

Appendix G
Zoning Text Amendment

**Draft Zoning Amendment
October 27, 2008
Revised March 16, 2009
Revised June 11 and October 16, 2009**

§ 156-8 Definitions

The following terms shall be added to or modified within the Town of Carmel Zoning Ordinance in the appropriate order:

COVERAGE, BUILDING

The percentage of the lot area covered by the combined area of all buildings or structures on the lot, including the area of any floor space projecting beyond the outer limits of the first floor of all buildings on the lot, and excluding paved areas and underground fuel, drainage and water and sewer systems.

COVERAGE, DEVELOPMENT

The percentage of the area of a lot covered by the footprints of buildings, parking areas, driveways, accessways, sidewalks, plazas, patios, accessory structures and pavement and any other areas made of impervious materials.

FLOOR AREA

The sum of the gross horizontal areas of every floor of any building or buildings, measured from the interior faces of interior walls. "Floor area" shall not include cellar space, attic space, whether or not a floor has been laid, over which there is structural headroom of seven feet or less, stairways, unenclosed porches, garages, terraces, unroofed open porches and steps, loading berths, crawl spaces and breezeways or any floor space with a floor-to-ceiling height of less than seven feet.

FLOOR AREA RATIO

Floor Area Ratio is the floor area of all buildings on a lot divided by the area of the lot.

OPEN SITE AREA

The portion of a site which remains as open, unobstructed and pervious ground area, either preserved in its undisturbed natural state or improved as landscaped area. Open site area may include recreation areas, excluding any recreation improvements consisting of impervious surfaces.

SMART GROWTH DESIGN

A style of land development that: focuses growth in existing community centers and is transit and pedestrian oriented; includes a mix of housing, commercial and retail uses; incorporates compact building design; and attempts to preserve open space and other environmental amenities.

§ 156-39.5 Smart Growth Village

A. Statement of Purpose

The Town of Carmel recognizes that many of its residents desire a more pedestrian-oriented lifestyle less dependant on the automobile, and would welcome more sustainable ways of living. People value their free time, and are desirous of shortened commutes, appealing surroundings, a sense of activity and vibrancy in their neighborhood and a greater connection to their community.

The purpose of these regulations is to facilitate the development of larger scale mixed use developments that are organized around a clearly identifiable and energized public realm and anchored by retail, indoor and outdoor dining and gathering, leisure, office and vertical or horizontally integrated residential use, and indoor and outdoor recreation; which is a planning concept known as "Smart Growth." A "*Smart Growth Village*" should be planned in a unified manner, incorporating an appropriate balance of residential and commercial uses including retail, office, services, restaurants, hotels, movie theaters, playhouses or similar uses, along with the protection of environmentally sensitive land areas. Smart Growth Village developments in Carmel shall incorporate contemporary land planning techniques, including smart growth principles that intend to create compact, walkable places with retail stores, restaurants, offices and housing in close proximity; the purpose of which is to create a community where people can live, work, shop and play.

These regulations replace the traditional use, bulk and dimensional specifications contained elsewhere in the Carmel Zoning Ordinance by a review process which is plan driven and becomes the basis for the mixed use development.

B. Conditional Use Permit Authorized

A Conditional Use Permit may be granted by Planning Board of Town of Carmel for a Smart Growth Village project, subject to the provisions of this section.

C. Objectives of Smart Growth Village Development

The Smart Growth Village Development objectives include the following:

1. Advance creative smart growth design principles through mixed use developments designed in a pedestrian-friendly manner.
2. Promote the creative use of land so as to establish a more desirable overall environment than would be possible through the strict application of the other sections of the Zoning Ordinance of the Town of Carmel.
3. Allow for the innovation, flexibility and variety in the type, design and layout of mixed use developments so as to facilitate greater stability and variety in occupancy and cost, while providing commercial uses that benefit the economic base of the Town of Carmel, such as retail, office, services, restaurants, hotels or similar uses.
4. Provide various types of housing units, such as multi-family housing through rental, fee simple or condominium ownership, as well as senior housing and housing in mixed use configurations.
5. Provide balanced housing stock in Carmel, including housing that generally is not available in Carmel such as housing for younger people, single parents and empty nesters. This housing includes, but is not limited to, senior housing, multifamily clustered housing, rental housing and condominium ownership. While housing integrated with retail, office and other commercial space is particularly encouraged to

facilitate walkable, sustainable communities, it is recognized that housing development adjacent to mixed uses is beneficial, as it provides a critical mass of people that helps provide stability and vibrancy to the mixed uses, public places, and village center.

6. Consideration of planning and environmental factors. Planning factors shall include land use compatibility, aesthetics, the provision of security and emergency services, properly sited access and internal circulation. Environmental factors shall include water-bodies, wetlands, steep slopes, significant geological features, areas of ecological values, stormwater management and the prevention of soil erosion and the minimization of flood hazard.
7. Encourage the incorporation of neighborhood amenities and public gathering areas in place-making and the creation of a "walkable", "lifelong" community.

D. Smart Growth Village Conditional Use Permit Criteria.

A Smart Growth Village must meet the following criteria:

1. The site shall be zoned C or C/BP.
2. The overall site shall have a minimum gross site area of 125 contiguous acres and the applicant shall demonstrate to the satisfaction of the Town that he has control of the subject site by ownership or by contract.
3. The site shall have a minimum of 500 feet of frontage on a major street, which may be under the jurisdiction of the New York State DOT or the Putnam County Department of Public Works,, and at least 100 feet of additional frontage on a separate state, county, or town roadway.
4. The site shall be served by municipal or community water and sewer systems and all other necessary utilities and infrastructure.
5. The maximum floor to area (FAR) ratio for all building development shall not exceed 0.25.
6. A minimum of 30 percent of the site shall be retained as open site area, as defined herein. A survey of trees ten inches in diameter at breast height shall be provided for the open space area; such trees within the proposed Smart Growth Village and related development areas need not be surveyed.
7. The maximum building coverage on the site shall not exceed 20 percent of the site area. The maximum development coverage on the site shall not exceed 60 percent of the site area.
8. The maximum permitted residential density shall not exceed six (6) dwelling units per acre for all housing types except senior housing. Maximum permitted residential density for senior citizen housing shall not exceed eight (8) units per acre. All housing shall be connected to a commercial component of the Smart Growth Village by a pedestrian trail or sidewalk and a roadway. Senior citizen housing built in relation to a Smart Growth Village shall meet the conditional permit requirements of this §156-39.5, rather than the requirements of §156-39, Senior Citizens Multifamily Dwellings. To promote a mix of commercial and residential uses, the calculation for

the maximum permitted density for any housing type shall not exclude acreage also proposed for commercial development.

9. Maximum building height shall not exceed five (5) stories or 60 feet.
10. Buildings setbacks, road specifications, buffers and other bulk requirements may be established by the Planning Board on a project by project basis, based on the mix of uses; the goals of safe traffic circulation and emergency access; and considerations of compatibility with adjoining land uses and zoning. There shall be a perimeter building or structure setback area of at least 25 feet on all sides of the site (i.e., no building shall be closer than 25 feet from a property line) with the exception of property boundaries that lie along a State Highway where the setback would be at least 20 feet.
11. The site layout shall incorporate an interconnected network of pedestrian and bicycle access. The layout of roads and parking areas shall accommodate the safe and convenient movement of pedestrians within and outside the project site. Vehicular and pedestrian access points shall be located to maximize connection to off-site sidewalks, trails, recreational and service facilities, and shopping areas.
12. The project shall contain well designed pedestrian oriented streetscapes including wider sidewalks, street trees and lighting and shall have appropriate relationship of building facade and entrances to pedestrian uses.
13. Pedestrian amenities such as outdoor seating or dining and cocktail areas, fountains, gazebos, kiosks, outdoor entertainment areas, gathering areas or other such features may be provided in any square or plaza. Amenities associated with public transit or bicycle use shall be incorporated into public spaces on the site.
14. Building façades shall present a varied appearance at street level and be designed to give individual identity to each building within the context of the overall development scheme and/or use as well as to help achieve the planned pedestrian scale through design features such as:
 - a) The height of cornices, lintels and sill levels, articulated floor levels and other horizontal building features.
 - b) The spacing and proportion of windows and door openings, bays or other aspects of building fenestration.
 - c) Colors, textures and the general nature of exterior materials and treatment including building ornament and trim.
15. A coordinated landscape plan shall be prepared incorporating the landscape treatment of walkways, access roads, parking areas and appropriate open spaces into a cohesive and integrated design. Attractively landscaped open spaces, plazas and recreational areas, designed as gathering places and intended for maximum usability by on-site users and workers, shall be provided in appropriate locations. Pedestrian walkways, parking areas, access drives and appropriate open spaces shall be planned as an integral part of the overall plan design, properly relating to proposed buildings.
16. All landscaping, as shown on the approved plan, shall be maintained in healthy growing condition throughout the duration of the use or uses being served. Any

plants not so maintained shall be replaced by the property owner with healthy, new plants of comparable type and quality at the beginning of the next immediately following growing season.

17. A mix of active and passive recreational opportunities and facilities should be provided in a size and type(s) sufficient to support the proposed mix of the specified development uses. A recreation fee in lieu of providing such facilities, however, may be provided to the Town of Carmel pursuant to the Town's fee schedule in the form of cash, land and/or other consideration meeting public recreation needs based on an adopted town wide recreation plan. While a recreation fee may be paid in lieu of adequate recreation opportunities or facilities being provided on site, it is recognized that recreational facilities are a key aspect of smart growth development. Accordingly, on-site recreation is encouraged over the payment recreation fees. A recreation fee shall be paid by the Applicant only when adequate recreation facilities and opportunities are not provided on site. The Planning Board may adjust the recreation fee to a portion of the fee required in relation to the recreational facilities and opportunities provided on site.
18. The required number of parking spaces shall be determined for each individual use in accordance with Section 156-42 of the Town of Carmel Zoning Code. However the town will consider reducing these standards to account for the use of shared parking given the proposed mixture of residential and commercial uses in the proposed Smart Growth Village, and the use of on street parking within the site. The applicant shall demonstrate that the parking provided accommodates anticipated peak parking demands (daily and seasonal) given the relationships and ratios of the various mixed uses proposed for the site. Where one (1) or more non-residential uses will generate a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Planning Board may reduce the total parking spaces required based on shared parking opportunities.
19. All loading and refuse collection areas shall be appropriately screened from primary driveways and pedestrian walkways, squares, or plazas to the extent practicable, and shall not be located along the front façade of any building.
20. Prior to or no later than 50 percent occupancy of the project, the developer shall provide private security for the purpose of patrolling the Smart Growth Village for the safety and security of its residents, customers, employees and guests and to ensure that the premises do not become a focal point for loitering or vagrancy. The private security company shall work as an adjunct to the Town and County Police and shall operate from its own space within the Smart Growth Village. Said private security shall be in place prior to the occupation of 50% of the project as herein approved. The Village also may include space for a police substation for use by the Town and/or County Police, of a sufficient size determined to be appropriate by the Planning Board.
21. The construction of a Smart Growth Village may be phased. The plan shall show how each phase will proceed and the anticipated sequence of development including the provisions of utilities, infrastructure and other ancillary improvements.

E. Planning Board Action

1. No application for a Smart Growth Village shall be deemed complete and eligible for public hearing until such time as the applicant has prepared and submitted a complete site plan submission pursuant to Section 156-61 of the town code, and a Draft Environmental Impact Statement, pursuant to the requirements of the New York State Environmental Quality Review Act. The Planning Board shall not issue a Conditional Use Permit for a Smart Growth Village unless and until it completes the appropriate environmental review pursuant to the State Environmental Quality Review Act (the SEQRA Regulations).
2. The Planning Board may attach any reasonable conditions on an approval of a Smart Growth Village use, as necessary, to assure conformance with the intent and purpose of the regulations specified herein.
3. The Planning Board may approve a Conditional Use Permit for a Smart Growth Village project that meets the objectives and criteria contained herein. The Conditional Use Permit shall identify areas of disturbance and building envelopes, and provide a general description of proposed uses and potential tenant types with gross square footages for the subject site. Building locations, footprint sizes, tenancies, general uses and square footage may be altered as site plans are reviewed and approved by the Planning Board, provided that modifications result in construction activity staying substantially within the established limits of disturbance, general building envelope areas, and gross square footages, and do not exceed the approved impervious surface area totals, set forth in the Conditional Use Permit.
4. Due to the nature of Smart Growth Village developments, including but not limited to the need to phase construction to properly absorb and integrate uses, and to meet construction and financing conditions, the Conditional Use Permit shall be granted for a period of five years and may be renewed for additional three-year periods, without limitation. Said permit shall not be affected by a change in ownership of the property during the permit period. An application for renewal of the Conditional Use Permit shall be made to the Planning Board, no later than 60 days before the expiration of the permit period, on a form provided by that Board and with a fee in an amount set forth in the Town's Fee Schedule. Providing an application is made 60 days prior to the expiration of the permit, the Conditional Use Approval will continue to remain in effect until the Planning Board takes action on such application for extension. Expiration of the Conditional Use Permit shall render all project phases that have not been issued a Building Permit, null and void.
5. Unless construction is commenced within three years of the date of approval of a site plan such approval shall become null and void. If there is no substantial change in the condition of the site and/or its environs, however, upon request of the applicant, approvals shall be extended by the Planning Board for additional three year periods, without limitation. Providing an application is made 60 days prior to the expiration of the site plan, the approval will remain in effect until the Planning Board takes action on such application for extension. The effective period for renewals of both the Conditional Use Permit for a Smart Growth Village and related site plan approvals shall begin to run from the last day of the preceding approval.