

Discussion document for the proposed Beach Commercial Zoning District  
Hampton Planning Board Public Input Session 12/05/07

**Create a new Zoning District “Beach Commercial” (BC)**

**Purpose.**

The Beach Commercial (BC) district is intended to spur redevelopment of under-utilized residential and commercial property, to establish setback guidelines for new development, to create new definitions for the district, to unlock the potential of creative development and architecture, to enhance the value of land and buildings, to provide a foundation for long-term private reinvestment and create incentives for new development and new mixed-use development while preserving the character of this historically lively oceanfront area of Hampton.

**Boundaries.**

The boundary of the Beach Commercial (BC) district is shown on the Hampton Zoning Map, which written description is hereby incorporated in and made part of this section.

(Insert the map and lot numbers of the properties that are to be within the BC district. Insert the map and lot numbers of the properties, which have frontage on the westerly side of Ashworth Avenue that are to be included in the BC district.)

**Protection of Existing Zoning.**

The Beach Commercial (BC) district shall be within the boundaries shown on the Town of Hampton Zoning Map. Where the Beach Commercial district provisions are silent on a zoning rule or regulation, the zoning requirements of the Town of Hampton Zoning Ordinance shall apply.

The zoning requirements for the BS, G, RA, RB and RCS districts shall remain an integral part of the Hampton Zoning Ordinance and shall be neither modified, repealed nor amended by this Article.

**Definitions.**

Existing definitions set forth in the Hampton Zoning Ordinance shall apply to all developments within the Beach Commercial district, except that the following additional definitions shall apply to such district:

**Building Height:** Maximum 65 feet. This height shall be determined by the vertical distance measured from grade plane (as defined in the International Building Code) to the average height of the highest roof surface. The average height of sloped roofs is the mid-height between the roof eave and the roof ridge regardless of the shape of the roof. (see Height. Building. Chapter 5 Section 502 of the International Building Code)

- a. Unoccupied architectural appurtenances (i.e. turrets, cupolas, bell towers, etc.) and structural screening (i.e. facades, parapets, low wall extensions and railings used to screen mechanical equipment, roof top units, elevator over rides, exhaust hoods, etc.) shall be excluded.

**Habitable Space:** An area of any structure that is legally accessible and intended for human occupancy for residential or commercial uses. Mechanical rooms, parking areas, storage areas,

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closets, bathrooms, toilet rooms and other passive accommodations shall not constitute habitable space.

**Mixed-Use Development:** A development that contains a combination of residential use and one or more permitted principal commercial uses, which are retail and/or professional in nature. A combination of commercial parking facilities and residential uses shall not constitute a mixed use.

**Parking Space:** An on-site, or off-site parking space having an area of not less than 162 square feet, with minimum dimensions of nine (9) feet wide by eighteen (18) feet long measured at right angles, plus access and maneuvering space, whether inside or outside a structure, exclusive of driveways, for the exclusive and permanent use as a parking space for one motorized vehicle, and further being surfaced with durable pavement and connected with a street, right of way or immediately by a surfaced driveway which affords satisfactory ingress and egress.

\*Stacked parking means a parking situation where more than one space exists in a line of spaces and only one space in the line has unobstructed access at all times into or out of the adjacent street or right-of-way. Stacked parking shall constitute one parking space.

**Recordable Deed:** A provision, acceptable in form and substance to the Town Attorney, and the Planning Board, in a deed of real property that runs with the land in perpetuity or for the longest period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. The deed shall limit the redevelopment of the property for any other purpose or use other than the proposed purpose or use, and shall bind all subsequent purchasers in perpetuity.

**Recreational Facility:** Any development (excluding one, two and multi-family developments) that contains one (1) or more residential units shall provide a minimum of 400 square feet of recreational facilities per residential unit. The facility shall include a recreation/conference room, in addition to the minimum requirement. Recreation facilities shall be defined as active or passive recreation.

**Recreation - Active:** Recreational uses, areas, and activities oriented toward potential competition and involving special equipment. Playgrounds, sports fields and courts, swimming pools, picnic areas, biking trails and golf courses are examples of active recreation uses.

**Recreation - Passive:** Recreational uses, areas or activities oriented to noncompetitive activities, which either require no special equipment or are natural areas. Bicycle riding, hiking and bird watching are examples of passive recreation activities.

**Residential/Commercial Parking Development:** A development that contains a combination of either residential units or commercial units on the upper floors of a structured parking facility (i.e. multi leveled parking garage). The maximum number of residential/commercial floors allowed shall be two. Two parking spaces shall be required for each residential unit and shall be provided on-site. In addition, for every (5) five residential dwelling units, (1) one guest parking space shall be required and provided on site. If less than (5) five residential dwelling units are proposed, (1) one-guest parking spaces shall be required

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and provided on-site. All required residential and guest parking shall be recorded by deed in perpetuity

**Resort Hotel:** An building within which a commercial establishment provides lodging as overnight sleeping accommodations for and open to the public on a transient basis with no unit therein occupied by the same tenant or group of tenants in excess of six months within any twelve-month period. Hotel rooms shall be fully furnished and room keys and mail services shall be continually offered from a desk in the main lobby. Centralized telephone and messaging service shall be continually offered to each room or suite of rooms available for lodging. Daily linen service and other customary hotel services shall be offered to individuals lodged therein.

1. The Resort Hotel shall include a lobby and 24-hour reception desk, supervised by a person in charge at all hours, a full-service dining room to provide meals for registered guests, and non-registered guests, 16-hour room service, conference room(s), and a full range of guest amenities and recreational facilities including, at minimum, a swimming pool.

**Setback:** Setback is the horizontal distance measured perpendicularly from the property line to the nearest structure.

**Yard:** An open space unobstructed from the ground up, on the same lot with a principal building, extending along a lot line and inward to the principal building. The size of a required yard shall be measured as the shortest distance between the nearest structure and the property line.

**Front Yard:** A yard extending for the full width of the lot between the front line of the nearest structure or structure part and the front property line.

**Side Yard:** A yard unoccupied, except by an accessory structure or accessory use as herein permitted, between the nearest structure and a side property line extending from the front yard to the rear yard. In the case of a lot having no street frontage or a lot of odd shape, any yard that is not a front yard or a rear yard shall be considered a side yard.

**Rear Yard:** A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the nearest structure and the rear property line.

**Valet parking:** A service of parking cars performed by the employee(s) of an establishment to provide parking at an off-site location to visiting guests.

**Permitted uses.**

Uses permitted in the Beach Commercial district shall include all uses permitted in the former Business Seasonal district, except those specified in herein. In addition to those uses allowed in the Town of Hampton, the following uses shall be permitted uses in the Beach Commercial district:

- A. Mixed-use development.
- B. Residential/Commercial parking development.
- C. Fish and shellfish, wholesale and retail sale.

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- D. Resort hotels.
- E. Roller-skating and ice-skating rinks.

**Prohibited uses.**

Any use not specifically enumerated or defined in the Town of Hampton's Zoning Ordinance is prohibited.

In addition to those uses prohibited in the Town of Hampton, the following uses shall be prohibited in the Beach Commercial district:

- A. Drive-through retail establishment. Any commercial and or retail use, which utilizes a vehicular drive-up window.
- B. Casino. Any facility or establishment where any gambling or gaming occurs, with the exception of Penny arcade-type establishments which tender coupons or tokens for on-site redemption for non-cash prizes or novelties. Gambling and gaming include, without limitation, any other game of chance or skill, or both, played with cards, with dice or with any mechanical, electromechanical or electronic device or machine for currency, check, credit, or any other thing of value, including, without limitation, roulette, 21, blackjack, craps, poker, slot machines, and any other electronic gaming devices and any other games classified as Class II or Class III gaming under the Indian Gaming Regulatory Act, U.S.C. §2701 et seq., but excluding the game of bingo conducted pursuant to RSA 287.E, any lottery game conducted by the State Lottery Commission in accordance with RSA 287.F, and games played with cards in private homes or residences in which no person makes money for operating the game, except as a player.
- C. Automobile garage, repair, sales, and service.
- D. Moped rental, sales, repair and service.
- E. Filling Stations as defined in Section 3.26.
- F. Car wash.
- G. Tattoo parlor.
- H. Chemical warehouse.
- I. Motorcycle repair, sales and service
- J. Warehouses.
- K. Storage and/ or sales yard for coal, cordwood, building materials and landscape materials.
- L. Rooming Houses.

**Dimensional regulations.**

- A. Maximum height allowed: 65 feet with the exception that unoccupied architectural appurtenances to which there is no permanent access (cupolas, spires, chimneys,

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flagpoles, air conditioning units, etc.) and comprising not more than 25% of the structure's footprint in plan view shall be excluded.

- B. Minimum lot area (sq. feet): 5,000
- C. Minimum lot area per dwelling unit (sq. feet): 1,000
- D. Minimum frontage (sq. feet): 50
- E. Minimum lot width (sq. feet): 50
- F. Minimum habitable space per dwelling unit (sq. feet): 400
- G. Maximum amount of sealed surface per lot, including but not limited to driveways, parking lots, and structure envelope: 85%
- H. Off-street parking requirements. Two on-site parking spaces are required per dwelling unit except where the property is used for mixed-use development, then the parking requirements of Section I (3) shall apply.
- I. Mixed-use development. To encourage mixed-use development, or the potential for future conversion to mixed use, the following requirements apply.
  - 1. Lots used for mixed-use development and having frontage of 100 feet or less shall contain a minimum of 65% gross floor area of commercial use (other than parking) on the ground and or the first occupied floor.
  - 2. Lots used for mixed-use development and having frontage of more than 100 feet shall contain a minimum of 55% gross floor area of commercial use (other than parking) on the ground and or the first occupied floor.
  - 3. Mixed-use development shall have a reduced minimum off-street parking requirement of (1) one on-site parking space per dwelling unit. No off-site parking shall be allowed for the residential use portion of the development. In addition, for every (5) five residential dwelling units, (1) one guest parking space shall be required on site. A recorded deed for the off site property location shall be acquired by the developer for all non-residential off-site parking as defined in subsection a. The recordable deed shall be submitted to the Planning Board; approved and accepted; before approval of the project is granted.
    - a. Mixed-use development off-site parking deed. A provision, acceptable in form and substance to the Town Attorney, and the Planning Board, in a deed of real property that runs with the land in perpetuity or for the longest period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. The deed shall limit the redevelopment of the property for any other purpose or use other than the off-site parking for the mixed use development's non-residential parking requirement, and shall bind all subsequent purchasers in perpetuity. The deed shall run with the land and the approval of the project in perpetuity. The project approval shall be voided if any matter or form dissolves the deed.
- J. Hotel and motel uses. Hotel or motel developments shall provide parking as defined in subsection J.1. If said off site parking is greater than 600 feet away, when measured

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from the nearest lot line of the development, then valet parking shall be provided by the development. A recorded deed for the off site property location shall be acquired by the developer for all off-site parking as defined in subsection J.2. The recordable deed shall be submitted to the Planning Board; approved and accepted; before approval of the project is granted.

1. Hotel and motel uses. Hotel or motel developments shall provide one parking space for the first 330 square feet of sleeping room space. One additional space shall be provided for hotel sleeping rooms greater than 330 square feet. One additional parking space must be provided by hotels/motels for each sixteen (16) units as guest parking.
2. Hotel and motel off-site parking deed. A provision, acceptable in form and substance to the Town Attorney, and the Planning Board, in a deed of real property that runs with the land in perpetuity or for the longest period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. The deed shall limit the redevelopment of the property for any other purpose or use other than the off-site parking for the Hotel or Motel use, and shall bind all subsequent purchasers in perpetuity. The deed shall run with the land and the approval of the project in perpetuity. The project approval shall be voided if any matter or form dissolves the deed.

K. Setbacks:

1. Front setback. 4 feet minimum setback. If frontage is located on Ashworth Avenue or Ocean Boulevard, the maximum allowed front setback shall be 20 feet.
  - a. Balconies, decks, porches, and other similar elements shall be considered part of the structural front setback requirement and the setback shall be measured from the vertical plane of the most projected surface, but a cantilevered section, an entrance way or permanently installed canopy is excluded.
2. Corner lots. If the lot is a corner lot, then the address of the lot shall be considered the front yard setback, any other frontage(s) shall be considered a side setback.
3. Side setback: 4 feet. Zero (0) feet side setback for interior lots that front on Ocean Boulevard and Ashworth Avenue.
  - a. Cantilevered sections, overhangs, balconies, decks, porches, and other similar elements shall be considered part of the structural setback requirement for side setback and the setback shall be measured from the vertical plane of the most projected surface.
4. Rear setback: 7 feet.
5. Any yard that is not a front yard or a rear yard shall be considered a side yard.

- L. Article VIII- Multi-Family Dwelling. Article VIII Multi-family Dwellings shall not apply to the Beach Commercial District.

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- M. Business/Commercial structures or uses shall not display or advertise goods for sale purposes or display coin-operated vending machines of any type in any location which would infringe upon the required yard areas or public areas specified in this ordinance.
- N. Lighting standards shall mirror the Ashworth Avenue infrastructure improvements.
- O. Structures are prohibited from casting shadows on the sand on the easterly side of Ocean Boulevard prior to 6 pm from May 15<sup>th</sup> through September 15<sup>th</sup>. Unoccupied architectural appurtenances (i.e. turrets, cupolas, bell towers, etc.) and structural screening (i.e. facades, parapets, low wall extensions and railings used to screen mechanical equipment, roof top units, elevator over rides, exhaust hoods, etc.) shall be included in the calculation, when determining the shadow effect of the structure.

**Severability.**

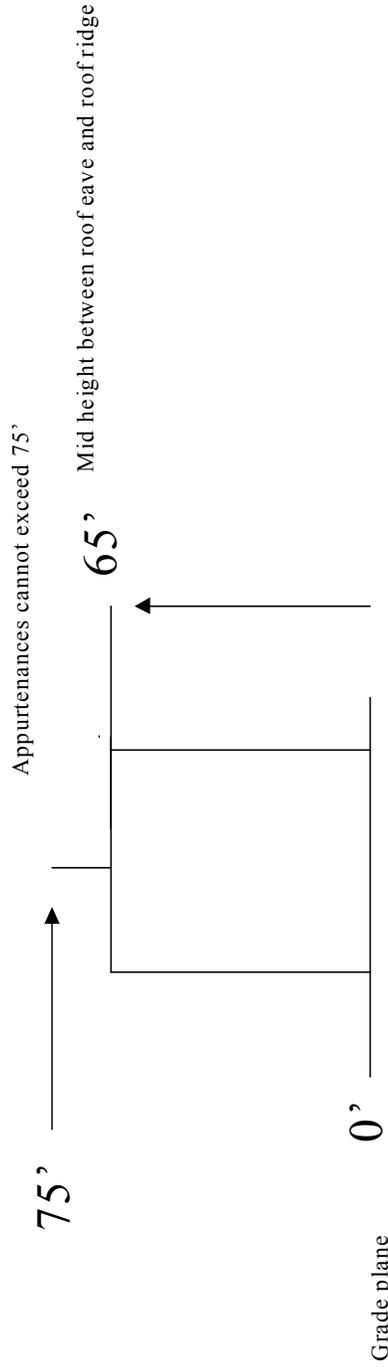
In the event that one or more of the provisions of this Ordinance are found or determined to be illegal or unenforceable by the New Hampshire Attorney General, the New Hampshire Appeals Court or the New Hampshire Supreme Judicial Court, then the illegality or unenforceability of any such provision shall not affect the validity of any other provision of this Ordinance which provisions will remain in full force and effect.

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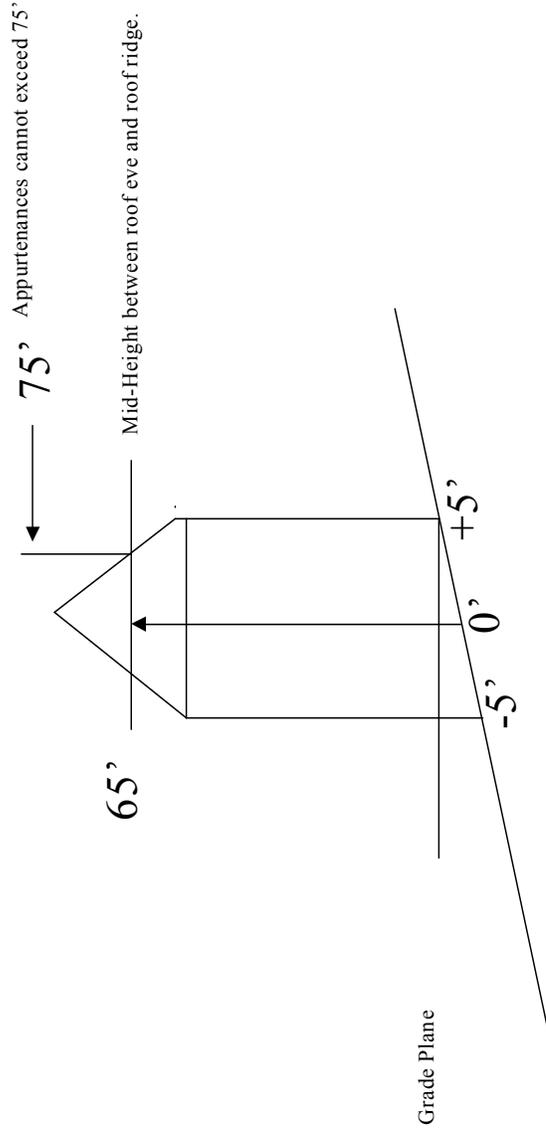
# Building Height Diagram



Flat Roof Illustration

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# Building Height Diagram



Pitched Roof Illustration

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