



CITY of BEVERLY
PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

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Associate Planner

Victoria Healey

November 8, 2022

Honorable City Council
City Hall
191 Cabot Street
Beverly, MA 01915

RE: PROPOSED AMENDMENT TO THE BEVERLY ZONING ORDINANCE: VARIOUS
ARTICLES RELATED TO BUILDING HEIGHT AND INCLUSIONARY ZONING

Dear Honorable Council,

I respectfully submit the attached proposed zoning amendment to you and request that your Honorable Council refer the matter to the Planning Board in accordance with M.G.L. Chapter 40A, Section 5 for coordination of a joint public hearing. The enclosed ordinance amendments are consistent with the goals of the Beverly Master Plan and the Beverly Housing Plan.

First, I am pleased to submit proposed amendments to various sections of the Beverly Zoning Ordinance which serve two purposes: (1) eliminate the "Tall Building Overlay District" and reference to the associated Design Guidelines created in 2007 to support that overlay district and (2) reduce the maximum allowable height of buildings in the Cabot Street area (CC District) and in the residential district (RHD) between Cabot Street and Rantoul Street. As you know, this suite of changes arose as key priorities during the development of the Beverly Master Plan (2020) and have been presented by the Mayor and Planning Director at recent meetings related to development and zoning.

Second, I am pleased to submit a proposed zoning amendment to Article XV, Affordable Housing ("Inclusionary Housing Ordinance"), introducing new affordability requirements for residential development projects. In 2017, the City Council adopted changes to the Inclusionary Housing Ordinance based on policy recommendations made in the Community Housing Plan (2016). The changes proposed herein are similarly supported by the findings in that Plan, including the deep housing need identified therein, and the City's experience with the use of the Inclusionary Housing Ordinance in recent development proposals.

We look forward to discussing these proposals at a future public hearing to be scheduled by the Planning Board and the City Council. We recommend, though it is not required, that the City Council and Planning Board hold a joint public hearing if feasible. In the meantime please feel free to contact me at 978-605-2341 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Darlene Wynne". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Darlene Wynne, AICP
Planning Director

cc: Mayor Michael P. Cahill
Stephanie Williams, City Solicitor
James Butler, Building Commissioner
Planning Board

PROPOSED ZONING AMENDMENTS

REDLINE DRAFT

Enclosed are the changes proposed to the Beverly Zoning Ordinance in order to 1) eliminate the “Tall Building Overlay District”; (2) reduce the maximum allowable height of buildings in the Cabot Street area; and introduce new affordability requirements for residential development projects. Only sections with language to be changed are included herein. The proposed suite of changes occur in multiple sections of the Zoning Ordinance.

For context only, I have included the definition of height and height exceptions, below, according to the Beverly Zoning Ordinance. There are no changes proposed.

§ 300-5 **Terms Defined.**

HEIGHT

The vertical distance from the lower of:

[Amended 8-27-1996 by Ord. No. 169]

- A. The average grade of the footprint of the building; or
- B. The average grade at the front of the building to the top of the highest roof beams of a flat or pitched roof.

§ 300-14 **Height Exceptions.**

- A. Building height limits set forth in this chapter shall not apply to belfries, chimneys, cupolas, domes, flagpoles, flues, monuments, spires, water towers and tanks, air-conditioning units, nor to similar structures and mechanical appurtenances placed on roofs, except where such structures are located within an airport approach zone; and provided that no such structures shall be used for human occupancy.
- B. A parapet wall, cornice, or similar architectural element shall not exceed more than four feet above the height limits prescribed in this chapter.
- C. Additional stories on sloping lots. On a sloping lot, a story or stories in addition to the number permitted in the district in which such lot is located shall be permitted on the downhill side of a building erected on such lot, provided that the building height shall not otherwise be increased above that specified for the district.

Article III **Zoning Districts**

§ 300-6 **Districts designated.**

- A. The City of Beverly, Massachusetts is hereby divided into 18 zoning districts to be designated as follows:

Designation	Description
R-90	One-family residential
R-45	One-family residential (suburban density)
R-22	One-family residential (suburban density)
R-15	One-family residential (urban density)
R-10	One-family residential (urban density)
R-6	One- and two-family residential

Designation	Description
RMD	Multifamily residential
RHD	Multifamily residential (high-density)
RSD	Special residential development (high-density)
CN	Neighborhood commercial
CC / CC2	Central business / Central business Cabot
CG	General commercial (automobile-oriented)
IR	Restricted industrial, research and office
IG	General industrial
HD	Hospital District
BHD	Beverly Harbor District
WDR	Waterfront development residential
MOSR	Municipal open space and recreation

- B. Specific use and dimensional regulations applicable to each of these districts are shown in Article VI and Article VII. General provisions applicable to all districts are included throughout this chapter.
- C. The CC2 subdistrict represents all parcels within the CC District fronting on Cabot Street and parcels within the CC District extending from Cabot Street, from the northern boundary of the CC District just north of Elliott Street to the intersection with Rantoul Street (at 38 Cabot Street).

Note: Anytime “CC” is used throughout the Zoning Ordinance, change to “CC / CC2”. Not all such changes have been presented herein.

Article V: General Provisions

§ 300-22 Design Review Board.

- A. Purpose; appointment; terms; recommendations.
- (1) The Design Review Board shall review projects for which building permits and/or proposals are sought before the City Council, Board of Appeals or Planning Board when such permits or proposals concern projects involving new construction or additions amounting to a twenty-five-percent or greater expansion of existing structures in the Central Commercial (CC / CC2), Neighborhood Commercial (CN), General Commercial (CG), Restricted Industrial (IR), IR Overlay, General Industrial (IG), Hospital District (HD), or Beverly Harbor District (BHD) zones. Additionally, the Design Review Board will review all projects that involve new noncommercial uses on or in first floor street-facing facades in the CC Zoning District, and those projects involving special permits and zoning variances in the CC, CN, CG, IR, IG, and BHD Districts. At the request of the Building Inspector, City Planner, Planning Board, City Council, or Mayor, the Design Review Board shall review any new construction or rehabilitation project in any commercial, industrial, or BHD Zoning District. The Board shall also review all signs requiring a sign permit from the Building Inspector and all projects that are subject to site plan review. (See § 300-98C.) [Amended 6-1-2015 by Ord. No. 314]
 - (2) The recommendations of the Design Review Board will be in order to help guide physical design and, where applicable, ensure that projects generally adhere to the tenets and recommendations of the City's Downtown Design Guidelines (2003) and the

General Guidelines of the Beverly Sign Ordinance, all as the same may hereafter be amended. **[Amended 7-17-2013 by Ord. No. 57]**

Article VII: District Regulations

§ 300-37 RHD Multifamily District.

D. Building and area requirements.

- (9) Maximum building height: 40 feet. **[Amended 10-9-1987]**

§ 300-40 CC / CC2 Central Business District.

[Amended 6-11-2007 by Ord. No. 35]

D. Building and area requirements.

- (1) Commercial uses, residential uses or combined commercial/residential uses on CC-zoned lots with side and/or rear yards abutting a residential zoning district:

- (f) Maximum building height: In CC District, 55 feet when "RHD" is the abutting residential district. In CC2 subdistrict, 45 feet with no more than 4 stories. In both CC and CC2, 35 feet when "RMD" or "R-6" is the abutting residential district.

- (2) Residential uses which do not abut a residential zoning district:

- (f) Maximum height: In CC District, 55 feet. In CC2 subdistrict, 45 feet with no more than 4 stories.

- (3) Commercial uses which do not abut a residential district:

- (f) Maximum height: In CC District, 55 feet. In CC2 subdistrict, 45 feet with no more than 4 stories.

- (4) Commercial or residential uses within structures existing at the time of the adoption of this chapter:

- (f) Maximum height: In CC District, 55 feet. In CC2 subdistrict, 45 feet with no more than 4 stories. **[Amended 6-6-1990; 7-1-1992]**

- (5) Combined commercial/residential uses on lots with side and/or rear yards which do not abut a residential zoning district:

- (f) Maximum building height: In CC District, 55 feet. In CC2 subdistrict, 45 feet with no more than 4 stories.

G. Special requirements.

- (2) Reserved.

- I. Activated ground floor development standards. The development of activated ground floor uses in the CC District shall be in accordance with the following standards, as well as the Beverly Downtown Design Guidelines, as applicable: **[Added 7-31-2017 by Ord. No. 374A]**

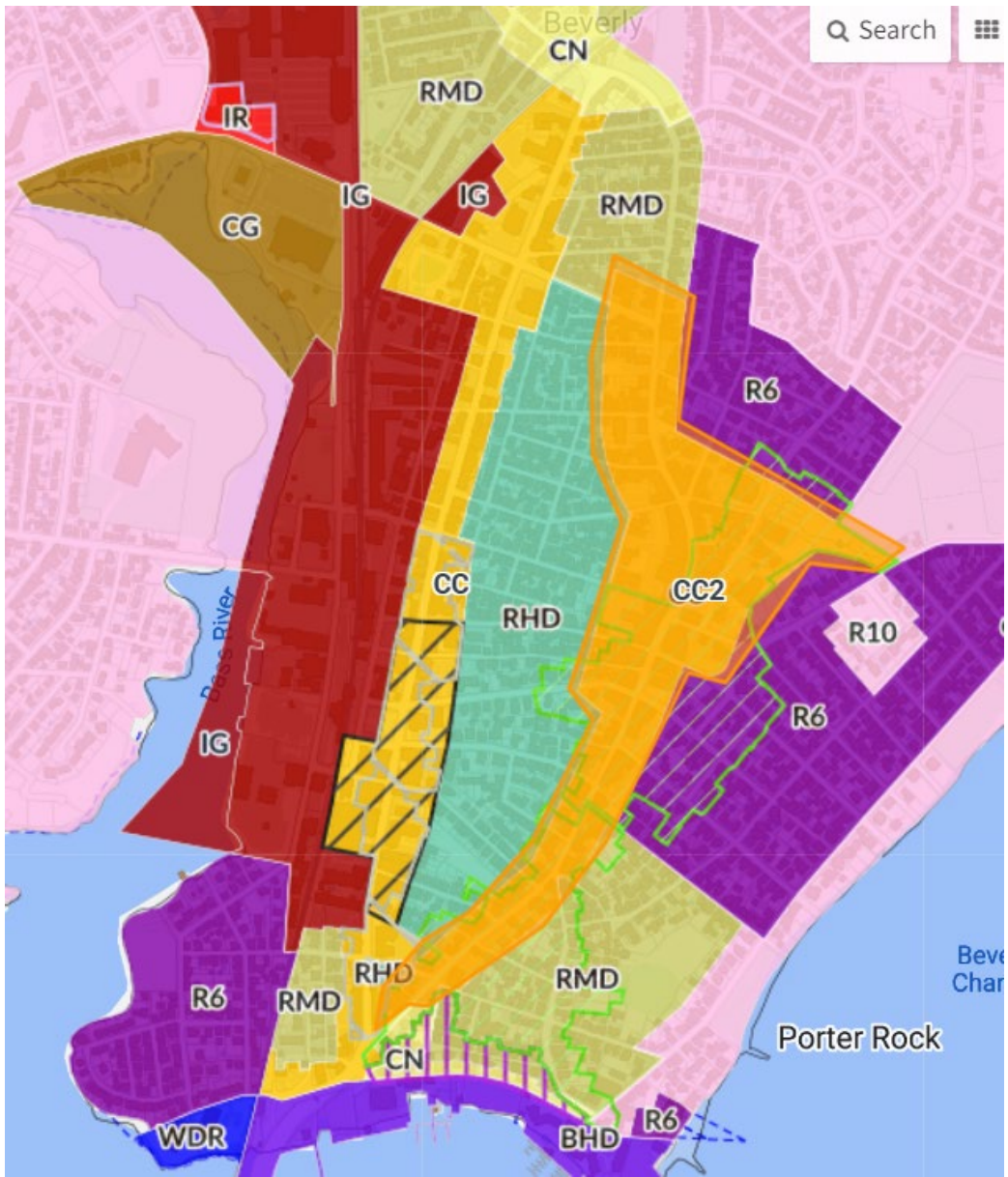
- (1) Buildings shall extend across a minimum of 80% of the lot at the frontage on the primary street, allowing for vehicular and pedestrian circulation. Public open space at

the sidewalk may be included in the 80% if a building is located behind it.

- (2) No more than 25% of the ground floor space in the building facing the primary street can support any combination of residential lobby and residential circulation, private open space, and/or hotel/motel uses, in the Core Pedestrian Area.
- (3) Uses on the ground floor shall have no less than 25 feet of building depth (or the full depth of the building, whichever is less).
- (4) The floor-to-floor height of ground floors shall be no less than 12 feet in all mixed-use buildings in the CC / CC2 District, regardless of residential use on the ground floor. Floor-to-floor heights may be adapted to accommodate grade changes along the street as necessary.
- (5) In the Core Pedestrian Area, the glazing/transparency (windows) of the facade shall extend for 70% of the facade width, between two feet and 10 feet from the sidewalk grade. Dark tinting and completely covered windows should be avoided.
- (6) On ground floors facing primary streets, doorways shall open directly to the sidewalk. Where permitted outside the Core Pedestrian Area, residential units on the ground floor may open to the sidewalk where feasible.
- (7) On buildings with a zero foot front setback, doorways shall be recessed, at a minimum distance equal to the swing of the door, to add visual character to the street and prevent doors from opening onto the sidewalk. Doorways on buildings with greater front setback may also consider a recessed doorway.

Zoning Map Change

This is a rough estimate of the proposed map change to create subdistrict CC2; the boundary lines are illustrative and will align with the parcels currently in the CC District. Revised map will be presented prior to the public hearing.



Article XV: **Affordable Housing**

§ 300-103 **Applicability.**

[Amended 7-9-2009 by Ord. No. 72; 6-19-2017 by Ord. No. 144A]

- A. This article applies to any development that results in or contains four (4) or more residential dwelling units. The types of development subject to the provisions of this article include, without limitation, the following:
- (1) A division of land resulting in the creation of four (4) or more residential lots. Developments shall not be segmented to avoid compliance with this section. "Segmentation" shall mean divisions of land that would cumulatively result in an increase of four (4) or more residential lots above the number existing on a parcel of land or contiguous parcels in common ownership or control 24 months prior to the application. Where such segmentation occurs, it shall be subject to Article XV. A subdivision or division of land shall mean any subdivision as defined in the Subdivision Control Law, MGL c. 41, §§ 81K to 81GG, or any division of land under MGL c. 41, § 81P, when such division of land results in lots for residential use.
 - (2) New residential construction or new mixed-use construction that includes four (4) or more dwelling units.
 - (3) A development of four (4) or more new dwelling units that involves the redevelopment, reconstruction or rehabilitation of an existing multifamily building or structure, if such development results in an increase of four (4) or more units in the number of dwelling units in the original structure.
 - (4) A development that will change the use of an existing building from nonresidential to residential use.
- B. This article does not apply to nursing homes, projects meeting the definition of subsidized elderly housing or congregate elderly housing, nor to the rehabilitation of any building or structure wholly or substantially destroyed or damaged by fire or other casualty; provided, however, that no rehabilitation or repair shall increase the number of dwelling units on the lot as existed prior to the damage or destruction thereof, except in conformance with this article.
- C. Any other development with dwelling units to which this article does not otherwise apply may elect to be subject to this article, provided the development meets all applicable requirements herein. Special permits authorized under this article for developments with four (4) or more dwelling units may also be granted to any other development with dwelling units, in the discretion of the Planning Board.

§ 300-104 **Housing affordability.**

[Amended 6-19-2017 by Ord. No. 144A]

- A. Except as provided below, each affordable unit created under this article shall be sold or rented by using one of the following affordability scenarios:
- (1) No less than 12% of dwelling units shall be affordable to a household with income at or below 60% of the area median income that applies to subsidized housing in the City of Beverly, as reported annually by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size.

- (2) Reserved.
- (3) Reserved.
- B. In the instance of a fraction, a fraction of a lot or dwelling unit shall be rounded up to the nearest whole number. Nothing in this section shall preclude a developer from providing more affordable housing units than required hereunder.
- C. Development projects creating or containing four to nine dwelling units as established in § **300-103** shall provide one affordable unit sold or rented to a household with income at or below 60% of the area median income that applies to subsidized housing in the City of Beverly, as reported annually by HUD, adjusted for household size.

§ 300-108 Methods of providing affordable units.

- A. Construction of affordable units on the locus of the development ("on-site units") shall be permitted as of right in any development and is the preferred method of providing affordable units under this article.
- B. The Planning Board may grant a special permit for one or more of the following alternative methods, including any combination thereof. In granting a special permit hereunder, the Planning Board may impose any conditions it deems necessary to assure compliance with this article:
 - (1) Reserved. (2) Payment of a fee in lieu of affordable units to the City of Beverly Affordable Housing Trust Fund. This provision shall apply only to developments of homeownership units. The fee per affordable unit shall be determined by Planning Board regulations in accordance with § **300-105** above.
 - (3) Donation of developable land in the City of Beverly to the Beverly Housing Authority, the Beverly Affordable Housing Coalition, Inc. or a comparable entity determined at the discretion of the Planning Board, provided the receiving organization agrees in writing to accept the land and the applicant demonstrates to the Planning Board's satisfaction that said land is developable for an equivalent number of affordable units in conformance with this chapter. Donated land need not be located in the same zoning district as the development and shall be subject to a deed restriction limiting its use to mixed-income or affordable housing. **[Amended 6-19-2017 by Ord. No. 144A]**
- C. In the R-6, RMD, RHD, RSD, CN, CC / CC2 or CG District, if the developer provides a greater number of affordable units on site than the minimum required to comply with § **300-106** above, the Planning Board may grant a special permit for "credit units" to reduce the number of affordable units that must be provided under this article in another development in a different location, whether in the same zoning district or a different zoning district. The developer may apply the credit units to a future project or transfer the credits in writing to another developer, provided that the credit units are used within 10 years from the effective date of the special permit.

§ 300-114 Preservation of affordability.

- A. Affordable units provided under this section shall be subject to an affordable housing restriction that contains limitations on use, occupancy, resale and rents, and provides for periodic monitoring to verify compliance with and enforce said restriction. The affordable housing restriction shall run with the land and be in force in perpetuity or for the maximum period allowed by law, and be enforceable under the provisions of MGL c. 184, § 26 or §§ 31 and 32.

- B. The applicant shall be responsible for preparing and complying with any documentation that may be required by DHCD to qualify affordable units for listing on the Chapter 40B Subsidized Housing Inventory as LIP units.
- C. For a development that provides on-site affordable units:
 - (1) No building permit shall be issued until the applicant executes an enforceable agreement with the City and provides evidence acceptable to the Planning Director that the agreement has been recorded at the Southern Essex District Registry of Deeds.
 - (2) For an affordable homeownership unit, no certificate of occupancy shall be issued until the applicant submits documentation acceptable to the Planning Director that an affordable housing deed rider has been signed by the homebuyer and recorded at the Southern Essex District Registry of Deeds.
- D. For a development that provides affordable units through a fee in lieu of units, no building permit shall be issued until the applicant pays at least 5% of the total required fee to the Beverly Affordable Housing Trust Fund. Additionally, no more than 50% of the certificates of occupancy shall be issued until the applicant pays at least 50% of the total required fee to the Beverly Affordable Housing Trust Fund. Ten percent of the total number of certificates of occupancy shall be withheld until the applicant submits evidence acceptable to the Planning Director that the remaining balance has been paid to the Affordable Housing Trust Fund. The Planning Board may modify the schedule for fee payment for projects covered by a single occupancy permit.
- E. For a development that provides affordable units through a land donation, no building permits shall be issued until the applicant submits evidence acceptable to the Planning Director that the land has been conveyed to the receiving organization identified in the Planning Board's special permit and an affordable housing restriction has been recorded at the Southern Essex District Registry of Deeds.

PROPOSED ZONING AMENDMENTS

CLEAN DRAFT

Enclosed are the changes proposed to the Beverly Zoning Ordinance in order to 1) eliminate the “Tall Building Overlay District”; (2) reduce the maximum allowable height of buildings in the Cabot Street area; and introduce new affordability requirements for residential development projects. Only sections with language to be changed are included herein. The proposed suite of changes occur in multiple sections of the Zoning Ordinance.

For context only, I have included the definition of height and height exceptions, below, according to the Beverly Zoning Ordinance. There are no changes proposed to Sections 300-5 or 300-14.

§ 300-5 Terms Defined.

HEIGHT

The vertical distance from the lower of:

[Amended 8-27-1996 by Ord. No. 169]

- A. The average grade of the footprint of the building; or
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Article III Zoning Districts

§ 300-6 Districts designated.

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- B. Specific use and dimensional regulations applicable to each of these districts are shown in Article VI and Article VII. General provisions applicable to all districts are included throughout this chapter.
- C. The CC2 subdistrict represents all parcels within the CC District fronting on Cabot Street and parcels within the CC District extending from Cabot Street, from the northern boundary of the CC District just north of Elliott Street to the intersection with Rantoul Street (at 38 Cabot Street).

Note: Anytime “CC” is used throughout the Zoning Ordinance, change to “CC / CC2”. Not all such changes have been presented herein.

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 - (2) The recommendations of the Design Review Board will be in order to help guide physical design and, where applicable, ensure that projects generally adhere to the tenets

and recommendations of the City's Downtown Design Guidelines (2003) and the General Guidelines of the Beverly Sign Ordinance, all as the same may hereafter be amended. **[Amended 7-17-2013 by Ord. No. 57]**

Article VII: District Regulations

§ 300-37 RHD Multifamily District.

D. Building and area requirements.

- (9) Maximum building height: 40 feet. **[Amended 10-9-1987]**

§ 300-40 CC / CC2 Central Business District.

[Amended 6-11-2007 by Ord. No. 35]

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- I. Activated ground floor development standards. The development of activated ground floor uses in the CC District shall be in accordance with the following standards, as well as the Beverly Downtown Design Guidelines, as applicable: **[Added 7-31-2017 by Ord. No. 374A]**

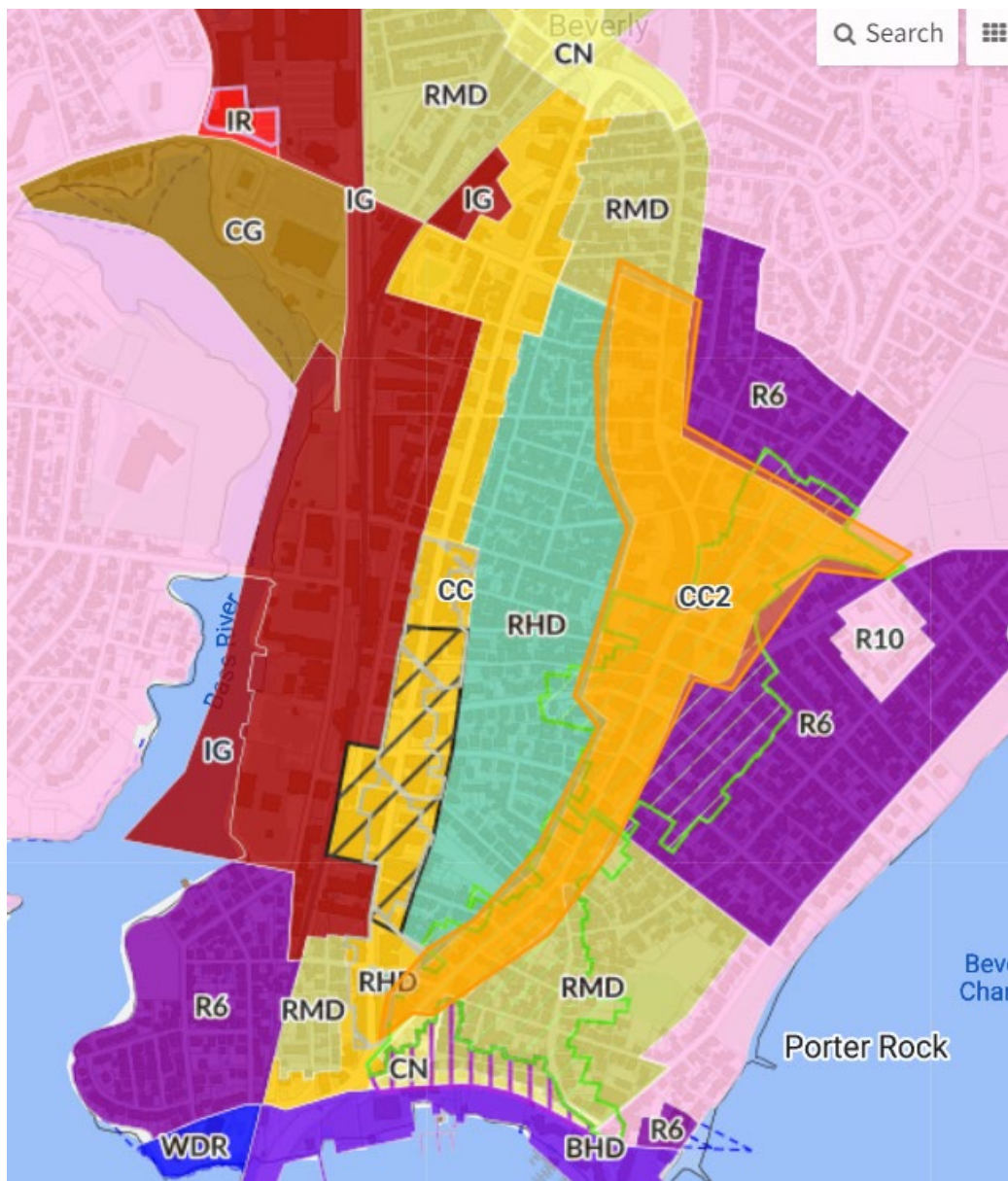
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primary street, allowing for vehicular and pedestrian circulation. Public open space at the sidewalk may be included in the 80% if a building is located behind it.

- (2) No more than 25% of the ground floor space in the building facing the primary street can support any combination of residential lobby and residential circulation, private open space, and/or hotel/motel uses, in the Core Pedestrian Area.
- (3) Uses on the ground floor shall have no less than 25 feet of building depth (or the full depth of the building, whichever is less).
- (4) The floor-to-floor height of ground floors shall be no less than 12 feet in all mixed-use buildings in the CC / CC2 District, regardless of residential use on the ground floor. Floor-to-floor heights may be adapted to accommodate grade changes along the street as necessary.
- (5) In the Core Pedestrian Area, the glazing/transparency (windows) of the facade shall extend for 70% of the facade width, between two feet and 10 feet from the sidewalk grade. Dark tinting and completely covered windows should be avoided.
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- (7) On buildings with a zero foot front setback, doorways shall be recessed, at a minimum distance equal to the swing of the door, to add visual character to the street and prevent doors from opening onto the sidewalk. Doorways on buildings with greater front setback may also consider a recessed doorway.

Zoning Map Change

This is a rough estimate of the proposed map change to create subdistrict CC2; the boundary lines are illustrative and will align with the parcels currently in the CC District. Revised map will be presented prior to the public hearing.



Article XV: **Affordable Housing**

§ 300-103 **Applicability.**

[Amended 7-9-2009 by Ord. No. 72; 6-19-2017 by Ord. No. 144A]

- A. This article applies to any development that results in or contains four (4) or more residential dwelling units. The types of development subject to the provisions of this article include, without limitation, the following:
- (1) A division of land resulting in the creation of four (4) or more residential lots. Developments shall not be segmented to avoid compliance with this section. "Segmentation" shall mean divisions of land that would cumulatively result in an increase of four (4) or more residential lots above the number existing on a parcel of land or contiguous parcels in common ownership or control 24 months prior to the application. Where such segmentation occurs, it shall be subject to Article XV. A subdivision or division of land shall mean any subdivision as defined in the Subdivision Control Law, MGL c. 41, §§ 81K to 81GG, or any division of land under MGL c. 41, § 81P, when such division of land results in lots for residential use.
 - (2) New residential construction or new mixed-use construction that includes four (4) or more dwelling units.
 - (3) A development of four (4) or more new dwelling units that involves the redevelopment, reconstruction or rehabilitation of an existing multifamily building or structure, if such development results in an increase of four (4) or more units in the number of dwelling units in the original structure.
 - (4) A development that will change the use of an existing building from nonresidential to residential use.
- B. This article does not apply to nursing homes, projects meeting the definition of subsidized elderly housing or congregate elderly housing, nor to the rehabilitation of any building or structure wholly or substantially destroyed or damaged by fire or other casualty; provided, however, that no rehabilitation or repair shall increase the number of dwelling units on the lot as existed prior to the damage or destruction thereof, except in conformance with this article.
- C. Any other development with dwelling units to which this article does not otherwise apply may elect to be subject to this article, provided the development meets all applicable requirements herein. Special permits authorized under this article for developments with four (4) or more dwelling units may also be granted to any other development with dwelling units, in the discretion of the Planning Board.

§ 300-104 **Housing affordability.**

[Amended 6-19-2017 by Ord. No. 144A]

- A. Except as provided below, each affordable unit created under this article shall be sold or rented by using one of the following affordability scenarios:
- (1) No less than 12% of dwelling units shall be affordable to a household with income at or below 60% of the area median income that applies to subsidized housing in the City of Beverly, as reported annually by the U.S. Department of Housing and Urban Development (HUD), adjusted for household size.

- (2) Reserved.
- (3) Reserved.
- B. In the instance of a fraction, a fraction of a lot or dwelling unit shall be rounded up to the nearest whole number. Nothing in this section shall preclude a developer from providing more affordable housing units than required hereunder.
- C. Development projects creating or containing four to nine dwelling units as established in § **300-103** shall provide one affordable unit sold or rented to a household with income at or below 60% of the area median income that applies to subsidized housing in the City of Beverly, as reported annually by HUD, adjusted for household size.

§ 300-108 Methods of providing affordable units.

- A. Construction of affordable units on the locus of the development ("on-site units") shall be permitted as of right in any development and is the preferred method of providing affordable units under this article.
- B. The Planning Board may grant a special permit for one or more of the following alternative methods, including any combination thereof. In granting a special permit hereunder, the Planning Board may impose any conditions it deems necessary to assure compliance with this article:
 - (1) Reserved.
 - (2) Payment of a fee in lieu of affordable units to the City of Beverly Affordable Housing Trust Fund. This provision shall apply only to developments of homeownership units. The fee per affordable unit shall be determined by Planning Board regulations in accordance with § **300-105** above.
 - (3) Donation of developable land in the City of Beverly to the Beverly Housing Authority, the Beverly Affordable Housing Coalition, Inc. or a comparable entity determined at the discretion of the Planning Board, provided the receiving organization agrees in writing to accept the land and the applicant demonstrates to the Planning Board's satisfaction that said land is developable for an equivalent number of affordable units in conformance with this chapter. Donated land need not be located in the same zoning district as the development and shall be subject to a deed restriction limiting its use to mixed-income or affordable housing. **[Amended 6-19-2017 by Ord. No. 144A]**
- C. In the R-6, RMD, RHD, RSD, CN, CC / CC2 or CG District, if the developer provides a greater number of affordable units on site than the minimum required to comply with § **300-106** above, the Planning Board may grant a special permit for "credit units" to reduce the number of affordable units that must be provided under this article in another development in a different location, whether in the same zoning district or a different zoning district. The developer may apply the credit units to a future project or transfer the credits in writing to another developer, provided that the credit units are used within 10 years from the effective date of the special permit.

§ 300-114 Preservation of affordability.

- A. Affordable units provided under this section shall be subject to an affordable housing restriction that contains limitations on use, occupancy, resale and rents, and provides for periodic monitoring to verify compliance with and enforce said restriction. The affordable housing restriction shall run with the land and be in force in perpetuity or for

the maximum period allowed by law, and be enforceable under the provisions of MGL c. 184, § 26 or §§ 31 and 32.

- B. The applicant shall be responsible for preparing and complying with any documentation that may be required by DHCD to qualify affordable units for listing on the Chapter 40B Subsidized Housing Inventory as LIP units.
- C. For a development that provides on-site affordable units:
 - (1) No building permit shall be issued until the applicant executes an enforceable agreement with the City and provides evidence acceptable to the Planning Director that the agreement has been recorded at the Southern Essex District Registry of Deeds.
 - (2) For an affordable homeownership unit, no certificate of occupancy shall be issued until the applicant submits documentation acceptable to the Planning Director that an affordable housing deed rider has been signed by the homebuyer and recorded at the Southern Essex District Registry of Deeds.
- D. For a development that provides affordable units through a fee in lieu of units, no building permit shall be issued until the applicant pays at least 5% of the total required fee to the Beverly Affordable Housing Trust Fund. Additionally, no more than 50% of the certificates of occupancy shall be issued until the applicant pays at least 50% of the total required fee to the Beverly Affordable Housing Trust Fund. Ten percent of the total number of certificates of occupancy shall be withheld until the applicant submits evidence acceptable to the Planning Director that the remaining balance has been paid to the Affordable Housing Trust Fund. The Planning Board may modify the schedule for fee payment for projects covered by a single occupancy permit.
- E. For a development that provides affordable units through a land donation, no building permits shall be issued until the applicant submits evidence acceptable to the Planning Director that the land has been conveyed to the receiving organization identified in the Planning Board's special permit and an affordable housing restriction has been recorded at the Southern Essex District Registry of Deeds.