

**Boston Adopts 40R
Smart Growth Zoning**

by Jean C. Bowe and Matthew J. Kiefer

On January 9, 2008, the Boston Zoning Commission (BZC) adopted the first Smart Growth Overlay District (SGOD) in the City of Boston for the Olmsted Green project in Mattapan. Boston now joins twenty other communities who have adopted such districts under the state Chapter 40R program, which encourages higher density affordable housing near transit stations, in areas of concentrated development, or in other appropriate locations.

Once an SGOD is approved by the state Department of Housing and Community Development (DHCD), the city or town becomes eligible for a payment from a state trust fund ranging from \$10,000 to \$600,000, depending on the number of housing units authorized by the SGOD. As housing units above the number allowed by underlying zoning are built, the municipality becomes eligible for further bonus payments of \$3,000 per unit.

Under Chapter 40R and its implementing regulations, an SGOD must allow as-of-right at least eight units/acre for single family homes, twelve units/acre for two and three-family housing, and twenty units/acre for multifamily housing, and must require that at least 20% of the total housing units in the overall SGOD and within each project greater than twelve units are affordable.

Newly adopted Article 87 of the Boston Zoning Code, which acts as an SGOD enabling article, requires project proponents who wish to proceed under an approved SGOD to obtain plan approval from the BRA, a process akin to site plan review that includes a public hearing and incorporates some aspects of Article 80 Large Project Review.

Article 87A, also adopted on January 9, establishes the Olmsted Green Smart Growth Overlay District, which allows for mixed-use development on a 42.5-acre portion of the former Boston State Hospital campus in Mattapan and provides for use, density, dimensional and design requirements tailored to the Mattapan neighborhood. The resi-

dential component of the Olmsted Green project, comprising approximately 350 mixed-income rental and homeownership units, is expected to proceed under this newly adopted article.

Developers of other affordable housing projects in the City of Boston are expected to seek additional SGODs now that a zoning enabling article is in place.

The authors, Jean Bowe and Matthew Kiefer, are attorneys in the real estate group at Goulston & Storrs. They represented Lena New Boston LLC, developer of Olmsted Green, in securing approval of Chapter 40R smart growth zoning.

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