



# M.G.L. Chapter 40R

## The Application and Use of Smart Growth Zoning Overlay Districts

Presentation to:

Town of Sharon

July 2, 2008

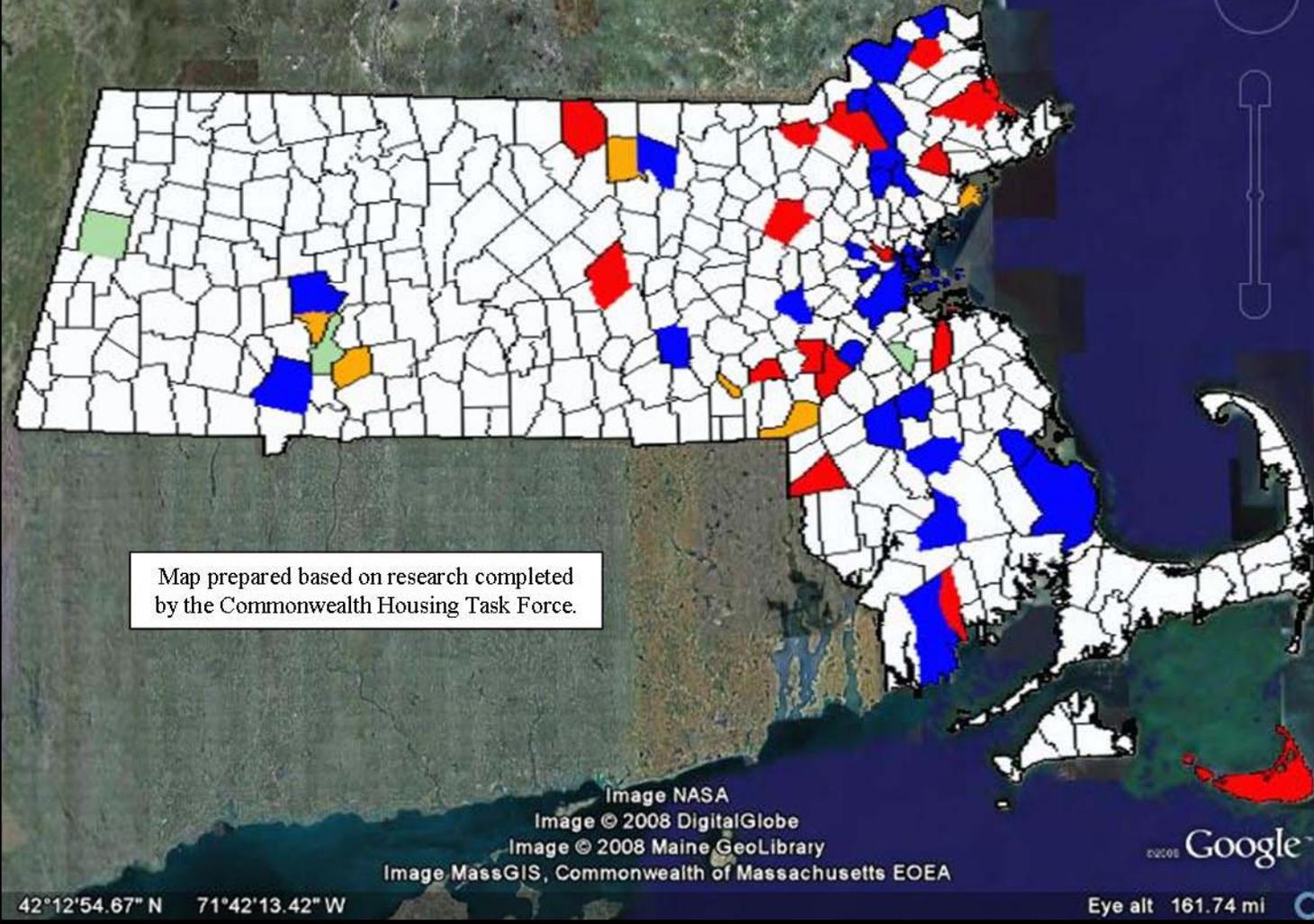
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# Smart Growth Zoning Approved or Under Consideration in Massachusetts



## Legend

Approved 40R District



23 Communities –  
8,617 Units

Filed with DHCD for  
Letter of Eligibility



3 Communities –  
500 to 1,000 Units

Applied for or  
Received State  
PDF Grant Funds



7 Communities –  
1,750 to 2,250 Units  
(estimated)

Meaningful  
Consideration of 40R  
Underway Locally



17 Communities

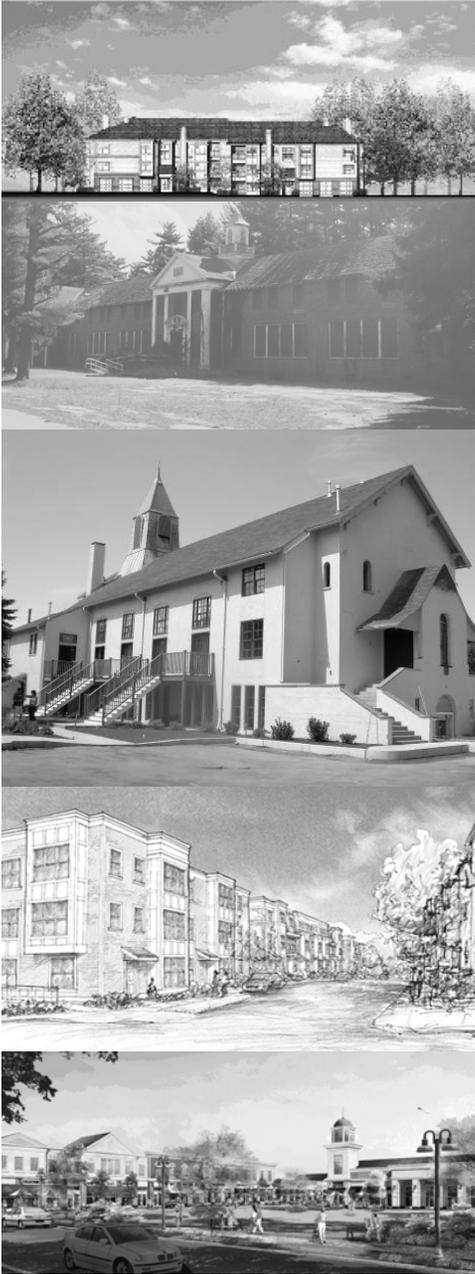
June 2008

Source: Municipal boundaries courtesy of MassGIS <<http://mass.gov/mgis/>>



# 40R Basics

- **Smart Growth Locations**
- **Incentives**
- **Minimum densities**
- **Mixed-income housing**
- **As-of-right permitting with Design Review**



# Defining Smart Growth

**“A principle of land development” with the following characteristics:**

- **Emphasizes mixing land uses,**
- **Increases the availability of affordable housing by creating a range of housing opportunities in neighborhoods,**
- **Takes advantage of compact design,**
- **Fosters distinctive and attractive communities,**
- **Preserves open space, farmland, natural beauty and critical environmental areas,**
- **Strengthens existing communities,**
- **Provides a variety of transportation choices,**
- **Makes development decisions predictable, fair and cost effective, and**
- **Encourages community and stakeholder collaboration in development decisions”**



## Location

- **Areas near transit stations, including commuter rail, bus and ferry lines**
- **Areas of concentrated development (town and city centers, existing commercial districts and existing rural village districts)**
- **Highly suitable areas due to infrastructure, transportation access and location**
- **Areas adjacent to these eligible locations may be included in the district**
  - **Must offer pedestrian access to at least one “destination of frequent use” in the eligible location (such as a school or place of employment) and**
  - **Must be already served by existing infrastructure and utilities**



# Incentives

- One-time “zoning incentive payment” based on the projected units of New Construction
  - Up to 20 \$10,000
  - 21 to 100 \$75,000
  - 101 to 200 \$200,000
  - 201 to 500 \$350,000
  - 501 or more \$600,000



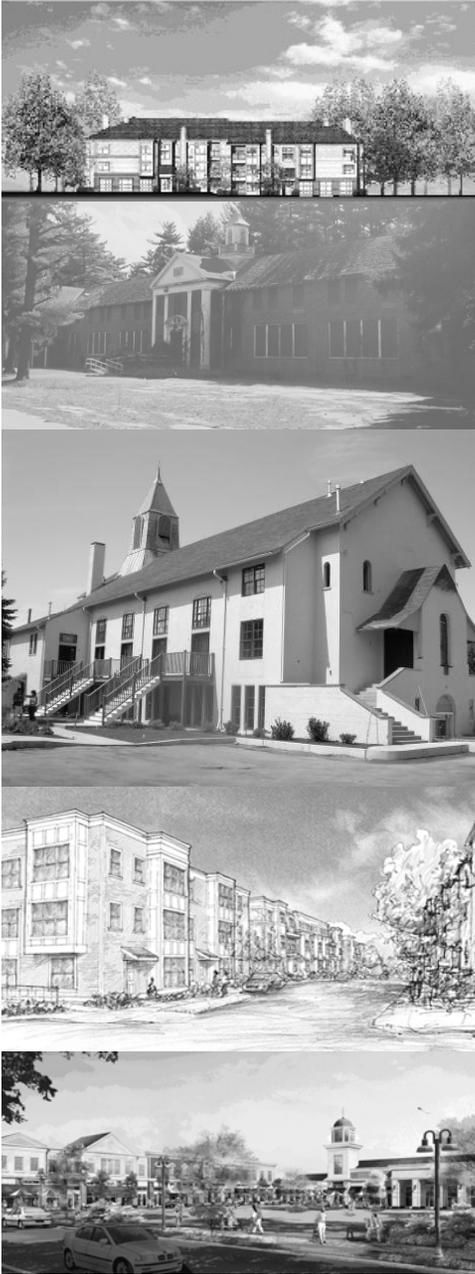
# Incentives

- One-time payments of \$3,000 per new unit when building permits are issued



# Incentives

- Discretionary funds favor cities or towns with approved smart growth zoning districts



## Incentives

- A companion law (Chapter 40S) reimburses school districts for any gap between the property tax payments generated by 40R projects for schools and average per-student cost associated with students living in the 40R district



# Minimum Densities

- Minimum Housing Density of At least:
  - 8 units per acre - single family homes
  - 12 units per acre - two and three unit buildings
  - 20 units per acre - multifamily (3 or more units) housing
- Whatever density is allowed shall not overburden existing infrastructure (plus any anticipated upgrades).
- Allow infill housing on existing vacant lots and addition of units in existing buildings consistent with neighborhood patterns and local codes



# Mixed-income Housing

- Affordable to households at or below 80% AMI for at least 30 years. Can require more affordability as long as does not unduly restrict.
  - At least 20% of “bonus” units in the district
  - At least 20% of units in any new development of over 12 units,



# Design Standards

“Design Standards may address:

- Scale, proportions, and exterior appearance of buildings;
- Placement, alignment, width, and grade of streets and sidewalks;
- Type and location of infrastructure;
- Location of building and garage entrances, off-street parking;
- Protection of significant natural site features;
- Location and design of on-site open spaces, landscaping, exterior signs, and buffering in relation to adjacent properties.”



# Kingston Design Standards

## Kingston Smart Growth District Design Standards and Procedures

prepared by the Kingston Design Standards Review Committee  
with assistance from  
Concord Square Development Company, Inc. and  
The Cecil Group

Kingston, Massachusetts  
WORKING DRAFT AS OF OCTOBER 30, 2006



- Intended to set acceptable parameters for project design
- Offer predictability to voting public and to developer
- Primary vehicle for public participation in zoning design and approval process





# Kingston Site Design

family residential blocks shall be no more than 600' in length unless site conditions provide a compelling reason for longer block lengths.

6(D)(4) Alley-loading. In order to minimize the visual impact of private parking garages, curb cuts, and vehicular turning movements on residential streets, Alleys should be provided to allow for vehicular access to most Single-family homes



Accessing garages from alleys makes the traveled ways safer and more pedestrian.

from the rear. Residential buildings except those that abut Preserved Woodlands or the boundaries of the District should be designed such that vehicular access and off-street parking is located behind buildings, and is accessible from secondary streets or alleys.

6(D)(5) Curb cuts. Curb cuts on Traveled Ways where buildings predominantly face the street shall be allowed for loading, driveways, and parking areas. Curb cuts shall also be allowed to access 20' maximum width driveways of front-loaded single-family residential homes. Non-residential curb cuts shall not make up more than 25% of the street block, and individually shall be no more than 30' in width measured at the point of tangency of the driveway entrance with the driveway curb radius.

6(D)(6) Building massing and orientation.

6(D)(6)(a) Build-to and setback lines. The District Bylaw contains minimum building setbacks from the edge of curb which shall apply to Development Projects in the District. In addition, at least 75% of the linear frontage of any building façade which is adjacent to a sidewalk shall be located within 20' of that sidewalk for single-family homes and 15' of the sidewalk for non-single family buildings. On corner lots, the build-to line shall apply only to the façade which contains the primary entrance to the relevant building. In cases where no sidewalk exists, single-family homes shall be within 35' of edge of paving and non- single family buildings shall

- Illustrations for clarity on specific concepts, such as alley-loaded homes to minimize curb cuts and create pedestrian friendly neighborhoods

# Kingston - Building Forms



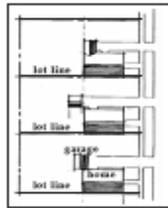
## Kingston's Place Smart Growth District Design Standards

### Single-Family Detached

A detached residential dwelling unit, other than a mobile home, designed for occupancy by one family only.



- pitched roofs, varying roof lines
- architectural shingles
- single, double-hung windows trimmed to meet frieze board when close
- varying paint colors
- clapboard-style siding
- front porches



Single-Family homes may be adjacent with one side yard lot line. Accessory buildings and detached garages may be located on a side or rear lot line provided that no structure is closer than 10' to another.



- pedimented dormers
- slight eave overhang front details continue around to the sides
- front or side-gabled low-pitched roof with perpendicular gabled wings
- cornice lines emphasized with wide, divided band of undecorated trim
- corner boards
- entry porches less than full height, supported by square or round, prominent Doric columns



Traditional architectural styles in Kingston include Colonial and Greek Revival. Front porches with columns, pitched roofs, shutters, windows, clapboard exteriors, and facade articulation characterize these styles and contribute to a coherent streetscape design.

### Dimensional Requirements: Single-Family Detached

|                 |  |               |                       |
|-----------------|--|---------------|-----------------------|
| Maximum Density | 8 units per acre   |               |                       |
| Front Setback   | N/A*   | Frontage      | N/A*                  |
| Side Setback    | 25 feet minimum/15 feet minimum for parcels less than 10,000 sq ft | Parking       | 1.5 per dwelling unit |
| Rear Setback    | 20 feet minimum*   | Uses          | Residential           |
| Building Height | 35 feet maximum*   | Sub-Districts | SE, MLRC, MUIW        |

\*For Single-Family Dwelling Units, each must be located within a Development Lot and shall satisfy the criteria governing Single-Family Dwelling Units set forth in the District By-Law.

## Kingston Smart Growth District Design Standards

### Two- and Three-Family

A residential building containing two or three dwelling units and where the individual dwellings are not located on separate lots.



- dormers and varying roof lines
- multiple vertically-proportioned windows
- clapboard-style siding
- bay windows on end break up facade, add cohesiveness
- covered porch with columns



Dormers and columns add visual interest while covered porches ensure a sense of privacy for each living unit.

An articulated facade breaks up this larger building while a front porch and multiple windows make it less imposing and more accessible from the street.



Small front setbacks help these townhouses relate well to the streetscape.

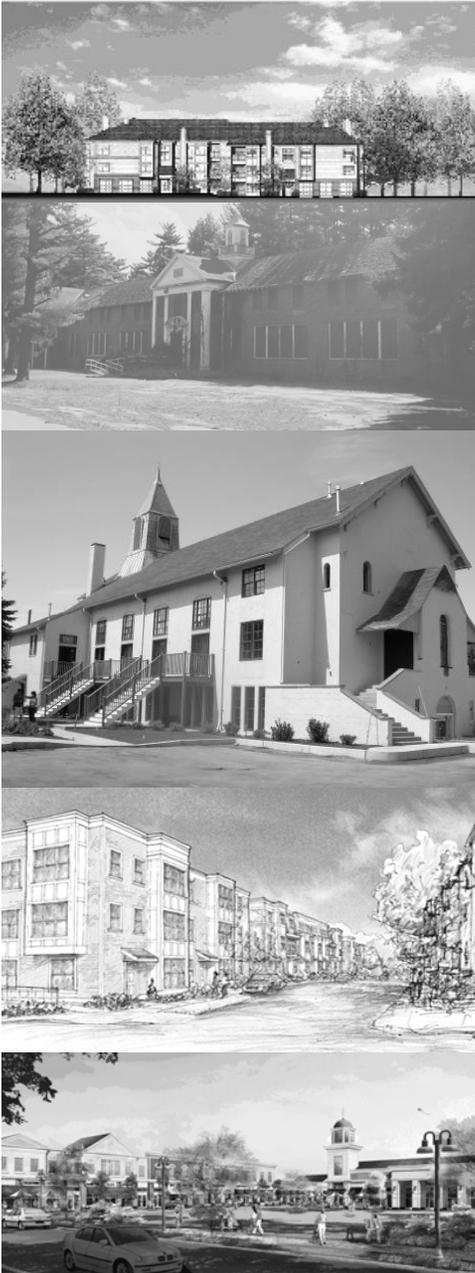


Buildings incorporating a varied architectural vocabulary can be situated near each other to create a sense that the neighborhood was developed over time.

### Dimensional Requirements: Two- to Three-Family

|                 |  |               |                                      |
|-----------------|--|---------------|--------------------------------------|
| Maximum Density | 12 units per acre  |               |                                      |
| Front Setback   | N/A*   | Frontage      | N/A*                                 |
| Side Setback    | 25 feet minimum/15 feet minimum for parcels less than 10,000 sq ft | Parking       | 1.5 per dwelling unit                |
| Rear Setback    | 20 feet minimum*   | Uses          | Residential                          |
| Building Height | 35 feet*   | Sub-Districts | SE (per District By-Law), MLRC, MUIW |

\*For Two- and Three-Family Dwelling Units, each must satisfy the criteria governing Two- and Three-Family Dwelling Units set forth in the District By-Law. \*\* Relates to Single-Family, Mixed-Use Residential Commercial and Mixed-Use Live Work.

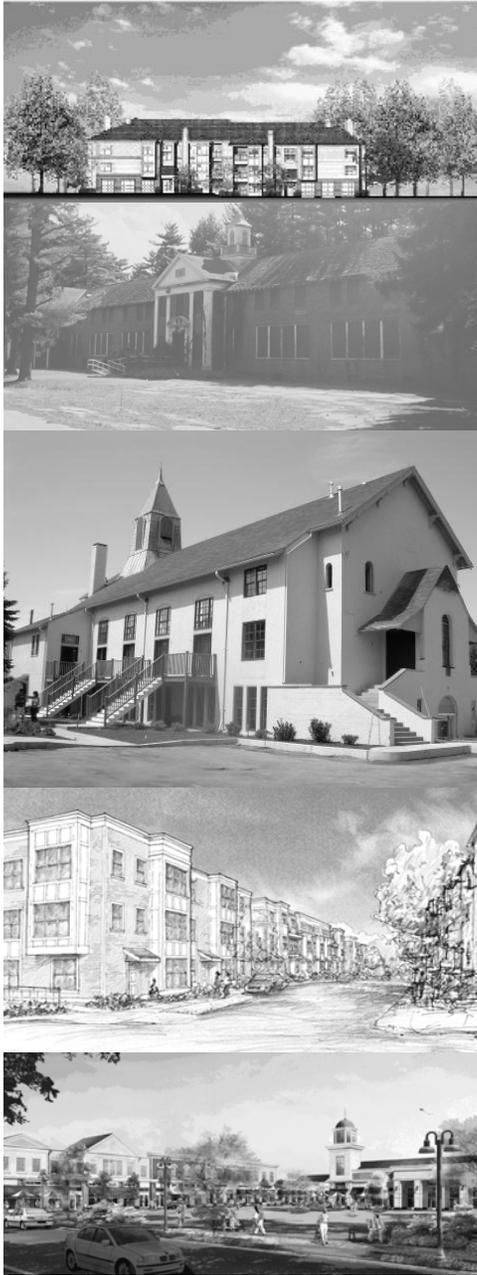


# Plymouth Public Space – Design Standards

- Public green
- Waterview park
- Pocket parks / neighborhood greens
- Walkways / connectivity / accessibility

|   |  |
|---|--|
|   | <p>(d) Seating. At least one linear foot of seating is required for every 100 square feet of waterview park area.</p>  |
|   | <p>(e) Hours of operation and limitations on accessibility. The waterview park shall be open to the public except when hazardous conditions are present that would affect public safety.</p>   |
|   | <p>(IV) Pocket parks or neighborhood greens.</p>   |
| <p><i>Unacceptable fencing type</i></p> | <p>(a) One pocket park or neighborhood greens (a minimum of 2,500 sq. ft. in area) shall be incorporated into the overall site design within two hundred linear feet of each multi-family building with four or more residential units; provided, however, that the Public Green may be used to satisfy this requirement for no more than one residential building with frontage on the green. The pedestrian boardwalk along the waterfront and the waterview park may each be used to satisfy this requirement for any multi-family building erected east of the train tracks.</p> |
|   | <p>(b) Pocket parks and neighborhood greens may be enclosed with fencing. Where fencing is provided, pedestrian access through the fence shall be located at logical points of entry and/or at regular intervals along the traveled way. Fencing shall be a maximum of four feet tall, constructed of wood, stone, cast stone, or metal or some combination thereof and designed to be visually permeable and</p>  |

# Plymouth “Traveled ways” – Design Standards



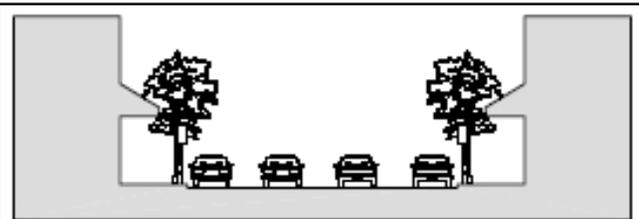
Boulevard section. For illustrative purposes only.



(c) Mixed-use driveway.

(i) Design concept. Driveways serving Mixed-Use Development Projects shall include on-street parking, amenities such as decorative lamp posts, sidewalk furniture, flower boxes and planters, decorative paving designs and banners typical of a community retail center.

(ii) Landscaping and sidewalks. Mixed-use driveways shall include shade trees every 30 linear feet staggered on each side of the driveway and sidewalks of a minimum width of 12 feet.



Mixed use section. For illustrative purposes only.



Residential driveway section. For illustrative purposes only.

# Plymouth Building Forms – Design Standards



## Mill Style: Renovation

A mixed-use or single-use adaptive reuse of an existing building that preserves the character of the architecture.



- Screen all rooftop equipment
- Cornice
- Original concrete frame remains visible as an architectural feature
- Infill panels should blend with architectural style
- A separate material differentiates the base from floors above



The exposed concrete frame provides a sense of history.

Large windows accentuate the historical architectural appearance.

### Dimensional Regulations: MILL STYLE- RENOVATION

|                          |                             |                    |                         |
|--------------------------|-----------------------------|--------------------|-------------------------|
| Min. Lot Area            | N/A                         | Max. Lot Coverage  | N/A                     |
| Front Setback*           | Build-to-Line 0 ft to 10 ft | Building Height*** | See Sec.205-74(G)(2)(d) |
| Combined Side Setbacks** | 0 ft                        | Sub-Districts      | Coastal Renovation      |
| Rear Setback             | 0 ft                        |                    |                         |

## Village-Scaled Mixed Use

A multi-level building with no more than three floors (that houses retail/ commercial uses on the first floor, and residential or office space on the upper floors).



- Varied colors, textures and planes break the facade into smaller parts that have a residential feel
- Vertically proportioned windows
- Decorative lighting on signage band
- Sign band visually separates commercial uses from upper floors
- Storefront windows
- Multiple materials used to differentiate first floor from floors above



Articulated entries and storefront windows.



Articulated roof shapes help break up the mass of larger buildings, creating a more residential feel.



Differentiation in color and roof shapes brings interest to the streetscape.

### Dimensional Regulations: VILLAGE-SCALED MIXED USE

|                          |                             |                    |  |
|--------------------------|-----------------------------|--------------------|--|
| Min. Lot Area            | N/A                         | Max. Lot Coverage  | N/A                                    |
| Front Setback*           | Build-to-Line 0 ft to 10 ft | Building Height*** | 45 ft                                  |
| Combined Side Setbacks** | 0 ft                        | Sub-Districts      | Court StreetFirst; Court Street Second |
| Rear Setback             | 0 ft                        |                    |  |



# Design Standards

## Challenges

- Broad range of existing forms including range of building type, scale, use
- Public objective: creates incentives for rehabilitation where feasible, with new construction on underutilized lots
- Mixed use

## Opportunities

- Building forms enable further refinement of use types for building height, setbacks, detail and articulation
- Brings predictability to public within zoning review and approval process
- Provides clarity of public policy objectives for redevelopment



## “Shall not unduly restrict”

- **Zoning and Design Standards must be approved by DHCD, and are only enforceable insofar as they do not “Unduly Restrict opportunities for development.”**
  - **Unreasonable costs or unreasonably impairs the economic feasibility of proposed Projects in a District**
  - **Landowner certifies in writing that standards won’t “unduly restrict”**



# Application Review Process

- Pre-application review (optional)
- District master plan (optional)
- Application for Site Plan Approval
  - Planning Board public hearing
  - Application only approved upon finding that proposal complies with Bylaw and Design Standards



# 40R District Process

- Communities exploring creating a 40R district follow a specific planning and application process. Many hire consultants to help them with this at an estimated cost of \$30-35,000 for a midsize district (250 units) and up to \$125,000 (including legal fees) for large districts.

## Core Components

- **Comprehensive Housing Plan**
- **Preliminary Application to DHCD for a Letter of Eligibility**
- **40R Bylaw/ Design Standards**



# Municipal Concerns

- Location
  - Voluntary and requires a 2/3 vote
  - Infrastructure
- Density
  - Design Standards
- Scale
  - Design Standards



# Municipal Concerns

- As of Right Zoning
  - Muni can modify/ eliminate underlying zoning dimensional standards to support desired densities, mix of uses and physical characteristics including parking requirements, roadway design, setbacks, height, etc.
  - Modifications can be allowed as of right for all or part of the district or provided on a project specific basis through site plan review.



# Municipal Motivations

- Provides diverse housing options
- Multiple Incentives/ Rewards
- Local control/ Flexibility
- Infill/ Upgrade underutilized sites/ buildings
- Upzone
- Change of use without change of zoning
- Create new or enhance commercial areas
- Collaborative planning approach



# Developer Motivations

- Educational impact addressed
- Collaborative planning approach
- Design and density addressed up-front
- Infrastructure addressed upfront
- Incorporates environmental and range of community interests/ planning intent
- Expedited planning and permitting



# Successful 40Rs

- Public process: early and often
- Frame proposal based on public priorities in plans
- Draw from local vernacular
- Ability to incorporate sub-districts into smart growth zoning provides room for creativity
- Partnership of planning and design vision



Q&A