “SGZOD,” is currently composed of one overlay district, the Southwick Road Smart Growth Zoning Overlay District, having a land area of approximately 22.2 acres in size that is superimposed over the underlying zoning districts and is shown on the Zoning Map as set forth on the map entitled “Westfield Smart Growth Zoning Overlay District, dated ____, prepared by ____.” This map is hereby made a part of the Zoning Ordinance and is on file in the Office of the City Clerk. Additional Smart Growth Zoning Overlay Districts may be added to this ordinance at a later date.

2. Subdistricts. The SGZOD contains the following sub-districts:

- i. Mixed Use Sub-District
- ii. Residential Sub-District

3-180.4 - Applicability of SGZOD

1. Applicability of SGZOD. An applicant may seek development of a Project located within the SGZOD in accordance with the provisions of the Enabling Laws and this Section, including a request for Plan Approval by the PAA, if necessary. In such case, notwithstanding anything to the contrary in the Zoning Ordinance, such application shall not be subject to any other provisions of the Zoning Ordinance, including limitations upon the issuance of building permits

for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or dwelling unit limitations.

2. Underlying Zoning. The SGZOD is an overlay district superimposed on all underlying zoning districts. The regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s) shall remain in full force, except for those Projects undergoing development pursuant to this Section. Within the boundaries of the SGZOD, a developer may elect either to develop a Project in accordance with the requirements of the Smart Growth Zoning, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Ordinance governing the underlying zoning district(s).

3. Administration, Enforcement, and Appeals. The provisions of this Section shall be administered by the Westfield Office of Community Development, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Sections 3-180.10 through 3-180.14 shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of G. L. Chapter 40A.

3-108.5 - Permitted Uses

The following uses are permitted as-of-right or by Plan Approval as noted in the table below for each Subdistrict:

Table of Use Regulations for SGZOD Subdistricts

Use Type	Mixed Use Sub-District	Residential Sub-District
Single-family Residential Uses, Detached	Permitted by right	Permitted by right
Townhouse style Single Family Residential Uses, Attached (<i>2-4 units per structure</i>)	Permitted by right with Plan Approval	Permitted by right with Plan Approval
Double-decker and Triple-decker style 2 and 3 family Residential Uses	Permitted by right with Plan Approval	Permitted by right with Plan Approval
Multi-family Residential Uses (<i>5 or more units per structure</i>)	Permitted by right with Plan Approval	No
Assisted Living	Permitted by right with Plan Approval	Permitted by right with Plan Approval

<i>Mixed use development projects, Residential Component</i>	Permitted by right with Plan Approval	Permitted by right with Plan Approval
<i>Mixed use development projects, Commercial Component</i> , including neighborhood scale commercial or institutional uses with a maximum gross square footage of 5,000 per commercial unit and a maximum building footprint of 2,500 square feet, including convenience and grocery stores, retail stores, service businesses, restaurants, professional offices, parks, recreation and conservation areas	Permitted by right with Plan Approval	Permitted by right with Plan Approval
Parking accessory to any of the above permitted uses, including surface parking and parking garages.	Permitted by right with Plan Approval	Permitted by right with Plan Approval

Notes:

- a. The total gross floor area devoted to Non-residential uses within a Mixed-use Development Project shall not exceed *the following percentages* of the total gross floor area of the Project:
 - i. *20% in the Residential Smart Growth District;*
 - ii. *50% in the Mixed Use Sub-District.*
- b. The minimum allowable as-of-right density requirements for residential uses specified in Section 3-180.8 shall apply to the residential portion of any Mixed-use Development Project.
- c. The PAA may grant a waiver of a waiver of some required submittals under the Plan Approval process as described in Section 3-108.10 for projects under six (6).

3-180.6 – Prohibited Uses

All uses not expressly allowed are prohibited.

3-180.7 - Housing and Housing Affordability

1. Number of Affordable Housing Units. For all Projects, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

2. Administering Agency. The *Westfield Housing Authority* shall be designated as the administering agency for this ordinance. In a case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the Mayor or by DHCD such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Mayor or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Administering Agency shall ensure the following, both prior to issuance of a Building Permit for a Project within the SGZOD, and on a continuing basis thereafter, as the case may be:

- a. prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- b. income eligibility of households applying for Affordable Housing is properly and reliably determined;
- c. the housing marketing and resident selection plan conform to all requirements and are properly administered;
- d. sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and
- e. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds.

3. Submission Requirements. As part of any application for Plan Approval for a Project within the SGZOD submitted under Sections 3-180.10 through 3-180.14 (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), the Applicant must submit the following documents to the PAA and the Administering Agency:

1. evidence that the Project complies with the cost and eligibility requirements of Section 3-180.7(sub section 4).
2. project plans that demonstrate compliance with the requirements of the design and construction standards of Section 3-180.7 (sub section 5).
3. a form of Affordable Housing Restriction that satisfies the requirements of Section 3-180.7 (sub section 6) Affordable Housing Restriction).

These documents in combination, to be submitted with an application for Plan Approval (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), shall include details about construction related to the provision, within the development, of units that are accessible to the disabled.

4. Cost and Eligibility Requirements. Affordable Housing shall comply with the following requirements:

- a) Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.
- b) For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.
- c) For an Affordable Homeownership Unit, unless otherwise waived by the State Department of Housing and Community Development, maximum allowable sale prices for Affordable Homeownership Units shall be calculated consistent with the Local Initiative Program standards set out in 760 CMR 45.03 or its successor regulation. Prior to the granting of any Building Permit or Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Administering Agency, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to Westfield.

5. Design and Construction. Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the Project of which they are part and be comparable in initial construction quality and exterior design to the other housing units in the Project. The total number of bedrooms in the Affordable Housing shall, insofar as practicable, be proportionate to the total number of bedrooms in all units in the Project of which the Affordable Housing is part.

6. Affordable Housing Restriction. Each Project shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

- a) specification of the term of the affordable housing restriction which shall be no less than thirty years;
- b) the name and address of the Administering Agency with a designation of its power to monitor and enforce the affordable housing restriction;
- c) a description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification.
- d) reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall

designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;

e) a requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;

f) reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;

g) designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lenders;

h) a requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease of any Affordable Rental Unit shall be given to the Administering Agency;

i) provision for effective monitoring and enforcement of the terms and provisions of the affordable housing restriction by the Administering Agency;

j) provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and/or the municipality, in a form approved by municipal counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;

k) provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Administering Agency and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;

l) provision that the owner[s] or manager[s] of Affordable Rental Unit[s] shall file an annual report to the Administering Agency, in a form specified by that agency certifying compliance with the Affordability provisions of this Ordinance and containing such other information as may be reasonably requested in order to ensure affordability; and

m) a requirement that residents in Affordable Housing provide such information as the Administering Agency may reasonably request in order to ensure affordability.

7. Costs of Housing Marketing and Selection Plan. The housing marketing and selection plan may make provision for payment by the Project applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

8. Age Restrictions. Nothing in this Section 3-180 shall permit the imposition of restrictions on age upon all Projects throughout the entire SGZOD. However, the PAA may, in its review of a submission under this Section 3-180.7 (sub section 3) Submission Requirements), allow a specific Project within the SGZOD designated exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable fair housing laws and not less than twenty-five percent (25%) of the housing units in such a restricted Project shall be restricted as Affordable units. Any Project which includes age-restricted residential units shall comply with applicable federal, state and local fair housing laws and regulations.

9. Phasing. For any Project that is approved and developed in phases in accordance with Section 180-10 sub-section 4, the proportion of Affordable Housing Units (and the proportion of Existing Zoned Units to Bonus Units as defined in 760 CMR 59.04 1(h)) shall be consistent across all phases.

10. No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 3-180.7 shall not be waived.

3-180.8 - Dimensional and Density Requirements

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

Table of Density Requirements in the SGZOD District

Use	Minimum Allowed Residential Density (du/ac.)	Maximum Allowed Residential Density (du/ac.)
Dwelling Units, Single Family Detached	8	10
Townhouse style Dwelling Units, Single Family Attached (<i>2-4 units per structure</i>)	8	10
Dwelling Units, Duplex	12	14
Dwelling Units, Triple-decker	12	14
Dwelling Units, Multi-Family (<i>4 or more units per structure</i>)	20	24
Assisted Living	20	24
Mixed Use Development, Neighborhood Scale	20	24

Notes:

- a. For Mixed Use Developments, minimum and maximum density requirements are only applicable to the Residential Component of projects.
- b. In calculating density requirements, wetland resource areas as defined in the Wetlands Protection Act (310 CMR 10.04), existing and proposed rights of way, and steep slopes in excess of 25% shall be excluded from density calculations.

Table of Height and Setback Requirements in the SGZOD District

	Mixed Use Sub-District	Residential Sub-District*
Minimum front yard setback (see note a & b below)	20 ft	10 ft
Minimum side yard (see note c below)	15 ft	0 ft
Minimum rear yard	20 ft	15 ft
Maximum height	45 ft	35ft
Maximum stories	3	2 1/2
Minimum frontage	100 ft	Width of existing or proposed building on lot (provided that at no point can the lot have less than 20ft of frontage)

*The Residential Sub-district dimensional requirements pertain to individual townhouse lots within a project.

Notes:

- a. *All residential sub-district projects will require a setback of the development as a whole from abutting properties of at least 15 feet front, side, and rear (referred to as the “Project Buffer Zone”) as measured from the project property line. An individual lot can include the Project Buffer Zone as long as 15ft of the buffer is required to remain vegetated as set forth in the condominium documents. The PAA may waive this requirement if by complying with it, the developer would not be able to meet the minimum density required.*
- b. *For private ways, front yard setbacks will be measured from the edge of the traveled way (not including parking). For public ways, front yard setbacks will be measured from the edge of the right of way.*

- c. There is no side yard requirement for attached dwelling units, however no more than 5 units may be attached. Noncontiguous buildings require a 15ft side yard between buildings.*

2. Dimensional Waivers in Substantially Developed Sub-district. The PAA may, in order to encourage the development of infill housing units on undeveloped lots within a Substantially Developed Sub-district, grant a waiver to the dimensional standards of Section 3-180.8, in accordance with Section 3-180.12 sub-section 3 “Waivers”.

3-180.9 - Parking Requirements

The parking requirements applicable for Projects within the SGZOD are as follows.

1. Number of parking spaces. Unless otherwise approved by the PAA, the minimum number of off-street parking spaces required shall be provided by use, either in surface parking, within garages or other structures, or on-street, based upon the parking requirements of the underlying zoning district in the Westfield Zoning Ordinance.

The PAA may allow for additional visitor parking spaces beyond the maximum spaces per unit if deemed appropriate given the design, layout and density of the proposed residential or other development. The PAA may allow for a decrease in the required parking as provided in sub-sections 2 and 3 below.

2. Shared Parking. Notwithstanding anything to the contrary herein, the use of shared parking to fulfill parking demands noted above that occur at different times of day is strongly encouraged. Minimum parking requirements above may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g. the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies).

3. Reduction in parking requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking may be reduced by the PAA through the Plan Approval process (or, for Projects not requiring Plan Approval, prior to submission of any application for a Building Permit), if the applicant can demonstrate that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits, taking into consideration:

- a) the availability of surplus off street parking in the vicinity of the use being served and/or the proximity of a bus stop or transit station;
- b) the availability of public or commercial parking facilities in the vicinity of the use being served;

- c) shared use of off street parking spaces serving other uses having peak user demands at different times;
- d) age or other occupancy restrictions which are likely to result in a lower level of auto usage;
- e) impact of the parking requirement on the physical environment of the affected lot or the adjacent lots including reduction in green space, destruction of significant existing trees and other vegetation, destruction of existing dwelling units, or loss of pedestrian amenities along public ways; and
- f) such other factors as may be considered by the PAA.

4. Location of Parking. Any surface parking lot shall, to the maximum extent feasible, be located at the rear or side of a building, relative to any principal street, public open space, or pedestrian way.

3-180.10 - Plan Approval of Projects: General Provisions

1. Plan Approval. An Application for Plan Approval shall be reviewed by the PAA for consistency with the purpose and intent of Sections 3-180.10 through 3-180.14. Such Plan Approval process shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws. The following categories of Projects shall be subject to the Plan Approval process:

- a) Any Residential Project, except single family detached units.
- b) Any Mixed-use Development Project;
- c) Any project consisting solely of non-residential uses; and
- d) Any Project seeking a waiver.

The PAA may grant a waiver of some required submittals under the Plan Approval process as described in Section 6-10.3 for projects under six (6) units.

2. Plan Approval Authority (PAA). The Westfield Planning Board, consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Plan Approval Authority (the “PAA”), and it is authorized to conduct the Plan Approval process for purposes of reviewing Project applications and issuing Plan Approval decisions within the SGZOD.

3. PAA Regulations. The Plan Approval Authority may adopt administrative rules and regulations relative to Plan Approval. Such rules and regulations must be approved by the Department of Housing and Community Development

4. Project Phasing. An Applicant may propose, in a Plan Approval submission, that a Project be developed in phases, provided that the submission shows the full build-out of the Project and all associated impacts as of the completion of the final phase, and subject to the approval of the PAA. Any phased project shall comply with the provisions of Section 3-180.7 sub-section 9.

3-180.11 - Plan Approval Procedures

1. Pre-application. Prior to the submittal of a Plan Approval submission, a “Concept Plan” may be submitted to help guide the development of the definitive submission for Project build-out and individual elements thereof. Such Concept Plan should reflect the following:

- a) Overall building envelope areas;
- b) Open space and natural resource areas; and
- c) General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and other requirements of the SGZOD.

2. Required Submittals. An application for Plan Approval shall be submitted to the PAA on the form and application fee as specified in the PAA regulations. The application shall be accompanied by such plans and documents as may be required in the PAA regulations

For any Project that is subject to the Affordability requirements of Section 3-180.7, the application shall be accompanied by all materials required under Section 3-180.7 sub-section 3 ‘Submission Requirements’.

All site plans shall be prepared by a certified architect, landscape architect, and/or a civil engineer registered in the Commonwealth of Massachusetts. All landscape plans shall be prepared by a certified landscape architect registered in the Commonwealth of Massachusetts. All building elevations shall be prepared by a certified architect registered in the Commonwealth of Massachusetts. All plans shall be signed and stamped, and drawings prepared at a scale of [one inch equals forty feet (1"=40') or larger], or at a scale as approved in advance by the PAA.

3. Filing. An applicant for Plan Approval shall file the required number of copies of the application form and the other required submittals as set forth in the PAA Regulations with the City Clerk and a copy of the application including the date of filing certified by the City Clerk shall be filed forthwith with the PAA.

4. Circulation to Other Boards. Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the City Council, Conservation Commission, Police Department, Fire Department, Water Resources Department, Building Inspector, Airport Commission, Gas & Electric Department, Engineering Department, City Engineer, Board of Health, Department of Public Works, and the Office of Community Development (for

any Project subject to the Affordability requirements of Section 3-180.7) for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

5. Hearing. The PAA shall hold a public hearing for which notice has been given as provided in Section 11 of G.L. Chapter 40A. The decision of the PAA shall be made, and a written notice of the decision filed with the City Clerk, within 120 days of the receipt of the application by the City Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the City Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the Plan Approval application.

6. Peer Review. The applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. Chapter 40R, Section 11(a). Such fees shall be held by the City in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant forthwith.

Section 3-180.12 - Plan Approval Decisions

1. Plan Approval. Plan Approval shall be granted where the PAA finds that:

- a) the applicant has submitted the required fees and information as set forth in the PAA Regulations; and
- b) the Project as described in the application meets all of the requirements and standards set forth in this Section 3-180 and the PAA Regulations, or a waiver has been granted therefrom;
- c) the Project conforms to the attached Design Standards;
- d) any extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

For a Project subject to the Affordability requirements of Section 3-180.7, compliance with condition (b) above shall include written confirmation by the Administering Agency that all requirements of that Section have been satisfied. The PAA may attach conditions to the Plan Approval decision that are necessary to ensure substantial compliance with this Section 3-180, or to mitigate any extraordinary adverse potential impacts of the Project on nearby properties.

2. Plan Disapproval. A Plan Approval application may be disapproved only where the PAA finds that:

- a) the applicant has not submitted the required fees and information as set forth in the Regulations; or

- b) the Project as described in the application does not meet all of the requirements and standards set forth in this Section 3-180 and the PAA Regulations, or that a requested waiver therefrom has not been granted;
- c) the Project as described in the application does not conform to the Design Standards, or;
- d) it is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

3. Waivers. Upon the request of the Applicant, the Plan Approval Authority may waive dimensional and other requirements of Section 3-180, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of the following:

- a) consistency of such variation with the overall purpose and objectives of the SGZOD,
- b) such waiver will allow the Project to achieve the density, Affordability, mix of uses, and/or physical character allowable under this Section 3-180.
- c) there are compelling reasons of safety, aesthetics or site design issues,
- d) that it will result in an improved project in conformance with the purpose and intent of this Article, and
- e) that it is in the best interest of the City.

If a waiver of the 50 foot setback requirement for the development as a whole from abutting properties is sought, the PAA may require the proponent to provide fencing and vegetative buffering or screening to reduce visual impacts to the surrounding neighborhood.

4. Project Phasing. The PAA, as a condition of any Plan Approval, may allow a Project to be phased at the request of the Applicant, or it may require a Project to be phased to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the proportion of Affordable to market rate units shall be consistent across all phases, and the proportion of Existing Zoned Units to Bonus Units (as those terms are defined under 760 CMR 59.00) shall be consistent across all phases.

5. Form of Decision. The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the City Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the City Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the City Clerk shall so certify on a copy of the decision. If a plan is approved by reason of the failure of the PAA to timely act, the City Clerk shall make such certification on a copy of the application. A copy of the decision or application bearing such certification shall be recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate

of title. The fee for recording or registering shall be paid by the applicant.

6. Validity of Decision. A Plan Approval shall remain valid and shall run with the land indefinitely, provided that construction has commenced within two years after the decision is issued, which time shall be extended by the time required to adjudicate any appeal from such approval and which time shall also be extended if the Project proponent is actively pursuing other required permits for the Project or there is other good cause for the failure to commence construction, or as may be provided in a Plan Approval for a multi-phase Project.

3-180.13 - Change in Plans after Approval by PAA

1. Minor Change. After Plan Approval, an applicant may apply to make minor changes in a Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the City Clerk.

2. Major Change. Those changes deemed by the PAA to constitute a major change in a Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to Sections 3-180.10 through 3-180.14.

Section 3-180.14 - Severability

If any provision of this Section 3-180 is found to be invalid by a court of competent jurisdiction, the remainder of Section 3-180 shall not be affected but shall remain in full force. The invalidity of any provision of this Section 3-180 shall not affect the validity of the remainder of the City's Zoning Ordinance.

*Design Standards
For
Smart Growth Zoning Overlay Districts (SGZOD)*

1. Adoption of Design Standards. Any Project undergoing the Plan Approval process shall be subject to design standards as set forth below (“Design Standards”).

2. Purpose. The Design Standards are adopted to ensure that the physical character of Projects within the SGZOD:

- a) will be complementary to nearby buildings and structures;
- b) will be consistent with the Comprehensive Housing Plan, an applicable master plan, an area specific plan, or any other plan document adopted by the City; and
- c) will provide for high-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the City.

3. General Design Standards. The following design standards shall apply in all sub-districts.

Building Character and Design

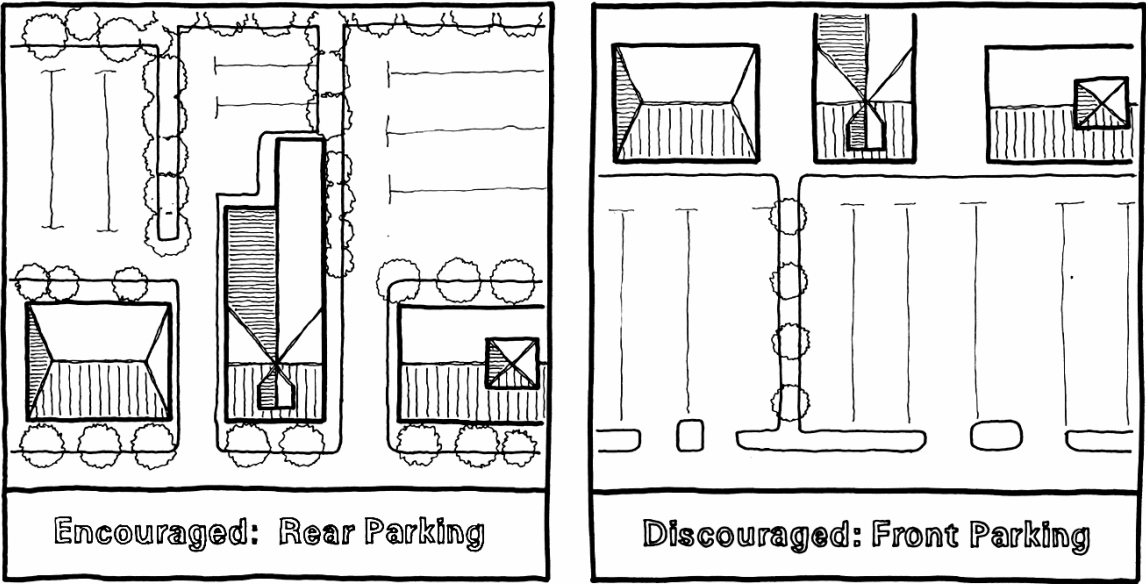
- Buildings shall have the primary entrance oriented to the street on which the building fronts.
- To improve the pedestrian scale of the district, and reflect the pattern and character of surrounding buildings, buildings shall include articulations, such as cornices, bay windows dormers, peaked corner turrets, or other vertical articulations that add dimension to the building facades.
- Long building facades shall be broken up with multiple entrances or staggered facades, creating the feeling of a row of individual buildings.
- Buildings with flat roofs shall have a cornice. Roof projections or roof elements that are visible from the street shall be architecturally integrated with the overall building design.
- Attention shall be paid to the design of front doors, with covered front entries or other details

The commercial elements of any mixed-use development project shall be planned and designed in an integral manner to complement the residential uses

Parking and Curbcuts

- Parking areas for office uses shall be sited behind buildings or to the side of buildings with screening from the sidewalk. Driveways shall be located on the side streets where possible, and garage entries shall be located behind the buildings or on side streets where possible. Garage entries facing the street shall have doors designed

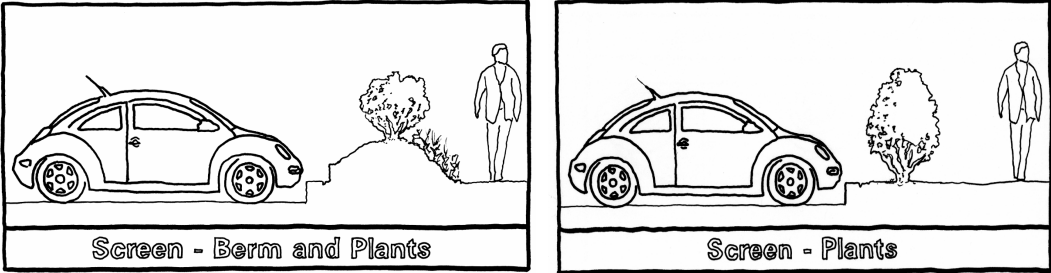
with windows, panels, or other articulations. All commercial parking shall be screened from the sidewalk as described below.



- Curbcuts shall not be designed so that the drive is set at street elevation requiring pedestrians to step down at every cut.

Landscape and Screening Elements

- In order to visually screen office and commercial use parking from the street without reducing visual access and security: except to allow egress to the property at driveways and walkways, where possible, surface parking areas shall be screened from the street by continuous planting strips a minimum of (5) feet deep and planted at a density sufficient to create a continuous screen, with plantings at least 18 inches, but no more than 3 feet tall.



- All dumpsters, utility/service areas shall be screened to preserve and enhance the pedestrian environment.
- Street trees with tree grates or in planter strips shall be provided, using appropriate species to provide summer shade, winter light, and year-round visual interest.
- Existing trees over 24 inches in diameter shall be preserved where feasible.

Pedestrian Amenities

- All buildings and on-site open spaces shall be connected by pedestrian routes. Pedestrian routes may include, but are not limited to, sidewalks, paved parking lots and unpaved paths.
- Pedestrian routes shall connect to existing public pedestrian walkways and existing public sidewalks abutting the project site.
- Building entrances shall emphasize pedestrian ingress and egress as opposed to accommodating vehicles.
- Pedestrian scale lighting shall be included such as a 12 to 15 foot-high pole or bollard fixtures.

Storm Drainage, Utilities, Water Facilities, Sewer, Electric and Communication Lines

All utilities must meet the requirements contained in the Westfield Planning Board's subdivision regulations in effect as of the date the application is submitted.

4. Subdistrict Standards. The following design standards shall apply in the sub-districts as set forth below:

a) Mixed Use Sub-District

- Commercial uses shall be limited to the first and second floors of mixed use buildings.

Passed by City Council 12-20-07