



**boston planning &
development agency**

Western Avenue Corridor Study and Rezoning

A Brief Guide to Zoning and the Article 80 Review Process



Introduction

Western Avenue Corridor Study and Rezoning

The Western Avenue Corridor Study and Rezoning will build on previous planning in the area and foster a dialogue with developers and property owners to inform recommendations for new or modified zoning. The study will also consider public realm improvements and transportation enhancements in coordination with the ongoing Allston-Brighton Mobility Study to explore multimodal improvements to Western Avenue and other transportation enhancements. In this document we'll explore how zoning is used to control what is built and how the Article 80 process is used to regulate large development projects.

A brief history of Boston's zoning

15 of Boston's 26 neighborhoods were once separate towns (or neighborhoods of separate towns). To this day, many of these neighborhoods remain unique in their look and feel compared to the rest of the city. The most recent edition of the Boston Zoning Code, enacted in 1964, was written to accommodate the unique character of these places and it includes many separate maps and amendments. In the 1980s and 1990s, there was a comprehensive rezoning process that led to the rewriting of the zoning for many neighborhoods.

The Allston-Brighton Neighborhood District, known as Article 51, was added to Boston's Zoning Code in 1991. 30 years later, it does not reflect the realities of the neighborhood or the city. For example, housing is not an allowed use in the area despite the widespread desire expressed by residents for more housing, particularly affordable and ownership housing.



BPDA staff hosted a walking and bike tour of the study area in October 2019 to discuss the future of Western Avenue from Barry's Corner westwards to Watertown with the community.

How Does Zoning Work?

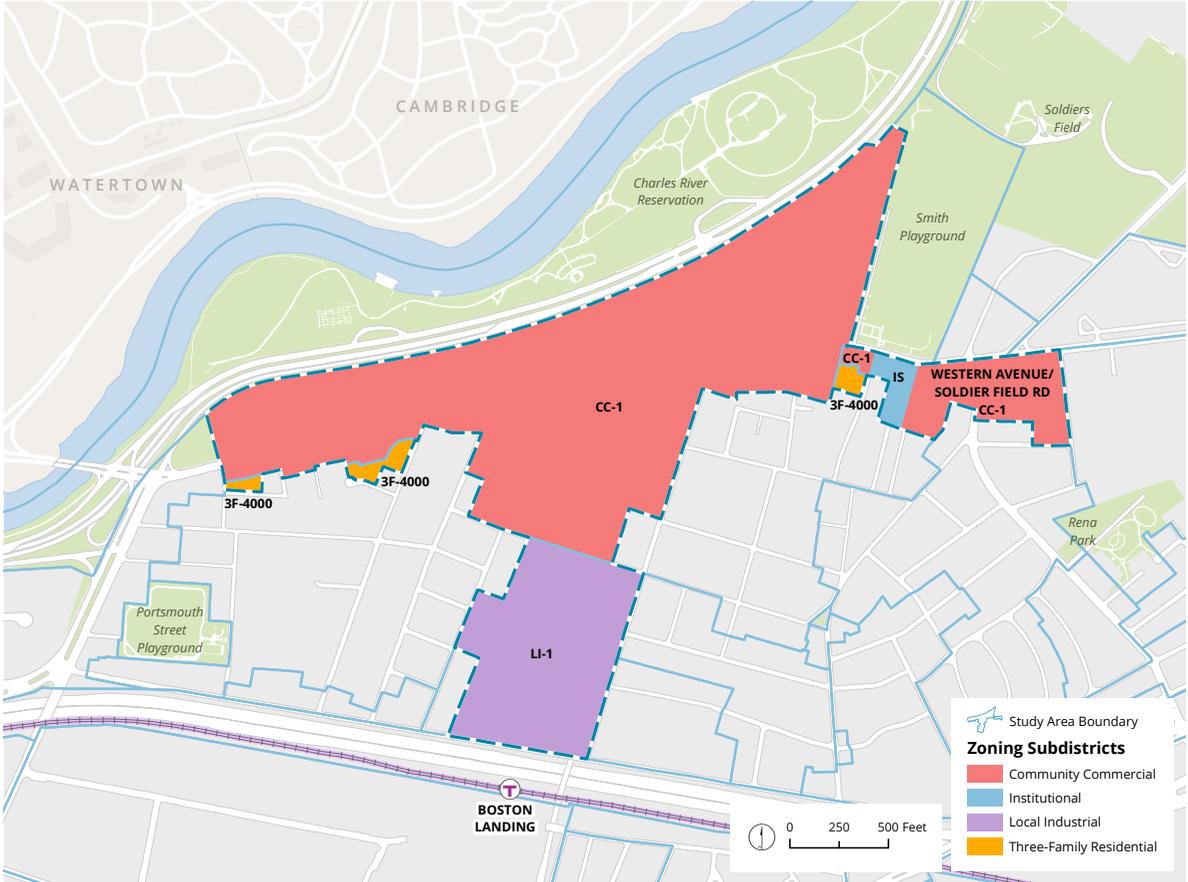
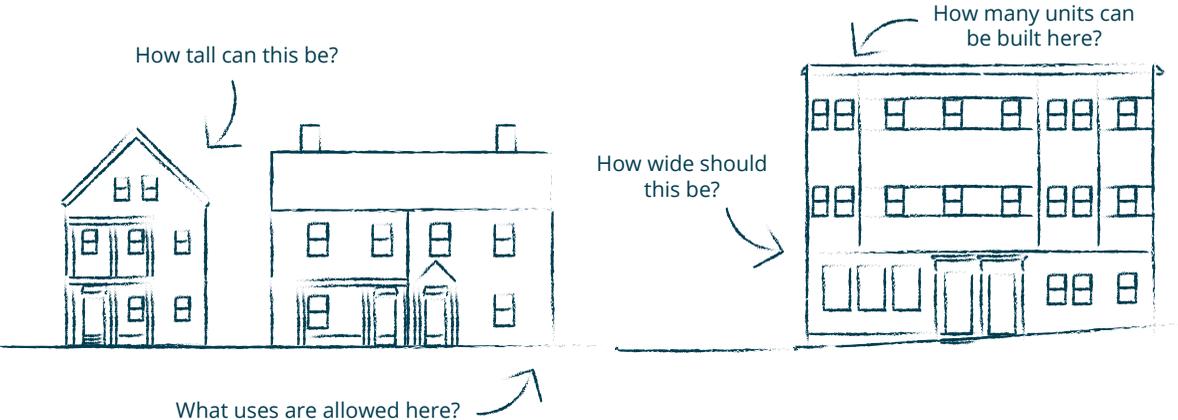
Zoning is a legal mechanism that regulates what property owners can and cannot do with their property. Zoning allows us to control density, height, use, and other characteristics of the building and its form.

Zoning controls how growth and development occur by identifying different areas, or zoning subdistricts, with different use and/or dimensional standards. Boston's zoning generally focuses on use and dimensions, the latter including height, how much of the lot the building can occupy (lot coverage), how much space needs to be left between the building and each property line and density, which is the amount of square footage that can be built on a piece of land. Subsequent sections will examine each of these in more detail.

The Western Avenue Study Area is composed primarily of two different subdistricts with different use and dimensional standards as shown in the map to the right.

The tables presented in the following sections govern the use and dimensional characteristics of smaller projects such as small residential buildings (single-family houses and smaller multi-family buildings) as well as commercial uses, including retail, being built or incorporated into existing buildings.

Most new large projects in the study area would likely be reviewed and approved through a Planned Development Area, a mechanism that allows more tailored zoning to be written. Planned Development Areas are still subject to certain restrictions set forth in the underlying zoning and generally provide more opportunity for community input and greater public benefits. Planned Development Areas are reviewed through the Article 80 process and are described in more detail on Page 18.



BPDA, March 2020

The Allston-Brighton Neighborhood District, known as Article 51, was added to Boston's Zoning Code in 1991. The Western Avenue Study Area includes community commercial, institutional, and local industrial subdistricts.

Map of Zoning Subdistricts in Western Avenue

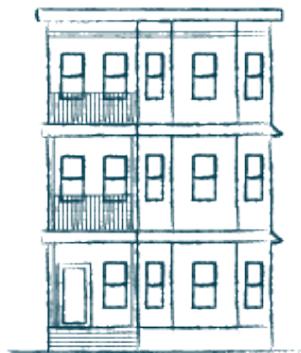
Sources: Article 51 Zoning

Uses

Historically, the primary purpose of zoning was to separate land uses that were thought to be incompatible, such as residential and industrial uses. In today’s cities a mix of commercial and residential activities and different types of housing is often seen as positive. Boston’s zoning still offers the opportunity to regulate these uses in detail but also to focus on achieving goals related to a high-quality streetscape and public realm.

USE	CC-1		LI	IS
	Bsmt. & First Story	2nd Story & Above		
General Retail	A	A	C	A
Bakery	A	A	A	A
Three family detached dwelling	C	C	F	A
Multifamily	C	C	F	A

CC-1: Community Commercial 1
 LI: Local Industrial
 IS: Institutional



Extract from the Article 51 - Tables B and C Subdistrict Use Regulations

Land uses are encoded as “Allowed” (A), “Conditional” (C), or “Forbidden” (F). Tables B and C of Article 51 of the Boston Zoning Code lists 24 distinct use categories. For definitions of each use category and certain specific uses, see Article 2A of the Boston Zoning Code.

Allowed Uses

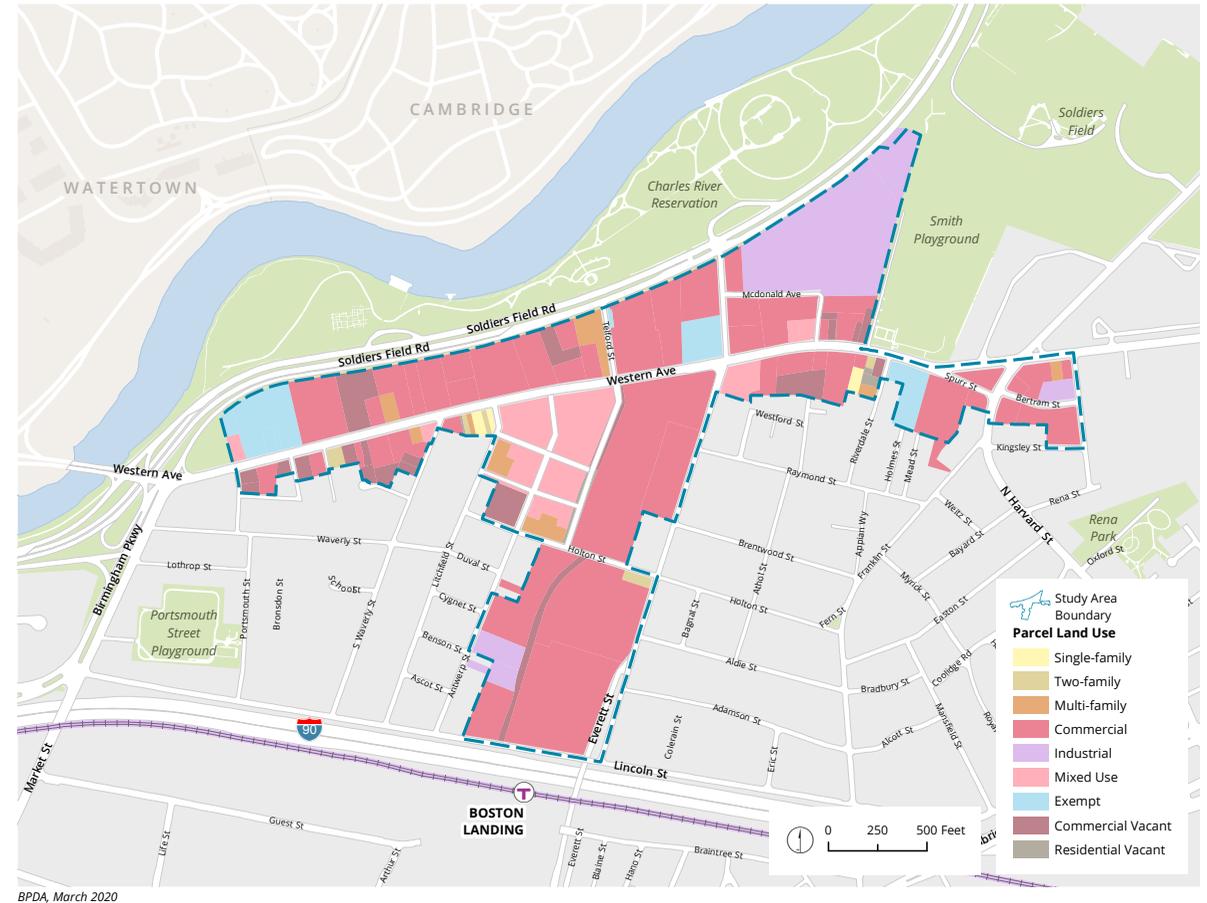
An allowed use is a land use that is permitted as a matter of right. Board of Appeal approval is not required.

Forbidden Uses

A forbidden use is a land use that is not permitted in a particular district because of harmful impacts on other allowed uses. For instance, residential uses are forbidden in industrial subdistricts.

Conditional Uses

A conditional use is a land use permitted by the Zoning Code provided that it is found by the Board of Appeal to comply with certain conditions set out in the Code. Conditional use permits are only granted through the Board of Appeals.



BPDA, March 2020

There are many examples of nonconforming uses which were lawful prior to the adoption or amendment of the Zoning Code, but no longer conform to the present requirements of the Zoning Code. Over time, many of these uses will disappear as properties are redeveloped.

Map of Existing Land Use by Parcel

Sources: Zoning, Assessing FY19 (as of Jan.1 2018)

Residential Uses

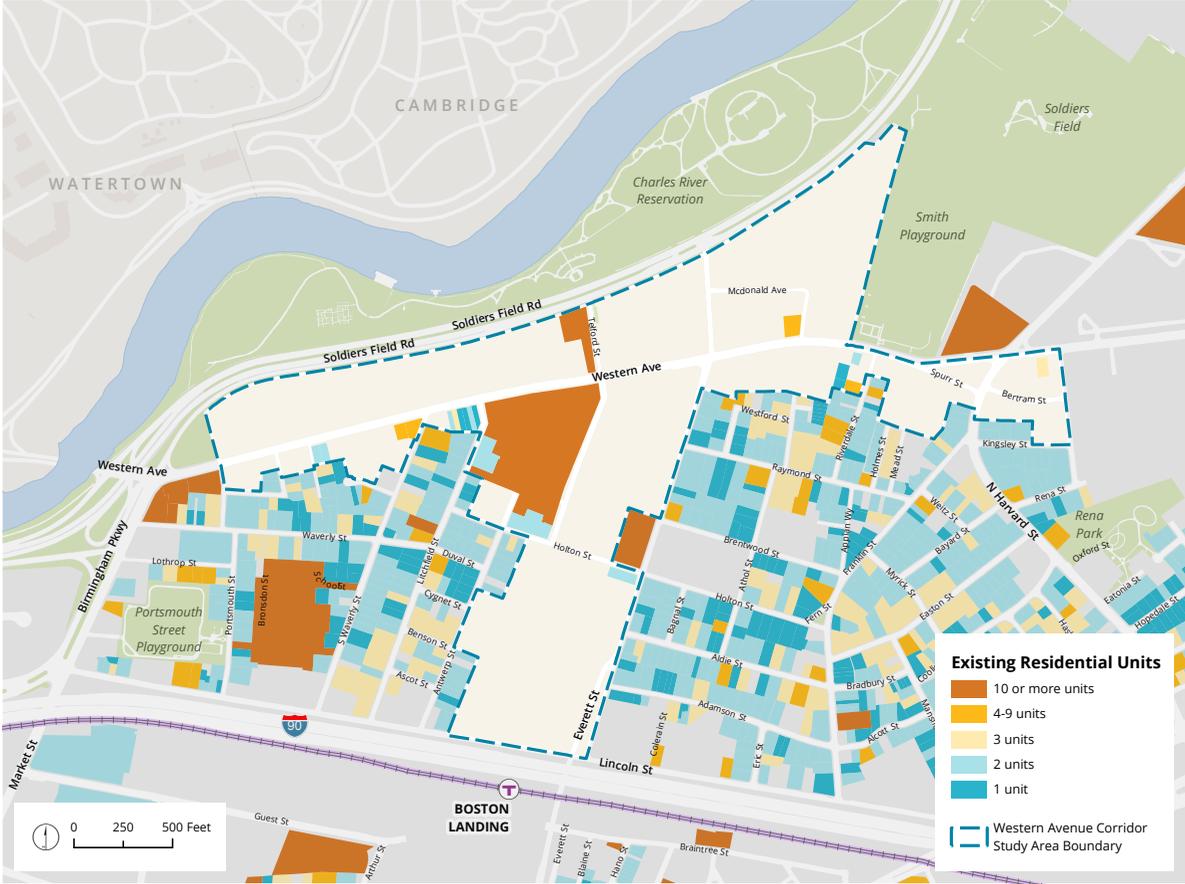
Although community planning has revealed a strong desire for more housing in the neighborhood, most residential use types are considered conditional or forbidden within the majority of the Western Avenue Study Area. Within the Community Commercial Subdistrict residential is a conditional use. It is a forbidden use within the Local Industrial Subdistrict.

USE	CC-1		LI	IS
	Bsmt. & First Story	2nd Story & Above		
Elderly Housing	C	A	F	C
Rowhouse	C	C	F	A
Three family detached dwelling	C	C	F	A
Multifamily	C	C	F	A

Land Use and Building Types
The multi-family designation technically applies to all buildings with 4 or more dwelling units and covers a wide range of residential building types.

Extract from the Article 51 - Table B Neighborhood Business Subdistricts, Local Industrial and Institutional Subdistricts - Use Regulations
There are 17 specific uses identified within the Residential Use category. This table references a few of the most common uses within Western Avenue Corridor Study Area's residential properties.

CC-1 Community Commercial 1 C - Conditional
LI- Local Industrial F - Forbidden
IS- Institutional
A - Allowed



BPDA, March 2020

Residential Land use
Approximately 10% of Western Avenue Corridor Study Area's land is used for residential uses.

Map of the Residential units by number.
Sources: Zoning, Assessing FY'18 (as of Jan.1 2018)

Dimensional Standards

Zoning guides the size and shape of buildings. It doesn't say what a building should look like, but it does set up rules about how big a building can be and where it should be located within a given parcel.



Subdistrict	Feet
Community Commercial-1	35'
Local Industrial-Linden Street	35'
Institutional- Harvard University	55 ⁽²⁾

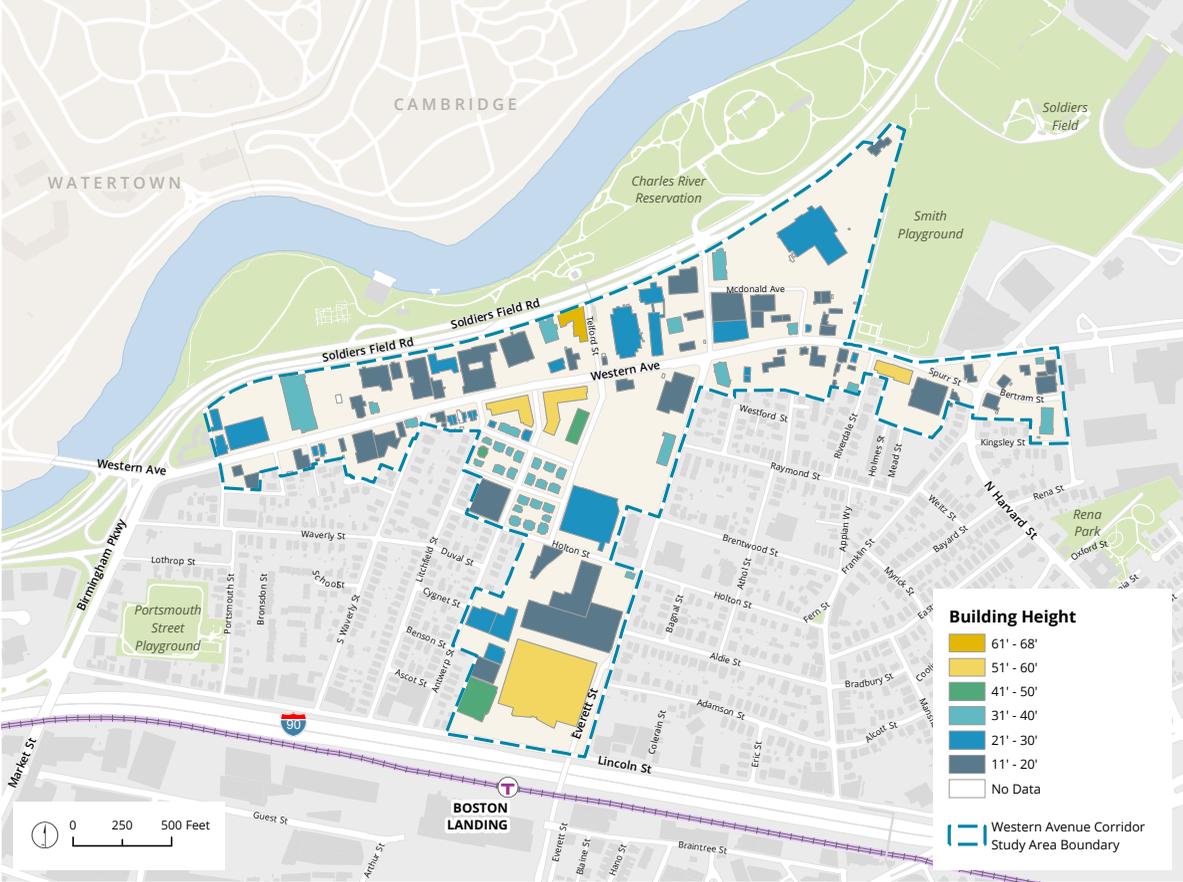
⁽²⁾ Provided that the Maximum Building Height shall be thirty-five (35) feet for buildings and structures located within fifty (50) feet of a Residential, Open Space, or Conservation Protection Subdistrict and forty-five (45) feet for buildings and structures located between fifty and one hundred (50-100) feet from such a Subdistrict.

Roof access

Mechanical space, roof decks, and access to roof decks are not included in measuring the height of a building because they are not technically occupiable space. Access to roofs can be an important architectural feature of a building and in some cases may contribute to the impression of height.

Extract from Article 51 - Tables E, F & H Neighborhood Business, Local Industrial and Institutional Subdistricts - Dimensional Regulations

The CC-1 and LI subdistricts limit height to 35'. A building within the Institutional subdistrict may be 55' as long as it is not within 100' of a Residential, Open Space, or Conservation Protection Subdistrict.



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Building Height

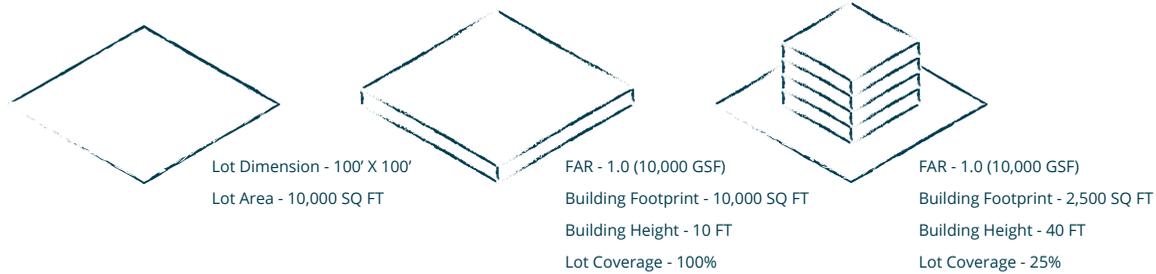
For the most part, older buildings in the Study Area conform to building height restrictions in Article 51. Most newer buildings are taller. Part of any rezoning is an analysis of how large buildings need to be in order to make them economically feasible given land and construction costs.

Map of Existing Building Height

Source: 2010 LIDAR data, PNF documents for buildings erected after 2010. Building heights are approximate.

Density

One of the main ways zoning limits the size of buildings is by regulating allowed Floor Area Ratio (FAR). FAR is the total square footage of all the floors of a building, divided by the total square footage of the parcel.



Extract from Article 51 - Tables E, F & H Neighborhood Business, Local Industrial and Institutional Subdistricts - Dimensional Regulations

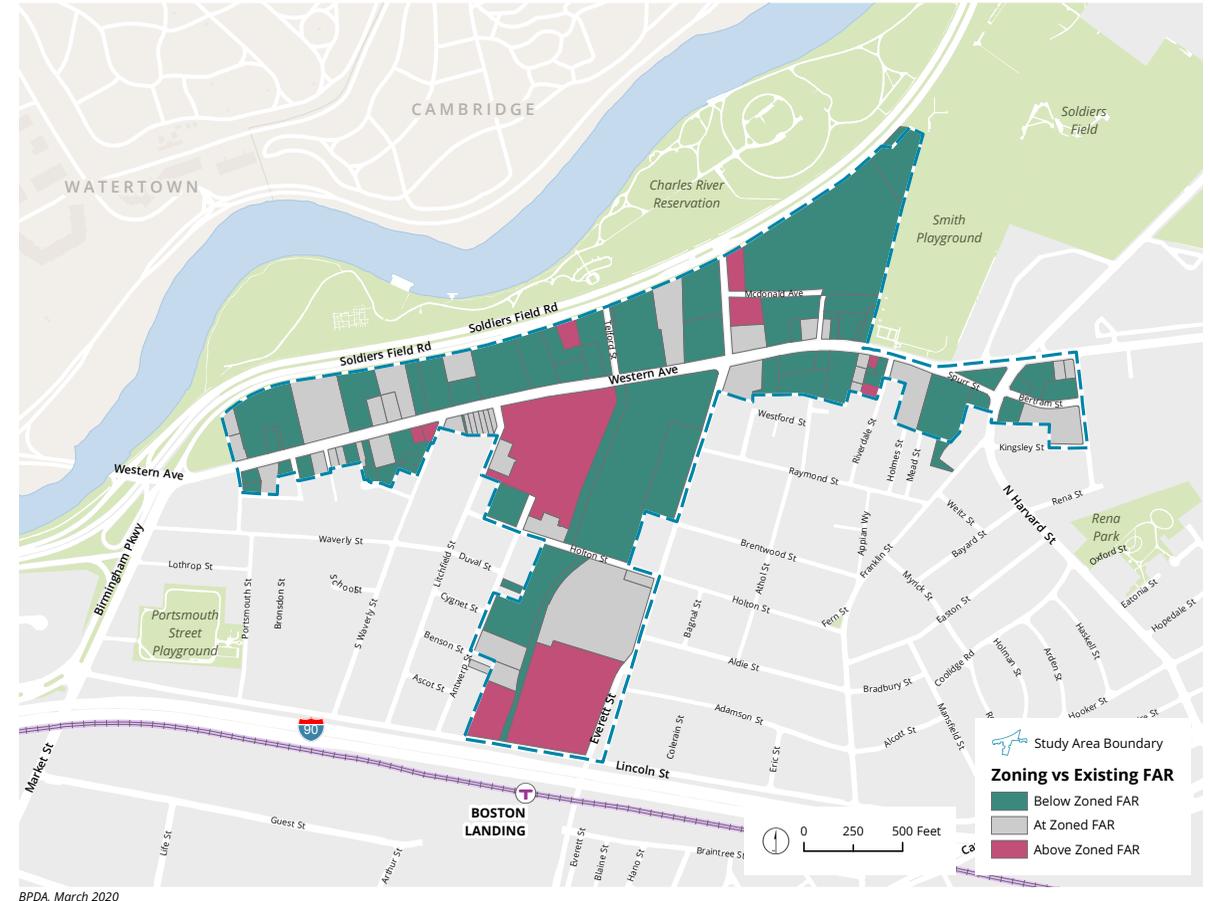
Subdistrict	FAR	Minimum Lot Coverage
CC-1	1.0	none
LI-Linden Street	1.0	none
Institutional-Harvard University	1.0	none

CC-1 Community Commercial 1
LI- Local Industrial

Calculating FAR

FAR operates as a multiplier. If a parcel is zoned as 1.0 FAR, multiply the site area by 1.0 to determine how much development would be allowed on the site. For instance, a 1,000-square-foot parcel with an FAR limit of 1.0 would allow 1,000 square feet in total usable area. The diagram above demonstrates how the same amount of building density could be built in different ways. Total usable area would not include elements like basement garages or mechanicals storage space.

For any given FAR, the building massing can vary. The building can be taller on a smaller footprint, or shorter on a larger footprint. The way that density is regulated along with height and other characteristics of a building has an impact on the architecture, the quality of the public realm, and the feasibility of a project. Zoning should also be written with functional requirements and economic feasibility in mind. Commercial buildings for uses such as laboratories require larger floorplates, so the building has to occupy a certain minimum footprint, while residential buildings have smaller floorplates. It can get expensive to build up, so not all buildings can feasibly achieve the allowed FAR by simply going higher.



Density

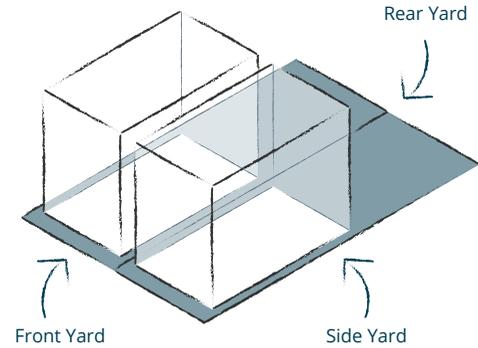
All subdistricts allow a FAR of 1.0 within the Western Avenue Corridor Study Area. Some existing structures are above the zoned FAR, while most are equal to or below the zoned FAR.

Map of Existing FAR in relation to Allowable FAR

Sources: Zoning, Assessing FY'19 (as of Jan. 1 2018)

Space between buildings

Space between buildings and setbacks are dealt with differently in Boston’s Zoning Code. Front, rear, and side yards are open spaces that extend along the full length of one property line. Minimum yard dimensions guarantee open spaces between buildings on adjacent properties or allow buildings to share a common wall when there is no minimum yard dimension.



Front Yard

An open space extending across the full width of the lot and lying between the front lot line and the nearest building.

Rear Yard

An open space immediately behind the rearmost main building on the lot and extending across the full width of the lot.

Side Yard

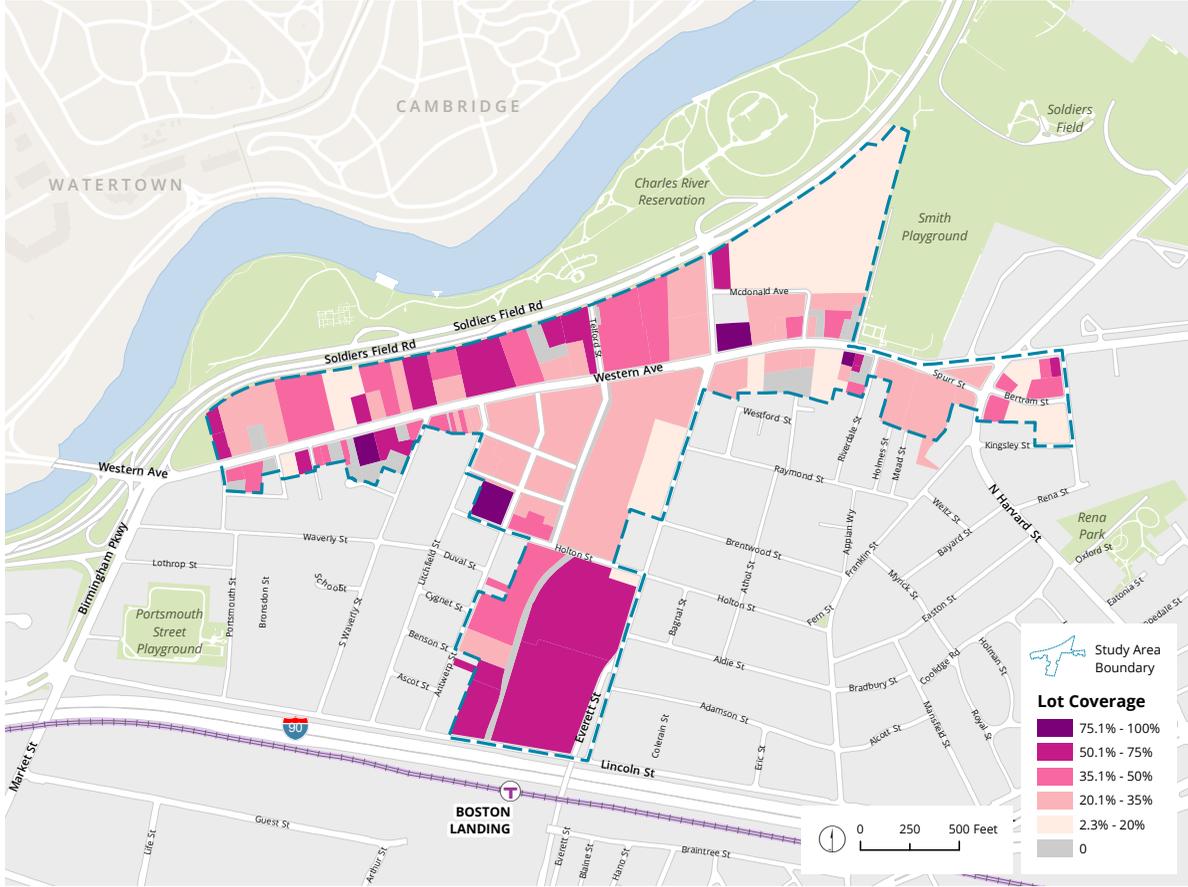
An open space along the side line of a lot, extending from the front yard line to the rear yard line; in the case of a side yard abutting on a street, extending to the rear lot line.

Although lot coverage is not regulated in most of Boston’s zoning articles, Article 64 (South End Neighborhood District) provides a precedent for capping the percentage of a site that can be occupied by buildings, with the rest to be used to contribute to the public realm in the form of features such as a through-block connection linking streets at both ends, a pedestrian way, or a place-making space, such as a plaza, open space, or a park.

Extract from Article 51 - Tables E, F & H Neighborhood Business, Local Industrial and Institutional Subdistricts - Dimensional Regulations

Subdistrict	Minimum Yard Requirements (in feet)		
	Front	Side	Rear
CC-1	none	none	20'
LI-Linden Street	none	none	20'
IS-Harvard University	20'	none	none

CC-1 Community Commercial 1
 LI- Local Industrial
 IS- Institutional
 *Minimum Usable Open Space per dwelling unit



BPDA, March 2020

The Allston-Brighton Neighborhood District uses a combination of minimum yard requirements and minimum usable open space per dwelling unit to ensure adequate spaces are available between buildings.

Map of Existing Lot Coverage

Sources: Zoning, Assessing FY'19 (as of Jan.1 2018)

On-site parking

Zoning says how many parking spaces are required per use in different districts. However, projects subject to Large Project review will have their parking ratios determined as part of the review process.

Although zoning specifies parking ratios for many smaller projects, several of the projects to be built in the Study Area will undergo Large Project Review, during which parking ratios are determined in consultation with the Boston Transportation Department.

Like many cities, Boston has moved away from minimum parking requirements, which do not support the transportation and sustainability goals embraced by the city and its residents. Rental residential projects attract large numbers of tenants who don't own cars. Developers can assist with a variety of other mobility options, such as on-site car sharing, contributing to the Blue Bikes system, and more. On-site parking is expensive. If developers are required to build more, there are fewer opportunities to leverage projects for other public benefits such as affordable housing.

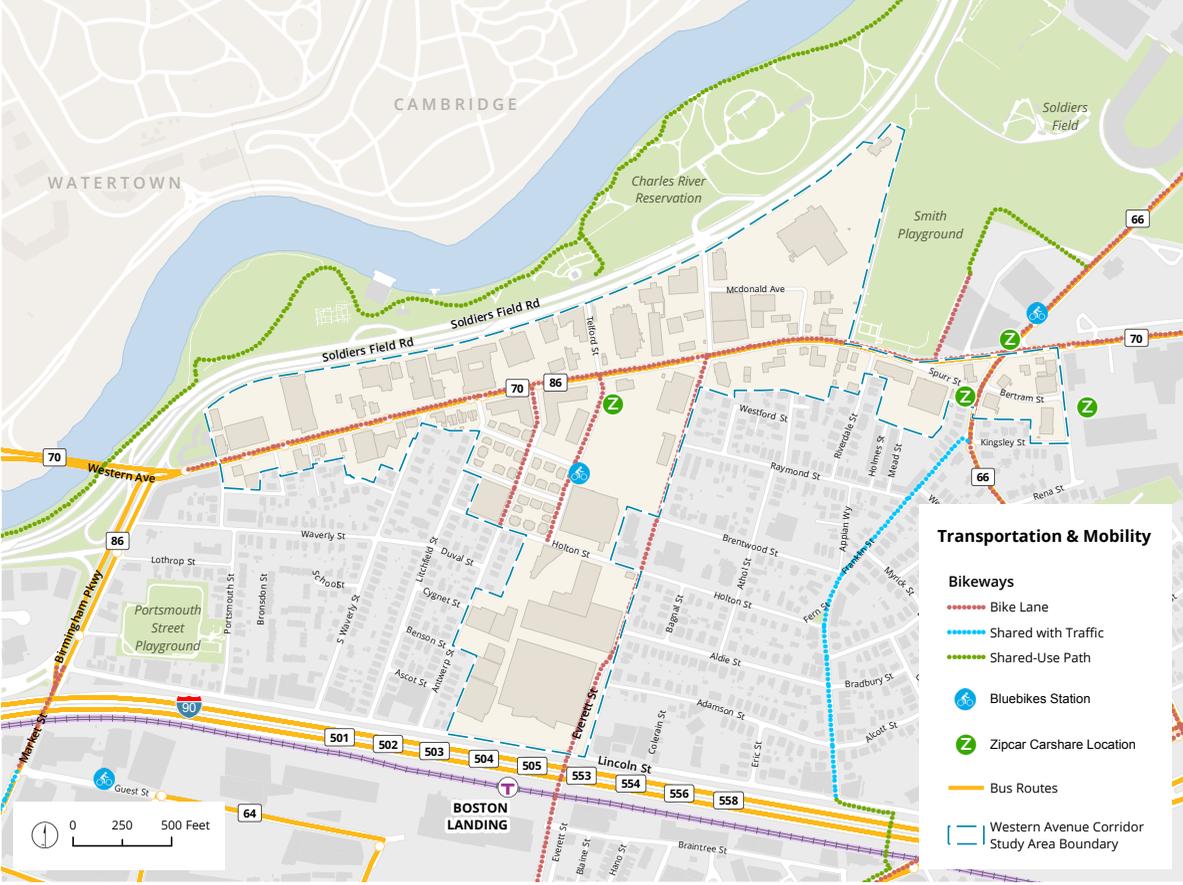
For commercial projects, a careful balance will have to be struck between allowing enough parking to keep the projects viable in the regional market while still incentivizing alternative transportation modes.

Extract from Article 51 - Table J

Use	Minimum spaces per unit
1-9 units	1.75
10+ units	2.0
Minimum spaces per 1,000 SF GFA*	
Retail uses	2.0
Community Uses	1.0

*GFA: Gross Floor Area

As seen in the table above, for residential uses, zoning typically requires one parking space per unit for smaller projects. However, for development projects undergoing Article 80 Large Project Review (at least 50,000 gross square feet) the Boston Transportation Department (BTD) recommends maximum parking ratios that differ from these standards. Parking ratios for such development projects will be determined through the Article 80 process. The Mayor's Housing Innovation Lab also designates maximum parking ratios for developments participating in the Compact Living Pilot that are usually significantly lower than the minimum number of spaces required in most zoning districts.



Mobility Options

This is the existing transportation and mobility network in the Western Avenue study area. Additional recommendations for improving mobility in the area will be examined as part of the Allston-Brighton Mobility Study.

Mobility Options Around Western Ave

Article 80

In 1996, the BPDA adopted Article 80 in the Boston Zoning Code to provide clear guidelines for the development review process.

Article 80 of the Boston Zoning Code includes:

- **Small Projects** (Article 80E) - adding/constructing more than 20,000 square feet and/or 15+ net new residential units
- **Large Projects** (Article 80B) - adding/constructing more than 50,000 square feet
- **Planned Development Areas (PDAs)** (Article 80C) - new overlay zoning districts for project areas larger than 1 acre
- **Institutional Master Plans (IMPs)** (Article 80D) - projects relating to academic and medical campuses.

BPDA Project Managers assist developers in navigating the Article 80 process while BPDA Planners and Urban Designers as well as other City departments provide input to help shape each project and ensure that the design of the project is one that relates to and enhances the surrounding area. The Article 80 process may include, but is not limited to, review of a project's impacts on transportation, public realm, the environment, and historic resources. Depending on the project's impacts, BPDA and City staff may require the developer to change the project's design or to take other measures to reduce those impacts. Public input is encouraged throughout a project's review timeline.

Small Project Review & Large Project Review

Small Project Review and Large Project Review are separate from any zoning process that a project requires. For instance, zoning relief request from the Zoning Board of Appeals does not replace the Article 80 project review. The typical Small Project Review and Large Project Review processes are described on the following pages.

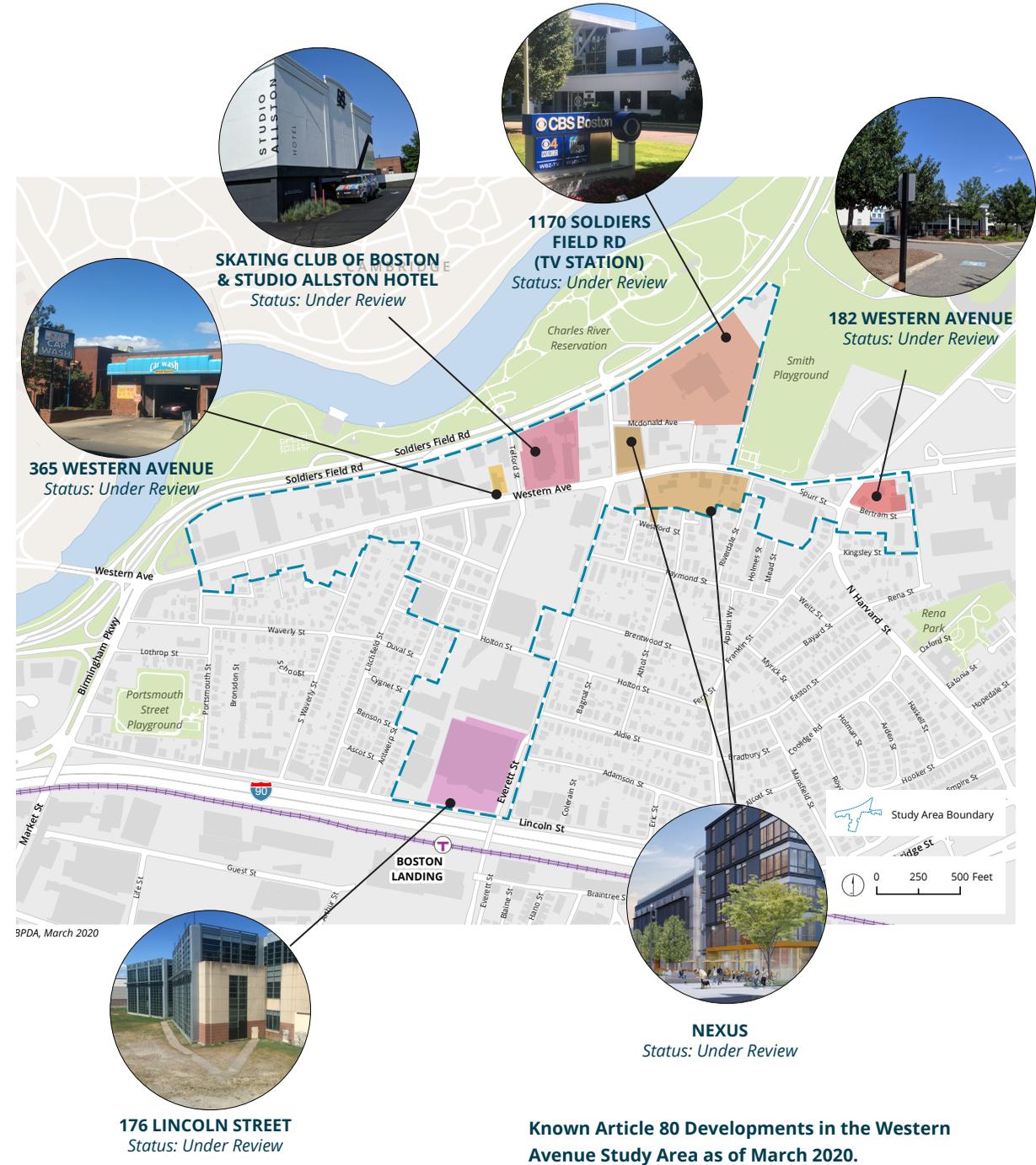
Planned Development Area (PDA) Review

PDAs are overlay zoning districts that establish special zoning controls for large projects of at least one acre and are only allowed where specified in the underlying zoning. PDAs allow for uses, density, height, and other dimensions that differ from underlying zoning. Through a community process similar to Large Project Review, zoning controls on uses, density, height and other dimensions are specified in the Development Plan approved for a specific PDA. The Development Plan must be approved in separate public hearings by both the BPDA Board and the Boston Zoning Commission. PDA projects are typically required to provide additional community benefits.

Institutional Master Plan (IMP) Review

IMP review is required for academic and medical institutions with over 150,000 gross square feet of facilities. An IMP is a comprehensive development plan describing an institution's existing facilities, long-range planning goals, and proposed projects. The institution must update and renew its IMP periodically and must amend it whenever it adds or changes any project over a minimum threshold. An IMP creates zoning that may allow buildings and uses different from what is allowed in the underlying zoning. An IMP is developed with significant public input and must be approved by both the BPDA Board and the Boston Zoning Commission.

Within the neighborhood, Harvard University has an IMP for its academic facilities. Since IMPs only grant zoning flexibility for institutional uses, Harvard also has an approved PDA for its Enterprise Research Campus (ERC) which will contain non-institutional uses. Projects proposed on other Harvard-owned land will be subject to Small or Large Project Review as appropriate to the project size.

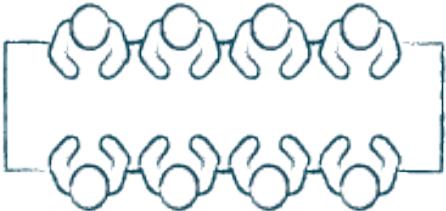


Known Article 80 Developments in the Western Avenue Study Area as of March 2020.

Source: BPDA planning.

Article 80 Project Review

The BPDA encourages development teams to meet with the community multiple times throughout the review process. At a minimum, the development team is required to make one presentation to the community during the initial 30 day comment period.



Pre-File Meetings

Conversations begin before the Letter of Intent (LOI)* is filed. Prospective developers meet with BPDA and City of Boston staff to outline project intentions and conceptual design, and BPDA staff encourages the development team to meet with the community prior to filing an LOI or Small Project Review Application (SPRA).



Letter of Intent (LOI)*

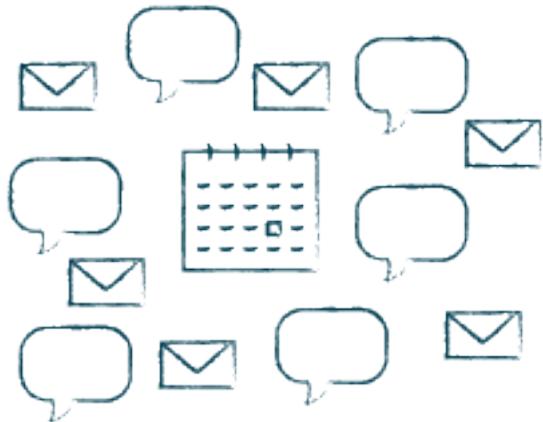
The filing of this document formally initiates the Article 80 process for all projects except those subject to Small Project Review. LOIs provide a brief introduction to the project. They also notify the BPDA that an Impact Advisory Group (IAG) must be formed to review the local impacts of large projects and related mitigation possibilities.



Filing Small Project Review Application (SPRA)/Project Notification Form (PNF)*

Depending on the size of the project, a developer will file a SPRA or PNF*. This document is posted to the BPDA website and made available to the public. The filing of either document also initiates active review of the project by the BPDA and a 30-day public comment period. The project's filing includes information about the project, including a description of the project, its associated zoning compliance, as well as impact analyses and architectural renderings of the project.

*The asterisk indicates items that are not applicable to Small Project Review.



30-Day Comment Period

During the 30-day comment period, community members, City of Boston departments and agencies, and State agencies alike are invited to provide feedback on the project. Comments on the project can vary but should be submitted to the BPDA's Project Manager overseeing the process. **It is important that comments be specific and constructive to help inform the iterative review process.**

After the 30-Day comment period, the review process may continue depending on comments received, the status of the proposed development, and if there needs to be substantial changes made to the proposal, among other things. The closure of the initial comment period does not always signify a proposal moving into the Board approval process.

Board Approval Process

Following BPDA and community review, projects must be formally approved by a vote of the BPDA Board. Most often, approval is conditional upon design review. A number of written agreements are also included in the Board vote to ensure that all project mitigation components and community agreements are finalized and recorded. Examples of these documents are:

- **Cooperation Agreement*** - This document details mitigation and community benefits to be provided by the developer. These documents are reviewed by IAGs*.
- **Affordable Housing Agreement** - Developers may be required to designate a certain percentage of built housing units as affordable through the Inclusionary Development Policy (IDP). Most housing developments reviewed under Article 80 require IDP units or payments.
- **Boston Residents Jobs Policy** - A certain percentage of construction jobs created by a project must be filled by Boston residents.
- **Development Impact Project Agreement** - Office developments may be required to pay into a "linkage" fund towards housing and job creation.

Post-Board Approval

Once a project is BPDA Board Approved, it may go through the Zoning Board of Appeals process, Zoning Commission for PDA's, or directly to Inspectional Services Department to receive its permits. During construction, the BPDA Compliance department monitors the progress of the project and ensures it adheres to all policies and agreements made.

Zoning Overview

How Zoning Works

Different City agencies, departments, and boards and commissions play important, but separate, roles in zoning.

- The Boston Planning & Development Agency (BPDA) writes zoning.
- The Boston Zoning Commission (BZC) adopts zoning.
- The Inspectional Services Department (ISD) interprets and applies zoning.
- The Zoning Board of Appeal (ZBA) determines eligibility for exceptions from zoning.

When the public comes in contact with zoning issues, it does so most often through the BPDA or ISD.

A property owner must apply to ISD for a building permit and/or a change in use or occupancy permit. If the permit is denied because the proposed project violates the Zoning Code, the applicant may appeal the decision to the ZBA within ISD.

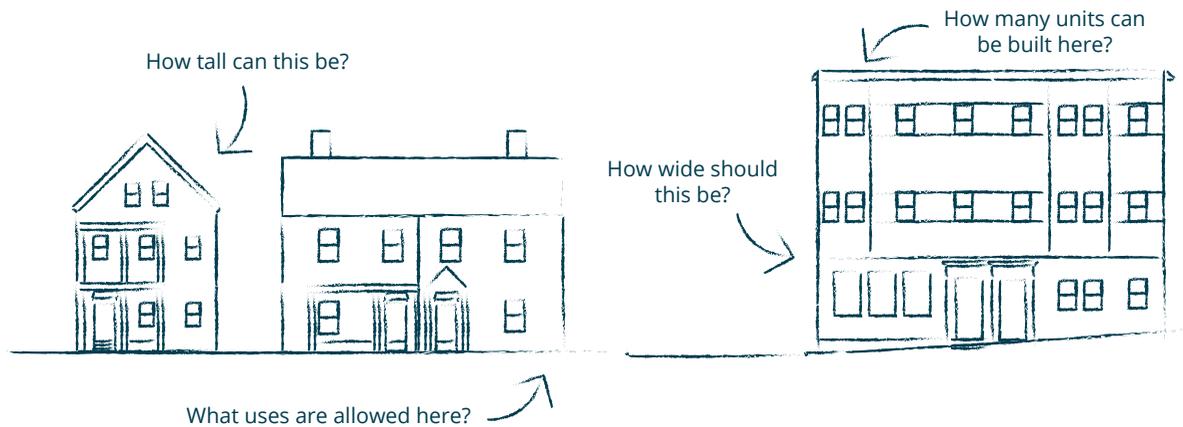
The BPDA makes recommendations concerning the case after its planning staff:

- Evaluates zoning applications
- Reviews the proposal

The BPDA makes its recommendations to the Board of Appeal on requests for variances and conditional uses and to the Zoning Commission in cases concerning Zoning Code amendments.

Members of the public and elected officials can also weigh in on requests for variances.

The BPDA makes no final rulings. Final decisions are made by the Board of Appeal and the Zoning Commission.



Zoning Terms

Accessory use - an additional land use that is related to and on the same lot as the principal land use.

Allowed use - a land use which is permitted as a matter of right. Board of Appeal approval is not required.

Appeal - a request made to the Board of Appeal for relief from zoning code regulations.

As-of-right-use - those uses that are automatically allowed by the zoning code.

Article 80 - Adopted in 1996 by the BPDA to provide clear guidelines for the development review process relating to large projects (adding/constructing more than 50,000 square feet), small projects (adding/constructing more than 20,000 square feet and/or 15+ net new residential units), Planned Development Areas (PDAs), and Institutional Master Plans (IMPs) (projects relating to academic and medical campuses). The Article 80 process may include, but is not limited to, review of a project's impacts on transportation, public realm, the environment, and historic resources. Public input is encouraged throughout a project's review timeline.

Conditional Use - a land use permitted by the Zoning Code provided that it is found by the Board of Appeal to comply with certain conditions set out in the Code.

Forbidden Use - A use that is not permitted in a particular district because of harmful impacts on other allowed uses; e.g., noise, pollution.

Height - height is measured from the average grade of a parcel to the top of the highest occupiable floor.

Inclusionary Development Policy (IDP) - Established in 2000 to promote the production of affordable housing in Boston. Under IDP, developers may include affordable units within their developments (on-site), create affordable housing in an off-site location, or make a cash contribution towards the creation or preservation of affordable housing.

Inspectional Services Department (ISD) - A City of Boston department which administers the Boston Zoning Code and the State Building Code and issues all building, use, and occupancy permits. If a project requires development review under Article 80, ISD will not issue a permit until the BPDA and the Zoning Commission (if necessary) have completed the required review and the BPDA has certified that the project described in the permit application is consistent with the project approved through development review.

Lot, lot area/size - the area of a parcel of land in single ownership and not divided by a street.

Nonconforming Use - A use or activity that was lawful prior to the adoption or amendment of the Zoning Code, but which does not, because of such adoption or amendment, conform to the present requirements of the Zoning Code.

Planned Development Area (PDA) - An overlay zoning district, which may be established under Article 80 where a development that is well-suited to its location cannot be accommodated by the general zoning for the area. For example, a PDA may be appropriate where a development involves a large building, a cluster of buildings, or a mix of uses. No project may be built in a PDA unless it is described in detail in an approved PDA Development Plan. A PDA Development Plan must specify the proposed location, dimensions, and appearance of all buildings in the PDA, as well as all proposed uses, parking, and landscaping. PDAs may also detail public benefits.

Variance - Permission to deviate from a specific requirement of the Zoning Code.

Zoning Commission - The Zoning Commission reviews and approves proposed changes to the Boston Zoning code and is also responsible for adopting all new zoning and zoning amendments, for establishing PDAs and approving PDA Development Plans, and for approving Institutional Master Plans. The Zoning Commission is under the City of Boston's administration, not the BPDA.

The Boston Planning & Development Agency launched the Western Avenue Corridor Study and Rezoning in September 2019 to engage local stakeholders in discussing the future of Western Avenue between Barry's Corner and Leo Birmingham Parkway.

The planning initiative will inform recommendations for new or modified zoning; build on previous planning in the area, including the North Allston Strategic Framework for Planning, the Community-Wide Plan, and planning at Harvard University; and foster a dialogue with developers and property owners. The study will also consider public realm improvements and transportation enhancements in coordination with the ongoing Allston-Brighton Mobility Study to explore multimodal improvements to Western Avenue and other transportation enhancements.

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Project Website

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