

DRAFT AMENDMENT

38-22 BHD – BEVERLY HARBOR DISTRICT

A Purpose

The Beverly Harbor District seeks to protect and enhance Beverly's existing marine and waterfront uses and amenities, and to expand public access to the water by creating continuous and inviting public spaces enlivened with new mixed use development and waterside recreational facilities that is well integrated with surrounding neighborhoods. The Beverly Harbor District is established in order to facilitate the following development objectives:

1. Support and grow commercial maritime uses, including commercial fishing vessels, as they are an integral part of the long-term vision of the Harbor District.
2. Facilitate use of the harbor's shoreline by commercial maritime, fishing, and recreational vessels.
3. Accommodate mixed-use development that is pedestrian friendly and will include recreational amenities to engender an inviting and active place.
4. Will be accessible and designed to accommodate all modes of transportation.
5. Provide publicly accessible open spaces along the length of the harbor and will seek to connect with existing open spaces located elsewhere on Beverly's waterfront.
6. New development will complement the historical context of the waterfront, and will be constructed to a scale in keeping with the character of the surrounding neighborhood.

B Uses by Right

1. Commercial fishing excluding the processing of fish, except as provided by Section 38-22.B8. (Processing: meaning canning, cooking, or freezing but not preparation of bait), subject to the provisions of Section 38-22.G.
2. Commercial marina for the sale, mooring, and rental of boats, subject to the provisions of Section 38-22.G. (Rev. 6-26-87).

3. Public or private recreational boating facilities, including ancillary office and meeting space.
4. Marine-related museums and/ or aquariums, and public service facilities including harbormaster.
5. Commercial boatyard for the construction, repair or maintenance of boats, including ancillary office space.
6. Public berthing and boat storage facility where a vessel is confined by wet slip, dry stack, float, mooring or other type of docking facility.
7. Restaurants up to 5,000 square feet in gross floor area for selling food for consumption on and off the premises, provided however that fast food restaurants as defined in Section 38-2 of this zoning ordinance shall not be allowed.
8. Accessory buildings and uses required for and clearly incidental to the principle building or use are permitted.
9. Home occupation as defined herein, subject to the provisions of Section 38-22.G.

C Uses by Special Permit

1. Retail establishments subject to the provisions of Section 38-22.G.
2. Residential as part of a mixed-use commercial development where all residential units are located above the first (or ground) floor.
3. Business and professional offices as part of a mixed-use commercial development where all office related uses are located above the first (or ground) floor.
4. Hotel as part of a mixed-use commercial development where all rooms are located above the first (or ground) floor and subject to provisions of section 38-22.G.
5. Restaurants with more than 5,000 square feet in gross floor area for selling food for consumption on and off the premises, provided however that fast food restaurants as defined in Section 38-2 of this zoning ordinance shall not be allowed.

D Building and Area Requirements

1. Minimum lot area: none required
2. Maximum Floor Area Ratio (FAR): 0.5, unless modified by Special Permit as provided in Section I below. FAR calculations do not include structured parking.

3. Minimum lot frontage: none
4. Minimum front yard setback: 5 feet
5. Minimum side yard setback: 5 feet
6. Minimum rear yard setback: 20 feet
7. Maximum building height: 35 feet measured as the vertical distance from the average existing street grade along the lot, to the top of the highest roof beams of a flat roof, or the top of the highest ridge of a sloped roof.

E Parking Requirements

1. Off-street parking shall be in accordance with the requirements set forth in Section 38-25 below.
2. Surface level off-street parking lots shall be placed in side yards only. Off-street parking may be provided under commercial or mixed use buildings provided an active ground floor use screens parking facilities from the public way and waterfront walkway. Parking lots shall otherwise comply with the design standards in Section 38-26 of the Zoning Ordinance.

F Sign Requirements

1. All signs in the BHD shall conform to the regulations set forth in Section 38-26 below.

G Minimum Development Standards

1. All proposals, including new construction of any building(s) or water-based structure(s)(pier, slips, wharves, etc.) or any substantial addition(s) to same, must secure the appropriate federal, state, and local permits and licenses. These permits and licenses may include but are not limited to: U.S. Army Corps of Engineers Permit(s); Massachusetts DEP Division of Wetlands and Waterways Chapter 91 Tidelands License; and City of Beverly Conservation Commission Order of Conditions.

Regulations mandated by any state or federal permit or license obtained for any non-water dependent, or water-dependent use (including the applicability of the public trust doctrine) may be more restrictive or require certain public benefits not stated or identified in this Ordinance.

For any new development or substantial improvement to existing structures within the BHD, the project proponent shall establish the location, if applicable, of the Commonwealth Tidelands (that land seaward of the historic mean low watermark) on any plan or site plan(s) drawn for a Special Permit, Building Permit, or other Permit required under this Ordinance.

2. All proposals shall conform with the DEP Waterways regulations, 310 CMR 9.00, as they may be amended, and shall preserve any rights of access as required therein.
3. Any project that includes tidelands that are accessible to the public shall provide for long-term management of such areas that achieves effective public use and enjoyment while minimizing conflicts with interests as the protection of private property and natural resources. Such proposals shall provide rights of access as follows:
 - a. The provision, including construction and maintenance, of a public pedestrian walkway along the water, a minimum of 10 feet in width and including, but not limited to, pedestrian improvements such as landscaping, benches, lighting, and trash receptacles. The location and landscape elements shall be subject to approval by the Planning Board, and designed to connect to existing or future harbor front walkways on adjoining properties.

Should a proposed or existing water dependent use, such as boat launch or boat washing system, inhibit a developer's ability to provide a contiguous walkway as prescribed above, the developer shall provide a reasonable alternative on the parcel connecting the subject parcel to abutting parcels/walkways, subject to approval by the Planning Board.
 - b. Access from the public street to the harborfront walkway may be required at the discretion of the Planning Board and shall be provided without time restriction except as authorized by license or permit. Public access and use of public rights and ways shall be encouraged with the use of proper signage at all entryways and other appropriate locations on the project site.
 - c. No gates, fences, or other structures may be placed on any areas opt to public access in a manner that will impede the free flow of pedestrians.
4. Buildings shall be designed to the scale and character of the surrounding neighborhood, and shall incorporate design elements that

create an attractive pedestrian realm. Proposals shall include the following elements:

- a. Buildings with architectural elevations facing both the public way and/or the waterfront shall be oriented and designed as though both are primary facades
 - b. Streets, driveways, parking lots, and principle facades shall include amenities that are conducive to an active pedestrian realm including sidewalks, landscape, lights, and outdoor seating.
 - c. Development should be designed to facilitate and encourage use by alternative modes of transportation such as walking, biking, and public transit.
 - d. Building materials shall be of permanent and sturdy quality including brick, stone or wooden clapboard, or materials similar in appearance, texture, quality and scale to these materials.
 - e. Buildings facing the public way and/or the waterfront shall incorporate vertical design elements, operable doors, and/or entrances with public access and transparent windows at regular intervals in the principal façade(s).
 - f. Buildings within the Beverly Harbor Zoning District shall not have blank walls (without doors or windows) for a distance of greater than 10-feet in length.
5. Rooftop and other mechanical equipment including HVAC systems, shall be screened, using materials similar in type, texture, and scale to the building, such as brick, slate, wood or other materials similar in appearance. No vinyl is permitted nor shall wood stockade or similar fencing be used on roofs. Solar panels are exempt from this requirement. Sound buffering/baffles shall be used as needed.

H Special Permit Criteria

When approving a special permit under the BHD the Planning Board shall make findings, in addition to any specific requirements or criteria set forth in Section 38-28.C of this Ordinance, that the project proposal meets the following special permit criteria:

1. The proposed development and associated uses are compatible with the purpose of the Beverly Harbor District.

2. The proposed development is consistent with the character, materials and scale of surrounding neighborhood.
3. The proposed development is oriented to public ways and the water's edge such that the project minimizes visual intrusion of parking, storage, and other outdoor service areas.
4. The proposed development shall provide direct access to public ways and the waterfront; buildings shall be oriented to complement public spaces.
5. Access is designed to provide an inviting pedestrian realm, and where necessary include signage to promote public access.
6. Buildings are oriented such that visual connection to the waterfront from streets and public ways is adequately accommodated.
7. The proposed development will beneficially impact the preservation of water-related uses and public access and enjoyment on surrounding properties.
8. Project proponents of new residential uses allowed by special permit under this section shall certify that notice will be provided to residents, by deed or lease, that the Beverly Harbor District is intended for mixed uses including public access and enjoyment of the waterfront, commercial fishing, and other marine and water-related commercial uses. Notice shall at a minimum state that the residential building is in close proximity to water-related commercial uses which will continue to operate in accordance with normal business practices, which may include presence of noise or odors, extended hours of operation, and use of public infrastructure.

In exercising its power under this section, the Planning Board may impose conditions, regulations or limitations as are necessary or appropriate to ensure that the presence of the proposed development does not adversely impact the purpose and intent of the Beverly Harbor District.

I Special Requirements

For any use allowed in the BHD, the Planning Board through a Special Permit process may grant a bonus in Floor Area Ratio (FAR) increasing the existing maximum FAR of .5 up to 1.25, in return for the following public benefits (additional FAR of .25 per benefit may be granted by the Planning Board):

1. For property which abuts Water Street, the provision, including construction (but not maintenance) of a public right-of-way along

Water Street, so that there can be a minimum of a thirty (30) foot roadway and five (5) foot sidewalks on both sides in locations where the existing Water Street right-of-way is less than forty (40) feet.

2. The provision, including construction and maintenance, of a public pedestrian walkway along the water, a minimum of fifteen (15) feet in width, the exact location to be determined by the Planning Board, designed to connect to existing or future harbor front walkways on adjoining properties. Access from the public street to the harbor front walkway may be required at the discretion of the Planning Board.
3. 10% of the gross site area be developed and maintained as public open space (as defined in section 38-2). This provision is in addition to any open space requirements which may otherwise be required by this ordinance.

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