

**ARTICLE ____. TO SEE IF THE TOWN WILL VOTE TO
AMEND THE EASTON ZONING BYLAW BY MAKING
THE FOLLOWING CHANGES THERETO:**

Item 1. At the end of Section 3-1, add the following new entry:

Quset Smart Growth Overlay District – QSGOD.

Item 2. Add the following new Section 7-17:

**SECTION 7-17: QUESET SMART GROWTH OVERLAY DISTRICT
(QSGOD)**

A) Purpose

It is the purpose of this Section to establish a Quset Smart Growth Overlay District and to encourage smart growth in accordance with the purposes of G. L. Chapter 40R, and to foster a range of housing opportunities along with a mixed-use development component, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to employment and nearby transportation systems. Other objectives of this Section are to:

1. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;
2. Provide for a full range of housing choices for households of all incomes, ages, and sizes in order to meet the goal of preserving municipal character and diversity;
3. Increase the production of a range of housing units to meet existing and anticipated housing needs;
4. Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing;
5. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
6. Establish development standards to allow context-sensitive design and creative site planning;
7. Enable the Town to receive Zoning Incentive Payments and/or Density Bonus Payments in accordance with G. L. Chapter 40R, 760 CMR 59.06, and additional Chapter 70 aid in

accordance with G.L. Chapter 40S arising from the development of housing in the Queset Smart Growth Overlay District.

B) Definitions

For purposes of this Section, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling Laws or this Section 7-17.B. To the extent that there is any conflict between the definitions set forth in this Section and the Enabling Laws, the terms of the Enabling Laws shall govern.

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. c. 184, Section 31 and the requirements of Section 7-17.D of this Bylaw.

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

As-of-right Project or Project: means a Multifamily Use development or a Mixed Use development allowed under Section 7-17.E without recourse to a special permit, variance, zoning amendment, or other form of zoning relief.

Assisted Living Facility. A facility licensed by the Executive Office of Elder Affairs pursuant to G.L. c. 19D and all of applicable requirements. This definition shall not include any other forms of group living quarters such as group foster care group homes, single room occupancy residences, rooming or lodging houses, and other facilities as listed in Commonwealth of Massachusetts Regulations (651 CMR 12.01).

Design Standards: See Section 7-17. O

Development Project: A residential, commercial or mixed-use development undertaken under Section 17-7. A Development Project shall be identified on the Site Plan which is submitted to the Plan Approval Authority for Site Plan Review.

DHCD: The Department of Housing and Community Development of the Commonwealth of Massachusetts or any successor agency.

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: G.L. Chapter 40R and 760 CMR 59.00.

Mixed Use: Structure in which multifamily use is permitted as of right with allowed commercial uses.

Multifamily Use: Dwelling containing four or more dwelling units.

Plan Approval: Standards and criteria which a Project in the QSGOD must meet under the procedures established herein and in the Enabling Laws.

Plan Approval Authority: For purposes of reviewing Project applications and issuing decisions on development Projects within the QSGOD, the Plan Approval Authority (PAA), consistent with G.L. Chapter 40R and 760 CMR 59.00, shall be the Planning and Zoning Board. The PAA is authorized to approve a site plan to implement a Project.

Recreational Uses: Active recreational uses, including but not limited to ball fields; and passive recreational uses, including but not limited to walking and bicycle paths. Amusements or motorized uses shall not be considered eligible recreational uses.

Site Plan: A plan depicting a proposed Development Project for all or a portion of the Queset Smart Growth Overlay District and which is submitted to the Plan Approval Authority for its review and approval in accordance with provisions of this Bylaw.

Substantially Developed Land: Land within the QSGOD that is currently used for commercial, industrial, institutional or governmental use, or for residential use consistent with or exceeding the densities allowable under the underlying zoning.

Zoning Bylaw: The Zoning Bylaw of the Town.

C) Overlay District

1. Establishment. The Queset Smart Growth Overlay District, hereinafter referred to as the QSGOD, is an overlay district having a land area of approximately 69.95 acres, being portions of Assessor's Map U28, Lots 28 & 43; Assessor's Map 32, Lot 23; Assessor's Map 33, Lots 4, 5A, 6, 7, 11, 12, 21, 21A, 104, 105, 106 that is superimposed over the underlying zoning district, as shown on the Zoning Map as set forth on the map entitled "Queset Commons Smart Growth Zoning Map," dated April 5, 2007, as revised through December 3, 2007, attached hereto as Appendix B. This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the Town Clerk.

2. Underlying Zoning. The QSGOD is an overlay district superimposed on all underlying zoning districts. Except as limited herein, the underlying zoning shall remain in full force and effect.

3. Applicability of QSGOD. In accordance with the provisions of G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a Project located within the QSGOD may seek Plan Approval in accordance with the requirements of this Section 7-17. In such case, then notwithstanding anything to the contrary in this Zoning By-law, such Plan Approval shall

not be subject to any other provisions of this Zoning By-law, 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 building permit or dwelling unit limitations, including but not limited to any rate of development limitations provided in the Zoning By-law. When a building permit is issued for any Project approved in accordance with this Section 7-17, the provisions of the underlying district(s) shall no longer be applicable to the land shown on the site plan which was submitted pursuant to Section 7-17.M for such Project.

D) Housing and Affordability.

1. Marketing Plan. Prior to granting Plan Approval for housing within the OSGOD, an Applicant for such approval must submit a narrative document and marketing plan that establishes that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with an application for Plan Approval pursuant to Section 7-17.M, below, shall include details about construction related to the provision, within the Project, of units that are accessible to the disabled. The marketing plan must be approved by DHCD prior to the issuance of a building permit for a Development Project.

2. Number of Affordable Housing Units. For all Projects, not less than twenty percent (20%) of the total housing units constructed in a Project shall be Affordable Housing. For all Projects where the Affordable Units proposed are Rental Units not less than twenty five percent (25%) of total housing units in any building containing rental units shall be Affordable Housing; provided, however, that 20% of such units may be affordable where restricted to households earning less than 50% of area median income. For purposes of calculating the number of units of Affordable Housing required within a Project, any fractional unit shall be deemed to constitute a whole unit.

3. Requirements. Affordable Housing shall comply with the following requirements:

a. 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.

b. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, 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.

c. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

d. The QSGOD shall not include the imposition of restrictions on age upon the entire District, but the development of specific Projects within the QSGOD may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than 25% of the housing units in such a restricted Project shall be restricted as Affordable Housing.

e. At least 10% of the Affordable Housing Units shall be handicapped-accessible.

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

5. Affordable Housing Restriction. Each unit of Affordable Housing 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 prior to such recording has been approved by DHCD. Such Affordable Housing Restriction shall contain the following:

a. Specification of the term of the affordable housing restriction which shall be the maximum period allowed by law but not less than ninety nine years;

b. The name and address of a Monitoring Agent 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. If approved by DHCD, the housing marketing and selection plan may provide for preferences in resident selection. for the Affordable Housing Units; 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;

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- 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 lender;
- h. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the Monitoring Agent;
- i. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent;
- j. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and the Town, in a form approved by municipal counsel, and shall limit initial sale and resale 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 Monitoring Agent and the Town, 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 Monitoring Agent, in a form specified by that Agent certifying compliance with the affordability provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;
- m. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

6. Monitoring Agent. A Monitoring Agent which may be the Local Housing Authority, or other qualified housing entity shall be designated by the PAA as the Monitoring Agent for all Projects in the QSGOD. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the PAA or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Monitoring Agent shall ensure the following, both prior to

issuance of a Building Permit for a Project within the QSGOD, 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 conforms to all requirements and is 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.

7. Housing Marketing and Selection Plan. The housing marketing and selection plan shall make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements, as set forth in 7-17.D.

8. Phasing. The PAA, as a condition of any Plan Approval, may require a Project to be phased in order to mitigate any extraordinary adverse Project impacts on nearby properties. For Projects that are approved and developed in phases, the PAA shall assure the required number of Affordable Housing Units in the Project, as per Section 7-17(D)(2). Such assurance may be provided through use of the security devices referenced in G.L. c. 41, § 81U, or through the PAA's withholding of certificates of occupancy until proportionality has been achieved. No Density Bonus Payment will be received by the Town until such proportionality has been achieved by the issuance of occupancy permits for the Affordable Housing Units in the Project.

9. Computation. Prior to the granting of any Plan Approval of a Project, the applicant must demonstrate, to the satisfaction of the Monitoring Agent, 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 the Town.

10. No Waiver. Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 7-17.D shall not be waived.

E) Permitted and Prohibited Uses

Except as otherwise provided by law in each subzone, no building, structure or land shall be used or occupied except for the purposes permitted as set forth in the following Table of Use Regulations. The letter "Y" shall designate that a use requires Plan Approval. The letter

“N” shall designate that a use is not permitted. The letters SP shall designate that the use requires a special permit from the Special Permit Granting Authority designated by the referenced Section of the Zoning Bylaw.

Table of Uses

Subzone	A	B	C
<u>1. Residential Uses</u>			
Multifamily dwellings including dwelling units over nonresidential space	Y	Y	N
Assisted Living Facility	N	Y	N
<u>2. Nonresidential Uses</u>			
Trade, professional, or other school conducted as a private business for gain	N	Y	Y
Swimming, tennis, fitness center, or other indoor or outdoor recreational facility as an accessory use	Y	Y	Y
Town and municipal uses	Y	Y	Y
Business, financial, and professional use	N	Y	Y
Offices and clinics for medical, psychiatric, or other health services for examination or treatment of persons as out-patient, including only laboratories that are part of such office or clinic	N	Y	Y
Commercial or educational radio or television studio	N	Y	Y
Store for retail sale of merchandise, provided all display, storage, and sale of materials are conducted within a building and provided there be no manufacturing or assembly on the premises	N	Y	Y
Eating places serving food and beverages to be consumed within the building as an accessory use	N	Y	Y
Restaurant, dining facility, or other establishment providing food and beverages with no live or mechanical entertainment as an accessory use	N	Y	Y

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Service businesses serving local needs, such as barber shops, tailor, beauty shops, shoe repair, or dry cleaning pick-up agency	N	Y	Y
Sales places for flowers, garden supplies, or agricultural produce partly or wholly outdoors	N	Y	Y
Communications tower and wireless communications facility	N	N	N
Wireless communication facility, when incorporated into the structure of a building	Y	Y	Y
Any use listed above involving toxic or hazardous materials in quantities greater than those associated with normal household use, as regulated by the Section 5.4 of the Zoning Bylaw, Aquifer Protection Districts, as in effect on May 21, 2007.	SP	SP	SP

3. Accessory Uses

Home Occupation; provided that it is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence; does not produce offensive noise,] vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution; does not utilize exterior storage of material or equipment; does not exhibit any exterior indication, except a sign not exceeding two s.f., of its presence or any variation from residential appearance; does not produce any customer, pupil, or client trips to the occupation site and has no nonresident employees; and is registered as a business with the Town Clerk	Y	Y	N
Home Occupation in compliance with the above, which, in addition to the resident(s) of the premises, has not more than one additional employee; and produces reasonable customer, pupil, or client trips to the occupation site, as governed by Section 7.9 of the Easton Zoning By-Law , as in effect on May 21, 2007.	SP	SP	N
Theatre or auditorium accessory to a use permitted above	Y	Y	Y

4. Substantially Developed Land

For Substantially Developed Land, the construction of infill housing on existing vacant lots, and of additional housing units in existing residential buildings or additions thereto or

replacements thereof, shall be permitted as of right. The allowable residential densities in such Substantially Developed Land shall be equal to those set forth in the underlying zoning. The adoption of the QSGOD shall supersede the use regulations applicable in the underlying zoning to the extent necessary to permit such residential uses as of right.

5. Prohibited Uses

No use defined as an Adult Entertainment Establishment under the Easton Zoning Bylaw shall be allowed in the QSGOD. The following uses prohibited in the Aquifer Protection Bylaw shall not be allowed in the QSGOD:

1. Sales or storage of fuels
2. Junk yards
3. Car washes
4. Road salt stockpiles when not stored in approved structures
5. Dumping of snow from outside the district
6. Dry cleaning establishments, except pick-up and drop-off
7. Motor vehicle and boat service and repair facilities
8. Metal plating establishments
9. Veterinary clinic or animal hospital
10. Chemical or bacteriological laboratories
11. Sanitary landfills
12. Solid waste facilities
13. Landfilling of sludge and septage
14. Any other use which involves as a principal activity the manufacture, storage, use, transportation or disposal of toxic or hazardous materials, except as allowed by Section 5-4 (F) of the Zoning Bylaw.

These prohibitions shall not be waived.

F) Density

1. In Subzone A

- a. Multifamily Use with a density of 20 dwelling units per acre of developable land.

2. In Subzone B

- a. Mixed Use with a density of 20 dwelling units per acre of developable land with residential units over available commercial uses. No commercial use shall be allowed except where developed as a Mixed Use with residential use located in the same building.
- b. The total amount of commercial space in Subzone B shall not exceed 80,000 sq. ft. aggregate gross floor area.

3. In Subzone C

a. The total amount of commercial space in Subzone C shall not exceed 30,000 sq. ft. aggregate gross floor area.

G) Required Integration of Uses and Market Rate and Subsidized Dwelling Units.

1. No more than half of the allowed commercial space shall be issued a certificate of occupancy until at least 100 dwelling units have been issued a certificate of occupancy.
2. In any phase, no more than 70% of approved market rate units shall be issued a certificate of occupancy until all required subsidized dwelling units have been issued a certificate of occupancy.

H) Traffic and Pedestrian Safety

1. Driveways. Curb cuts provide for safe entering and exiting. The location of driveway openings in relation to traffic and to adjacent streets shall provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.

2. Interior Design. The proposed development shall assure safe interior circulation within its site by separating pedestrian, bike ways, and vehicular traffic.

3. Transportation Plan. The proposed development shall be subject to an approved Transportation Plan. The Transportation Plan shall consist of the following information:

- a. A plan showing the proposed parking, loading, traffic and pedestrian circulation within the site; access and egress points; and other features related to traffic generated by the proposed use.
- b. A traffic study, prepared by a qualified traffic engineer, detailing the expected traffic impacts. The required traffic study shall substantially conform to the Institute of Transportation Engineers' "Traffic Access and Impact Studies for Site Development: A Recommended Practice," latest edition. The PAA shall approve the geographic scope and content of the study. In addition, the applicant shall submit a Transportation Demand Management (TDM) plan tailored to the specific uses and the geographic location of the site.
- c. Proposed mitigation measures, if any, such as left-turn lanes, roadway widening, signage, signalization of intersections.

I) Noise

Any Project in the QSGOD shall comply with all provisions contained in Section 11-1 of the Zoning Bylaw governing sound levels, as in effect on May 21, 2007.

J) Dimensional Regulations

No building or structure shall be built or shall any existing building or structure be enlarged except in conformance with the accompanying table as to lot coverage, front, side and rear yards, and maximum height of structures, in the districts as set forth below.

Table of Dimensional Regulations

Zoning District	A	B	C
Min. Yard (ft.)			
Front	25	0	25
Rear	20	0	20
Side	15	0	15
Max. Bldg. Height (ft.)	60	60	35
Max. # of Stories above Grade	4	4	3
Max. % of Lot Coverage by Structure	25	25	25

For the purposes of this provision, the term "lot" shall mean the entirety of the OSGOD.

K) Off-Street Parking and Loading Regulations

1. Off-Street Parking and Loading Requirements. Any structure that is constructed, enlarged, or extended, or has a change of use which affects the computation of parking spaces, and any use of land established, or any existing use is changed, parking and loading spaces shall be provided in accordance with the Table of Off-Street Parking Regulations and the Table of Off-Street Loading Regulations. An existing structure which is enlarged or an existing use which is extended shall be required to provide parking and loading spaces in accordance with the following tables for the entire structure or use.

2. Existing Spaces. Parking or loading spaces being maintained in connection with any existing use shall not be decreased so long as said use remains, unless a number of parking or loading spaces is constructed elsewhere such that the total number of spaces conforms to the requirements of the tables of this Section provided: this regulation shall not require the maintenance of more parking or loading spaces than is required according to the tables.

3. Computation of Spaces. When the computation of required parking or loading spaces results in the requirement of fractional space, any fraction over one-half shall require one space.

4. Combined Facilities. Parking required for two or more buildings or uses may be provided in combined facilities on the same or adjacent lots, where it is evidence that such facilities will continue to be available for the several buildings or uses.

Table of Off-Street Parking Regulations

Uses	Minimum Number of Parking Spaces per Unit
Multifamily Dwellings	1.75 for each dwelling unit in Subzone A; 1.25 for each dwelling unit in Subzone B
Restaurant, church, radio or television studio, accessory theatre or auditorium or similar place of public assembly with seating facilities	One for each three seats of total seating capacity
Retail, service, offices, finance, insurance, real estate establishment, or shopping center	Three per each 1,000 sq. ft. of gross floor space
Assisted Living Facility	One per bed at design capacity, plus employees on largest shift
Community facility (Town building, recreation, etc.)	One per each 1,000 sq. ft. of gross floor space
Multiple Use	Sum of various uses computed as in Section K.6 of this QSGOD

5. Location of Loading Spaces. The loading spaces required for the uses listed in the Table of Off-Street Loading Requirements shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this by-law.

6. Shared Parking. Shared parking may be applied when land uses have different parking demand patterns and are able to use the same parking spaces/areas throughout the day. Shared parking is most effective when these land uses have significantly different peak parking characteristics that vary by time of day, day of week, and/or season of the year. In these situations, shared parking strategies will result in fewer total parking spaces needed when compared to the total number of spaces needed for each land use or business separately. Shared parking is a strategy that can significantly reduce that amount of land devoted to parking while providing a number of spaces and encouraging compact land development.

For multiple uses, the number of parking spaces required shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other accepted procedures approved by the Plan Approval Authority.

Table of Off-Street Loading Regulations

Uses	Number of Loading Spaces
Retail trade	One per 20,000 sq. ft. or fraction thereof of gross floor area up to two spaces; one additional space for each 60,000 sq. ft. or fraction thereof of gross floor area over 40,000 sq. ft.
Business, community facility	One per 75,000 sq. ft. or fraction thereof of gross floor area up to two spaces; one additional space for each 200,000 sq. ft. or fraction thereof of gross floor area over 150,000 sq. ft.

7. Waiver of Parking and Loading Requirements. Notwithstanding anything to the contrary herein, any minimum required amount of parking or loading may be reduced upon a demonstration to the reasonable satisfaction of the PAA 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 or loading in the vicinity of the use being served and/or the proximity of a bus station or major transportation route;
- 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 or loading 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.

L) Application for Plan Approval

1. Pre-Application. Prior to the submittal of a site plan, a "Concept Plan" may be submitted to help guide the development of the definitive site plan for Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

- a. Overall building envelope areas;

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- b. Areas which shall remain undeveloped;
- 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 Guidelines and the other requirements of the QSGOD.

2. Application. An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA. An application shall show the proposed buildout of the entire Project, whether the Project will be phased or not.

3. Required Submittals. The application for Plan Approval shall be accompanied by the following plans and documents:

- a. Properly executed application form, and (if applicable) all materials necessary for facilitating a public hearing on the application;
- b. A filing fee of \$1,500 to cover Town administrative costs.
- c. List of any requested waivers from the requirements of this Section 7-17, including a detailed explanation/justification of the reason for such request.
- d. A Site Plan prepared by a professional architect or registered professional engineer, at a scale of one inch equals forty feet (1" = 40'), or at other scale as may be necessary to show all detail clearly and accurately. Sheet sizes shall not exceed twenty-four inches by thirty-six (24" x 36"), and shall not be less than eleven inches by seventeen inches (11" x 17"). If multiple sheets are used they shall be accompanied by an index sheet showing the entire parcel at an appropriate scale. If the plans submitted are 11" x 17" in size, a total of twenty-five (25) copies of the plans shall accompany the application. If the plans prepared exceed 11" x 17" in size, a total of five (5) copies of such plans and twenty (20) sets of reduced-size copies (11" x 17") shall be submitted. The Plan shall include the following information:
 - 1. Name and address of the person or entity submitting the application;
 - 2. Name and address of the owner of the subject property, if different;
 - 3. Present use of the land and description and use of existing building thereon, if any;
 - 4. Proposed use of the land;
 - 5. Proposed use of existing buildings, if any;
 - 6. Description and proposed use of the proposed building, if any;
 - 7. Subzone in which the parcel is located, including floodplain if applicable;

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8. Locus Map (scale of 1"=1,000') and north arrow;
9. Title Block containing: name of the project; applicant; property owner; property address and Assessor's Map/Lot number; date (with revisions); name, address and phone number, and the signature and seal of the professional architect or engineer preparing the plan;
10. Wetlands, Ponds, Streams, or other water bodies, including all applicable buffer zones;
11. Ownership of all abutting land and approximate location of buildings, driveways, and parking areas thereon within a maximum distance of two hundred feet (200') of the property lines;
12. Existing and proposed topography at two-foot (2') elevation intervals;
13. All property lines of the subject property, and all setbacks of buildings and parking areas from said lines, and existing and proposed easements, if any;
14. Extent and type of all existing and proposed surfaces (pervious and impervious) on the property, including specific materials;
15. Lot coverage calculations showing percentage of buildings, percentage of pavement, and percentage of open space/landscaped areas;
16. Parking calculations for proposed use, including all existing use that will continue to exist on the property, if applicable;
17. Calculations of the volume of earth material to be removed or filled on the property, and delineation of the location of such activity;
18. Driveways and driveway openings/entrances;
19. Parking and loading spaces;
20. Service areas and all facilities for screening;
21. Landscaping;
22. Lighting;
23. Proposed signs (business, traffic, etc.);
24. Sewage, refuse and other waste disposal;

25. Stormwater management facilities (drainage);
26. All structures and buildings associated with the proposed and existing use(s) on the property;
27. Exterior storage areas and fences;
28. Utilities and their exterior appurtenances (e.g., fire connections);
29. Provisions for dust and erosion control and;
30. Any other details or information deemed necessary by the PAA due to the unique nature of a proposed use or the subject property;

e. A stormwater management hydrological study prepared in accordance with the Design Standards.

f. A report, if applicable, showing calculations of the volume of earth material to be removed from or delivered to the site, including a description of such removal or fill activity. Depending upon the volume of material to be removed or filled, the Planning Board may require the Applicant to submit additional information (if not submitted in the report) regarding, but not limited to, the following: the hours of fill/removal activity; proposed route of transporting materials to and from site; measures for dust and erosion control (both on- and off-site) for the activity.

g. Scaled architectural drawings showing all proposed development, including site plans, elevation drawings, and floor plans. Drawings should clearly and comprehensively illustrate all aspects of the project and detail conformance with the Design Standards.

M) Procedures

1. Filing. An applicant for Plan Approval shall file the application and all required submittals with the Town Clerk and shall also file forthwith 20 copies of the application and the other required submittals with the PAA including notice of the date of filing with the Town Clerk.

2. Circulation to Other Boards. Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Zoning Board of Appeals, Board of Health, Housing Partnership, Conservation Commission, Fire Department, Police Department, Building Commissioner, Department of Public Works, and other municipal officers, agencies or boards designated by the PAA 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.

3. 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 Town Clerk, within 120 days of the receipt of the application by the Town 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 Town 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 application and site plan.

4. Peer Review. In addition to the application fee, the applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. c. 40R, s. 11. This technical review fee shall be paid at the time of the application. The initial deposit shall be \$15,000 and shall be subject to replenishment as needed. Such fees shall be held by the Town 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.

N) Design Standards

1. Design Standards. In order to preserve and augment the QSGOD's architectural qualities, historic character and pedestrian scale, the "Smart Growth Overlay District Design Standards," are incorporated herein as an appendix hereto, and are applicable to all Projects within the QSGOD. Said design standards address: architectural elements; the scale and proportion of buildings; the alignment, width, grade, and surfacing materials of streets and sidewalks; the type and location of infrastructure; site design; off-street parking; landscaping design and species selection; exterior and window signs; and buffering in relation to adjacent properties. Said design standards are intended to be applied flexibly by the PAA as part of the Plan Approval process. All applications for Plan Approval shall comply, except where a specific waiver is granted, to said design standards.

2. Amendments. The PAA may adopt, by majority vote, amendments to the Design Standards. Any amendment to the Design Standards must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. DHCD may, at its discretion, require any amendment to the Design Standards to contain graphics illustrating a particular standard or definition in order to make such standard or definition clear and understandable.

3. DHCD Approval. Before adopting any Design Standard, the PAA shall submit the proposed Design Standard to DHCD for approval. Any amendment to the Design Standards shall not take effect until approved by DHCD and filed with the Town Clerk. In submitting a proposed Design Standard for DHCD approval, the PAA shall also submit sufficient documentation clearly showing that the proposed Design Standard will not add unreasonable costs to Development Projects or unreasonably impair the economic feasibility of a Development Project. A letter from a developer, property owner or other interested

party indicating that the Design Standards will not add unreasonable costs or unreasonably impair the economic feasibility of a Development Project shall not constitute sufficient documentation.

4. Plan Approval. An application for Plan Approval that has been submitted to the Town Clerk pursuant to Section L shall not be subject to any Design Standard that has not been approved by DHCD and filed with the Town Clerk.

O) Decision

1. Waivers. Except where expressly prohibited herein, upon the request of the Applicant the Plan Approval Authority may waive dimensional and other requirements of Section 7.17, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the QSGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section.

2. Plan Review. An Application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such Plan Review and shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.

3. Plan Approval. Plan Approval shall be granted by a simple majority where the PAA finds that:

- a. The applicant has submitted the required fees and information as set forth herein; and
- b. The Project and site plan meet the requirements and standards set forth this Section 7-17, or a waiver has been granted therefrom; and
- c. Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated by means of suitable conditions.

4. Plan Disapproval. A site plan may be disapproved only where the PAA finds that:

- a. The applicant has not submitted the required fees and information as set forth herein; or
- b. The Project and site plan do not meet the requirements and standards set forth this Section 7-17 , or a waiver has not been granted therefrom; or
- c. It is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

5. Form of Decision. All decisions of the PAA shall be by a majority vote of the members present and voting. 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 Town 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 Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. A copy of the decision shall be provided to the Building Commissioner. 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.

P) Change in Plans after Approval by PAA

1. Minor Change. After Plan Approval, an applicant may be apply to make minor changes 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 Town Clerk. A copy of the decision shall be provided to the Building Commissioner.

2. Major Change. Those changes deemed by the PAA to constitute a major change 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 this Section.

Q) Enforcement; Appeal

The provisions of the QSGOD shall be administered by the Zoning Enforcement Officer, except as otherwise provided herein. Any appeal arising out of action by the PAA regarding an application for Plan Approval for a Project shall be governed by the applicable provisions of G. L. c. 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of G. L. c. 40A.

R) Severability

If any provision of this Section 7-17 is found to be invalid by a court of competent jurisdiction, the remainder of Section 7-17 shall remain in full force. The invalidity of any provision of this Section 7-17 shall not affect the validity of the remainder of the Town's Zoning By-Law.

OR WHAT IT WILL DO IN RELATION THERETO.

APPENDICES

- A SMART GROWTH OVERLAY DISTRICT DESIGN STANDARDS**
- B MAP OF QSGOD**