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CAPE COD
COMMISSION

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

Date: June 10, 2010
To: Town of Barnstable
From: Cape Cod Commission
RE: Craigville Beach District of Critical Planning Concern

DECISION OF THE CAPE COD COMMISSION

BOUNDARY

The October 1, 2009 “Decision of the Cape Cod Commission Acceptance of District of Critical Planning Concern (DCPC) Nomination” (hereinafter the “Nomination Acceptance Decision”) identifies the boundaries of the district. The DCPC boundary encompasses approximately 445.2 acres, of which 65.6 is open water. The district is bounded on the south by Nantucket Sound; on the east by the eastern boundary of Covell’s Beach property, Craigville Beach Road, Marie Avenue and Old Craigville Road and Red Lily Pond Road; the northern boundary is delineated by boundaries of parcels that have frontage on the Centerville River and/or are of an elevation that provide landward views from Nantucket Sound and Craigville Beach, properties south of Horseshoe Lane, properties south and west of Craigville Beach Road and most properties south of South Main Street to the Centerville River Bridge; and to the west by Bumps River. The western boundary on Long Beach extends to and includes parcel 185-040. The boundaries are shown on the map attached to this decision as Exhibit A and incorporated herein by reference.

FINDINGS

1. On October 1, 2009, the nomination by the Town of Barnstable of the Craigville Beach District of Critical Planning Concern was accepted by the Cape Cod Commission (“Commission”).
2. On October 15, 2009, the Commission proposed the designation of the Craigville Beach DCPC to the Assembly of Delegates.
3. On November 6, 2009, after approval by the Assembly of Delegates and the Barnstable County Commissioners, Barnstable County Ordinance 09-12 (“Ordinance”), establishing the Craigville Beach DCPC, was recorded at the Barnstable County Registry of Deeds.

4. The Town of Barnstable's twelve-month deadline to adopt and incorporate implementing regulations for the DCPC expires on November 5, 2010.
5. On April 1, 2010, the Barnstable Town Council voted to forward proposed implementing regulations for the district to the Commission for review and approval and subsequent return to the Barnstable Town Council for approval. The Commission received the proposed implementing regulations for review on April 16, 2010. The implementing regulations forwarded by the Town of Barnstable are appended to this decision as Exhibit B and are incorporated herein by reference.
6. The proposed implementing regulations were considered by Barnstable's Town Council, Board of Health, Planning Board and Conservation Commission, and were submitted to the Governor's Committee.
7. The Commission finds that Section 11(d) of the Cape Cod Commission Act requires the Commission to determine whether the proposed implementing regulations conform to the Commission's guidelines. Section 6.4 of Barnstable County Ordinance 09-12 provides these Guidelines as follows:
 - 6.4.1 Implementing regulations should be developed to protect community character, moderate the scale of structures and preserve viewsheds.
 - 6.4.2 Implementing regulations should be developed to guide site development to protect natural resources and historic landscapes and settings.
 - 6.4.3 Implementing regulations should be developed to allow the Town to support the locally owned small scale economy of the village center and preserve character defining uses in the beach area.
 - 6.4.4 The Town should consider and determine if the implementing regulations are necessary to protect community character and viewsheds in the event of land division.
 - 6.4.5 The Town should consider and determine if implementing regulations are necessary to protect natural resources and the barrier beach.
 - 6.4.6 The Town should consider and determine if implementing regulations are necessary for wastewater management near sensitive coastal waters. Consistent with the Wastewater Facilities Plan, implementing regulations should comply with sewer neutral policy.
8. The Commission finds several scrivener's errors in the Implementing Regulations as follows:
 - a. Section 240-131.1 A of the proposed Implementing Regulations incorrectly cites County Ordinance 08-06, rather than Ordinance 09-12;
 - b. Section 240-131.4, District Use Regulations, does not give a letter designation to the final section regarding Voluntary Demolition and Reconstruction of Single Family Residences. This paragraph should be designated subsection G and the first sentence should reference Section 240-131.4F (not G);
 - c. Section 240-131.7 D(1) of the proposed Implementing Regulations incorrectly cites to Sections 240-131.4 (E) and (F), rather than Sections 240-131.4 (D) and (E);
 - d. Section 240-131.7 E(2) incorrectly cites to 240-131-7 C, rather than 240-131.7 D;
 - e. Section 240-131.7 H(2) incorrectly cites to 240-131.7 C, rather than 240-131.7 D; and

- f. Section 240-131.7 H(3)(b) incorrectly cites to Section 240-131 (G)(1)(e), rather than Section 240-131.4 (F)(1)(e).
9. The Commission finds that to address the guidelines, the proposed Implementing Regulations for the Craigville Beach DCPC define four distinct neighborhoods within the DCPC and establish dimensional regulations and performance standards for these neighborhoods that reflect their existing distinctive characteristics. The Implementing Regulations also establish limits on building footprint and lot coverage based on the lot size of a property to both limit the scale of development and to protect natural resources within the DCPC.
 10. **Building Height:** The definition of building height (Section 240-131.3) has been changed to one that is more easily regulated, measuring from the grade plane to the highest point of the roof. The dimensional table (Section 240-131.5) allows a maximum building height of 30 feet in three of the neighborhoods – Craigville Village, Long Beach/Short Beach, Centerville River North Bank – and 26 feet in the Craigville Beach neighborhood, reflecting the height of existing buildings in these neighborhoods. These building heights are lower than currently allowed under existing zoning, which allows 30 feet measured to the plate height, not to the highest point of the roof. In addition, note #1 of the dimensional table requires a lower building height for roofs with less than 7/12 slope, and prohibits flat roofs except on one-story additions under 300 square feet per parcel.
 11. **Incentives to Elevate Existing Buildings:** Elevating existing buildings in the flood zone is addressed in note #2 of the dimensional table, allowing buildings that existed as of November 6, 2009 to be elevated 2 feet above base flood elevation (BFE), provided the building complied with building height regulations at the time of its construction. This ensures that existing buildings can be raised to address sea level rise and flood elevation regardless of whether they would exceed the new maximum building height regulations.
 12. **Protecting View Corridors:** View corridors in the Long Beach/Short Beach Neighborhood are addressed in note #4 of the dimensional table, requiring 20 feet of either side setback or, if less exists as of November 6, 2009, the greater of the existing setbacks be preserved as a view corridor for the entire depth of the property. There is not currently any provision in the town regulations for maintaining or providing view corridors to the water.
 13. **Building and Lot Coverage Limits:** Coverage Limitations are spelled out in Section 240-131.6. Under the proposed Implementing Regulations, maximum building footprint allowed is determined based on the lot size, and is calculated by combining a base amount assigned to each range of lot sizes and an additional percentage for lots at the higher end of the range. On the tiny lots of Craigville Village, the proposed regulations would allow buildings to cover between 15% and 40% of the lot, reflecting existing conditions. On larger lots and in the remaining neighborhoods, buildings could cover between 7% and 15% of the lot, depending on the lot size. The town of Barnstable currently has no building footprint limitations. The purpose of building coverage restrictions is to maintain the existing character and density of neighborhoods, and to protect them from out-of-scale development.

Maximum lot coverage is addressed similarly, based on the lot size. Tiny lots are allowed up to 50% coverage, reflecting existing conditions, while lots approximately 1/4 acre in size are limited to 3,300 square feet, and lots exceeding 3/4 acre in size are limited to 3,600 square feet or 10% lot coverage, whichever is greater. The town currently only has lot coverage limitations in groundwater protection districts where a maximum of 15% lot coverage is

allowed. The purpose of lot coverage limitations is to limit density and development impacts on natural resources in sensitive areas.

14. Use Regulations: Section 240-131.4 establishes permitted uses, specifically limiting conversion of non-single family homes from seasonal to year-round use. It also prohibits formula businesses in the limited commercial area adjacent to Craigville Beach.
15. Section 240-131.4 subsection D addresses expansion of existing buildings, allowing by-right expansion only if it complies with the regulations in the dimensional table and coverage limitations discussed above to ensure that additions and alterations maintain the existing scale of development in the neighborhood. A special permit provision allows the Special Permit Granting Authority to permit additional floor area in limited situations, as long as they do not exceed 25% of the gross floor area of the building as of July 1, 1989 (the passing of the Cape Cod Commission Act), or 10% of the gross floor area as of November 6, 2009 (the date of the DCPC Ordinance). With this provision, some large properties that already exceed the proposed building footprint and coverage limits will be allowed to construct a modest addition through the special permit process.
16. Section 240-131.4 subsection F (together with the final paragraph which should be numbered subsection G) establishes that damaged, destroyed or demolished buildings can be rebuilt in their same configuration and size. This is consistent with the town's existing zoning provisions. It also helps to ensure that any reconstruction of demolished or destroyed buildings will maintain the existing character and scale of the neighborhood.
17. Performance Standards: The proposed Implementing Regulations set out performance standards for all properties within the DCPC and for each specific neighborhood. They include design guidelines focused on preserving historic building features, design guidelines to limit the scale of beach clubs, and performance standards for vista pruning and development in V-zones.
18. The Commission finds that the implementing regulations are generally consistent with the purpose of the Barnstable County Ordinance 09-12 to protect and improve water quality. The Ordinance's goals and interests include improvement of the quality of surface waters and groundwater in their watersheds. Contributing areas to the Centerville River, a nitrogen-sensitive estuary, encompasses most of the district. The Commission's October 15, 2009 Proposed DCPC Designation Decision notes that "*An increase in the capacity of existing Title 5 systems, which do not remove nitrogen, would further impact sensitive water resources.*" Guideline 6.4.6 of the Ordinance recommends that "*The Town should consider and determine if implementing regulations are necessary for wastewater management near sensitive coastal waters. Consistent with the Wastewater Facilities Plan, implementing regulations should comply with sewer-neutral policy.*" The proposed implementing regulations do not impose direct wastewater limits within the district. The Town's Wastewater Facilities Plan states that "*growth neutral controls are planned to be in place before any sewers are implemented.*" Interim health regulations (§360-45), amended on February 10, 2009, provide temporary wastewater limits in the Centerville River watershed and are generally consistent with Title-5 regulations applicable to nitrogen-sensitive areas.
19. The Commission finds that §240-131.7 General Performance Standard D.4) of the proposed implementing regulations, which requires non-residential uses to employ low-impact stormwater designs, is generally consistent with Guideline 6.4.2 of the ordinance.

20. To address Guidelines 6.4.2 and 6.4.5, the purposes and intent of the implementing regulations relative to coastal resources include: protecting and improving the barrier beach and coastal water quality; lessening development and redevelopment impacts to the natural resources in the district; protecting human life and property from the hazards of periodic flooding; preserving the natural flood control characteristics and function of the floodplain; and preserving and maintaining the groundwater table and recharge areas within the floodplain.
21. The implementing regulations prohibit development in a V zone unless development is “located landward of the reach of the mean high tide.” It appears from the revised FEMA maps for the town that the V zone doesn’t extend beyond the upper limit of the beach and therefore wouldn’t affect the existing homes (applies to each of the neighborhoods with a V zone standard: Long Beach/Short Beach, Craigville Beach and Centerville River North Bank).
22. Neighborhood Performance Standard (c.) for the Long Beach / Short Beach, Craigville Beach, and Centerville River North Bank Neighborhoods requires that “Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2’ above the BFE in V zones and...A zones” whereby meeting the ordinance goal of managing “development and redevelopment to limit flood damage to structures...” and complying with Guideline 6.4.2 that states that “Implementing regulations should be developed to guide site development to protect natural resources...”
23. The Commission finds that the implementing regulations provided for Commission review by the Town of Barnstable for the Craigville Beach District conform to the Commission’s guidelines set forth in Barnstable County Ordinance 09-12. Specifically, the implementing regulations protect the character of the district and its historic structures (Guidelines 6.4.1 and 6.4.2) through revised building height and setback regulations, new building and lot coverage limitations, design guidelines and performance standards; support locally-owned small scale businesses (Guideline 6.4.3) through a prohibition on formula businesses; protect viewsheds to the Sound and to the Centerville River (Guidelines 6.4.1 and 6.4.4) through view corridor setback requirements and performance standards for vista pruning; and protect natural resources, the barrier beach, and wastewater management (Guidelines 6.4.2, 6.4.5 and 6.4.6) through building and lot coverage limitations and by allowing existing buildings to be elevated above the floodplain regardless of the resulting building height.
24. Notwithstanding this approval of the proposed implementing regulations as consistent with the guidelines set forth in Barnstable County Ordinance 09-12, the Commission further finds that the Town could strengthen the district by proposing additional regulations and actions including the following:
 - a. Board of Health regulation identifying the Craigville Beach District as a nitrogen-sensitive area and limiting wastewater flow based on the size of the parcel, similar to the town’s health regulation at Barnstable Code Section 360-45;
 - b. Board of Health regulation establishing that if sewer infrastructure is developed within the Craigville Beach District, no new flow shall be allowed for sewered properties beyond the flow allowed by Title 5 for each parcel (a “flow-neutral” regulation);
 - c. Limit maximum lot coverage to no more than an additional 10% above lot coverage as of November 6, 2009;

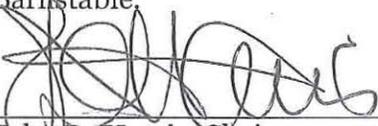
- d. Prohibit new development in the V zone and limit redevelopment of existing structures in the V zone to their existing footprint and impervious area;
- e. Measure building height from the natural grade, not the finished grade;
- f. Prioritize the Craigville Beach District for wastewater nutrient management planning and sewerage of Areas of Concern.
- g. Within the Craigville Beach District, identify septic systems that have not been upgraded since 1995, and regularly inspect leach fields in high groundwater areas;
- h. Institute a comprehensive storm water management capital plan for the Centerville river and contributing watersheds; and
- i. Require the use of drought- and pest-resistant plantings that minimize or eliminate reliance on fertilizers and pesticides.

Should the Town pursue additional implementing regulations, the Town Council should forward to the Cape Cod Commission the proposed additional implementing regulations in accordance with section 11(d) of Cape Cod Commission Act, prior to adoption and incorporation by the Town.

CONCLUSION

The Commission determines that the proposed implementing regulations submitted by the Town of Barnstable, which are appended to this decision as Exhibit B, do conform to the Commission's guidelines. The Commission shall so inform the Town that said regulations may be adopted and incorporated by the Town.

Based on the findings above, the Cape Cod Commission hereby approves the District of Critical Planning Concern implementing regulations for the Craigville Beach District in the Town of Barnstable.


John D. Harris, Chair

10 JUNE 20 10
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

June 10, 2010

Before me, the undersigned notary public, personally appeared John D. Harris, in his capacity as Chairman of the Cape Cod Commission, whose name is signed on the preceding document, and such person acknowledged to me that he signed such document voluntarily for its stated purpose. The identity of such person was proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, or personal knowledge of the undersigned.

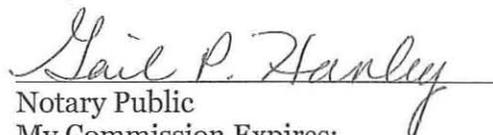
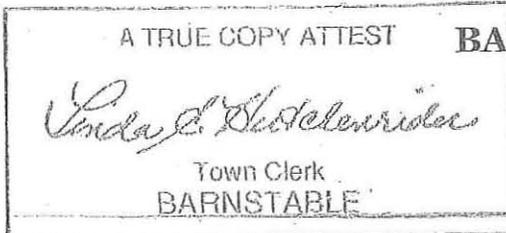

Notary Public
My Commission Expires:
10.13.11

EXHIBIT B

A. OLD BUSINESS (Public hearing continued) (Roll-call)



ITEM# 2010-062

INTRO: 12/03/09, 02/25/10, 03/04/10, 04/01/10

2010-062 DCPC IMPLEMENTING REGULATIONS – CRAIGVILLE BEACH DISTRICT

Upon a motion duly made and seconded it was

ORDERED:

The Town council votes to authorize the council administrator to forward to the Cape Cod Commission the proposed text contained in 2010-062, after consideration by the Barnstable Conservation and the Barnstable Board of Health. And, after review and approval by the Cape Cod Commission, to be returned to the Town Council for approval. The Town Council requests that the Cape Cod Commission provide guidance as to the quantum vote necessary for the Town Council to pass a zoning DCPC implementing regulation.

Preamble: This section is adopted as a zoning implementing regulation of the Craigville Beach portion of the Craigville Beach District of Critical Planning Concern (DCPC). Included in this order: **Section 1** amends the Zoning Map to create the Craigville Beach District; **Section 2** adopts the Craigville Beach District Implementing Regulations. **Section 3** incorporates the DCPC implementing regulations into the Town of Barnstable Zoning Ordinances upon approval by the Cape Cod Commission and **Section 4** adds the Centerville Beach District to the Town of Barnstable Ordinance Article II, § 240-5 Establishment of Districts, Residential Districts.

Section 1

Craigville Beach District Map

That the Zoning Map of the Town of Barnstable is hereby amended by rezoning portions of the RB, RC, RD and RD-1 zoning districts in Centerville and a small portion of western Hyannis to the Craigville Beach District as shown on a map on file with the Town Clerk entitled "Proposed Amendment to the Town Zoning Map Creating the Craigville Beach District" dated July 16, 2009 Index Sheets Hyannis Sheet 3 of 7 and Centerville Map 4 of 7 creating the Craigville Beach District".

Section 2

Craigville Beach District Implementing Regulations

That Chapter 240, The Zoning Ordinance is hereby amended by adding to Article XIV District of Critical Planning Concern Implementing Regulations a new § 240-131 adding Craigville Beach District Implementing Regulations as follows:

§240- 131 Authority

This section is adopted under the authority of the Home Rule Amendment, Article 89 of the Constitution of the Commonwealth, and the Cape Cod Commission Act, Chapter 716 of the Acts of 1989.

§240-131.1 Purposes and Intent

- A. The purpose and intent of this section is to guide development in the Craigville Beach District pursuant to the Guidelines of Barnstable County Ordinance 08-06 to ensure that development and redevelopment:
- (1.) Contributes to and respects the character and historic development patterns of the area; lessens inconsistent development and redevelopment impacts to the historic and community character resources in this area;
 - (2.) Protects and preserves scenic views and vistas and ways to the water;
 - (3.) Protects and improves natural resources including but not limited to the barrier beach and groundwater and coastal water quality; lessen development and redevelopment impacts to the natural resources and ecosystems in this district;
 - (4.) Protects human life and property from the hazards of periodic flooding,
 - (5.) Preserves the natural flood control characteristics and the flood control function of the flood plain,

- (6.) Preserves and maintains the ground water table and water recharge areas within the floodplain. As the entire complex of coastal wetland resources moves landward due to relative sea level rise, the Craigville Beach area's coastal floodplains immediately landward of salt marshes, coastal beaches, barrier beaches, coastal dunes, and coastal banks require special protection.

240-131.2 District Boundaries

A. The provisions of this ordinance shall apply within the Craigville Beach District (CBD), as shown on the Zoning Map of the Town of Barnstable as amended.

B. **Neighborhood Overlays.** For the purpose of this section the Craigville Beach District is divided into the following Neighborhood Overlay areas, as shown on the Zoning Map and identified as: .

LBSB: Long Beach/Short Beach
CB: Craigville Beach
CRNB: Centerville River North Bank
CV: Craigville Village

§ 240-131.3 Definitions

Accessory Use or Building-- A use or structure which is customarily incidental to and subordinate in area, extent, and purpose to that of the principal use or structure.

Base Flood Elevation (BFE) – The elevation shown on the Flood Insurance Rate Map (FIRM) that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

Beach Club -- A membership establishment legally in existence at the time of the adoption of this ordinance, not open to the general public, located in close proximity to a beach and providing recreational and social activities, including food service, to members.

Building Coverage - The percentage of a lot covered by principal and accessory buildings or structures. For the purposes of this section, this definition does not include uncovered swimming pools and tennis courts, and decks not exceeding 100 square feet or 10 feet in length.

Building Height —The vertical distance from the grade plane to the highest point of a gable, hip or gambrel roof and the highest point of the coping of a flat roof. These height limitations shall not apply to chimneys, flagpoles or other similar appurtenances as approved by the Building Commissioner.

Common Driveway – A form of access which is not a street but extends from a street and provides common vehicular access to more than one (1) lot. For the purposes of calculating Lot Coverage, the common driveway's Impervious Surfaces shall be equally allocated among the lots served and/or benefited by the common driveway in proportion to the sizes of the lots.

Conference Center – A non-profit religious and educational use legally in existence at the time of the adoption of this section comprised of guest houses and cottages, single family residences, recreational areas, lodging for guests, meeting spaces, and summer recreational opportunities.

Cottage Colony – A group of three or more detached dwellings, under one ownership, legally in existence at the time of the adoption of this section located on a single lot, which are customarily rented out to the transient public by day, week, month, or season and occupied on a seasonal basis only. Cottage colonies shall not be used year round. Cottage colony structures shall not exceed one and one-half stories and 800 s.f. GFA.

Elevated Structure - A structure elevated for the purpose of Barnstable Code, Section 240-34, Flood Area provisions whose lowest structural member is 1' above BFE in A zones and 2' above BFE in V zones.

FEMA – Federal Emergency Management Agency.

FEMA Flood Zones - Geographic areas susceptible to inundation by water that FEMA has mapped according to varying levels of flood risk, as defined and delineated on a community's Flood Insurance Rate Map as may be amended from time to time.

FIRM – Flood Insurance Rate Map.

Grade – The referenced plane of the average of all finished ground levels adjoining the building or structure for a distance of 6 feet from all exterior walls. Retaining walls for mounded septic systems mandated by the Board of Health are not included in the calculation of grade.

Gross Floor Area – The sum of all floor areas within a building or structure, measured from the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. It shall include all areas capable of being used for human occupancy, including all basement floor areas, mezzanine and attic space and enclosed porches.

Half Story – That space above the plate line but below the ridgeline in an area commonly called the “attic space”, provided that the gross floor area of the half story shall not exceed 66% of the gross floor area immediately below the half story.

Impervious Surface A surface which prevents the penetration of precipitation or other liquids into the ground, including roofs, concrete, asphalt, sidewalks, etc. Any area designed for vehicle use or vehicle parking covered with porous pavers, which may become impervious over time may, at the discretion of the Building Commissioner be considered impervious surface.

Lot Area – For the purpose of determining Maximum Building Coverage and Maximum Lot Coverage Allowances the lot area for legally created lots that are vacant or developed and/or improved as of November 6, 2009 shall be the horizontal area of the lot defined by metes and bounds. All of the lot area used for zoning compliance shall be land other than that under water nine (9) months or more in a normal year.

Lot Coverage - The percentage of a lot covered by Impervious Surfaces. For the purposes of this section, paved driveways and parking areas, principal and accessory structures, and other on-site amenities that render any portion of a lot impervious shall be included in the definition of lot coverage.

Non-Profit Educational Use – An educational use conducted by a not for profit corporation whose articles of incorporation permit it to engage educational activities and “educational purposes” as its principal permitted use within the meaning of Massachusetts General Laws, Chapter 40A, sec. 3, including but not limited to libraries and museums.

Open Foundation: A pile or column foundation designed for structures in flood zones that minimizes the foundation area subject to lateral flood loads. Open foundations are intended to prevent flotation, collapse, and lateral movement of a building during a flood-event.

Religious Institution – An institution engaged in “religious purposes” within the meaning of Massachusetts General Laws, Chapter 40A, Section 3.

Seasonal Use – A use carried on for only a part of the year. Typical seasonal uses are outdoor recreational activities such as swimming and boating both motorized and non-motorized; impermanent use of cottages, motels, hotels, letting of rooms in a residential structure and letting an entire residential structure.

Seasonal Use Structure – Any structure designed or used as temporary seasonal living quarters that is not used as a primary, permanent residence. Seasonal use structures may have heat and other amenities but do not deposit wastewater into wastewater treatment systems on a regular year round basis and do not withdraw water for consumption or other activities on a regular year round basis.

Single Family Residence - A detached residential building designed for and occupied by a single family.

Small-Scale Food Service – An establishment legally in existence at the time of the adoption of this section where food is served to customers by wait staff. Small-scale food service does not include restaurants designed to serve a large volume of customers. Small-scale food service is subject to formula business limitations as described herein. These uses are intended to increase pedestrian activity.

Special Permit Granting Authority (SPGA) - The Zoning Board of Appeals shall be the special permit granting authority within the Craigville Beach District.

Story - The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

Structure- Anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, sheds, swimming pools and towers, but shall exclude fences of 6 feet or less in height and flag poles.

Upland – All lands not defined herein as wetlands.

V (Velocity) Zone—The area extending from mean low water to the inland limit 100 year floodplain supporting waves greater than three (3) feet in height. V-zones are mapped on the FEMA FIRM.

Wetland – The land under the ocean or under any bay, lake, pond, river, stream, creek or estuary; any wet meadows, marshes, swamps, bogs, areas where high groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrata for a plant community for at least five months of the year, lowland subject to any tidal action or annual storm flooding or flowage, or any flat, beach, dune, or other shifting sand formation.

Section 240-131.4 Craigville Beach District Use Regulations

Municipal uses are exempt from these regulations.

Principal Permitted Uses. See 240-131.7 (Neighborhood Overlay Regulations) herein.

A. Use Limitations

(1.) Any use not expressly allowed herein is prohibited.

- (2.) The conversion of any building or structure from seasonal use to year round use is prohibited, except that Single Family Residences are not subject to this use limitation. The conversion of a building, or buildings, constituting a cottage colony, hotel, inn or rooming house, or of a facility required to be licensed as a recreational camp, overnight camp or cabin, or motel under S. 32A to I of Chapter 140 of the General Laws, to condominium-type ownership, shall be deemed to be a change in use from seasonal to year-round use, and is prohibited.
- (3.) Permitted business and retail uses shall not include a business which is required by contractual or other arrangement to maintain one or more of the following items: standardized ("Formula") array of services and/or merchandise, trademark, logo, service mark, symbol, décor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than fourteen (14) other businesses regardless of ownership or location. Drive-up windows and/or drive-through facilities are prohibited.

B. Exempt Uses

- (1.) Religious institutions, accessory day care centers, and Non-Profit Educational uses are permitted as exempt uses within the Craigville Beach District. These uses shall, however, be subject to and in conformance with the reasonable bulk, density, design and development regulations of the Craigville Beach District as set forth in Sections 240-131.1 Purposes and Intent, § 240-131.5 Dimensional, Bulk and Other Regulations, § 240-131.7 Neighborhood Overlay Regulations including General Performance Standards and applicable Neighborhood Performance Standards
- (2.) Where the exempt use does not comply with said regulations, the Zoning Board of Appeals shall, by modification permit, modify said regulations if compliance with the regulation substantially diminishes or detracts from the usefulness of a proposed development or impairs the character of the development so as to affect its intended use, provided however that the relief granted will not create a public safety hazard along adjacent roadways and will not adversely impact natural resources or create a nuisance or adverse impacts to other surrounding properties. A modification permit shall be subject to the same procedural requirements as a special permit except that approval of a modification permit shall require a simple majority of the members of the Board.

C. Continuation. Any lawfully established lot, structure or use existing at the time of the adoption of this section that does not conform to the provisions of the CBD shall be allowed to continue.

D. Change, Expansion or Alteration of Uses and Structures

Existing conforming or non-conforming uses and structures lawfully existing at the time of the adoption of this ordinance may continue subject to the following:

- (1) As of right
 - a) The normal and customary repair and maintenance of a building or structure and the conversion of existing floor area to habitable space is permitted as of right.
 - b) The alteration and expansion of a building or structure is permitted as of right provided that the alteration or expansion shall conform to following criteria:
 1. Conforms to applicable height requirements of § 240-131.5.
 2. Does not exceed the Coverage Limitations set forth in § 240-131.6
 3. Complies with applicable General and Neighborhood Performance Standards.
- (2) By Special Permit
 - (a) The alteration or expansion of an existing conforming or non-conforming lawfully established building or structure that does not qualify under the "as of right" provisions above shall be permitted only by a special permit from the SPGA. In granting such special permit, the SPGA shall find that the proposed alterations and/or expansions:
 - [1.] Are not substantially more detrimental to the environment, community and/or historic character of the neighborhood than the existing building or structure;
 - [2.] Comply with Section 240-131.1 Purposes and Intent and with the Performance Standards for the Neighborhood Overlay area in which the development is located, in accordance with Section 240-131.7 Neighborhood District Overlay Regulations with the exception of the dimensional requirements of Section 240-131.7 D (1);
 - [3.] Do not exceed 25% of the Gross Floor Area of structures in existence as of July 1, 1989 or 10% of the Gross Floor Area of structures in existence as of November 6, 2009.
 - [4.] Do not increase Lot Coverage over what is allowed under § 240-131.6 Coverage Limitations or by more than 10% over what was existing on November 6, 2009, whichever is greater.
 - [5.] Do not increase flood hazards in the neighborhood.
 - [6.] Maintain or enhance views to Nantucket Sound and/or the Centerville River where applicable in accordance with Section 240-131.5, note 4;

[7.] In V-zones does not increase south facing building surfaces so as to limit the adverse effect of increasing elevation or velocity of flood waters due to a change in flowage characteristics on the subject site, adjacent properties, or any public or private way.

E. Special Permit for Dimensional Relief

The SPGA may provide relief from minimum yard setbacks when such relief ensures that the proposed development:

- (1) Is consistent with § 240-131.I Purposes and Intent;
- (2) Is consistent with the Performance Standards for the neighborhood district where the development is located in accordance with Section 240-131.7 Neighborhood Overlay Regulations; and
- (3) The applicant demonstrates undue hardship without desired relief.

F. Re-establishment of damaged or destroyed use, building or structure.

- (1.) The re-establishment of a lawfully established conforming or non-conforming use and/or building or structure which has been destroyed or damaged by fire, acts of nature or other catastrophe shall be permitted as of right, provided that the Building Commissioner has determined that all the following conditions are met:
 - a. The reconstruction or repair will not materially increase the gross floor area or height of the building or structure beyond that which previously existed, nor materially increase the footprint of the structure; or materially change the grade other than grades required for installation or upgrade of onsite septic systems; except that buildings in the flood plain that existed prior to November 6, 2009 may be elevated 2 feet above BFE or as required by the applicable law regardless of the resulting building height provided the building complied with building height regulations at the time of its construction.
 - b. If the building's location on the lot is to be changed, it will change in a manner that will be closer to complying with the dimensional and bulk regulations and with performance standards regarding building orientation.
 - c. The reconstruction or repair will not constitute an expansion or intensification of any use.
 - d. In the case of any use in which it would otherwise be required, the site plan review process has been followed.
 - e. Design and architecture of damaged or destroyed buildings and structures in existence at the time of the adoption of this regulation may be replicated. If the Building Commissioner finds that the structure is to be rebuilt to replicate what existed before the damage or destruction the design guidelines in this chapter do not apply. If the structure is in the floodplain, any design or architectural changes associated solely with flood-proofing the reconstructed structure shall not require compliance with the design guidelines.
- (2.) Any previously established use or structure which no longer complies with the provisions of the CBD shall be discontinued unless a building permit has been applied for within two years from the date of damage or destruction, and construction is continuously pursued to completion.

Voluntary Demolition and Reconstruction of Single Family Residences: Lawfully established Single Family Residences may be demolished and reconstructed in accordance with §240-131.4 G. This provision shall not be construed to supersede local, state or federal regulations pertaining to the demolition of historic structures.

240-131.5 Dimensional, Bulk, and Other Requirements: The following requirements apply to all development and redevelopment in the Craigville Beach Zoning District.

	Neighborhood Overlays			
	Craigville Village	Craigville Beach	Long Beach/Short Beach	Centerville River North Bank
Requirements	For all legally created vacant lots the frontage and area in existence as of November 6, 2009 and/or legally developed lots that were in existence as of November 6, 2009 and conformed to the existing zoning when legally created, the existing lot area, lot frontage, front, side and rear setbacks and building height dimensions may be used in lieu of the following dimensional requirements.			
Minimum Lot	87, 120	87, 120	87,120	87,120

	Neighborhood Overlays			
	Craigville Village	Craigville Beach	Long Beach/Short Beach	Centerville River North Bank
Area (s.f.)				
Minimum Lot Frontage (feet)	75	100	125	125
Min. Front Yard Setback (feet)	15	20	20	20
Min. Side Yard Setback (feet) ⁴	10	15	15 ⁴	15
Min. Rear Yard Setback (feet)	10	15	15	15
Maximum Building Height ^{1,2,3}	30	26	30	30
Maximum number of stories ³	2	2	2	2
Maximum Building Coverage	See Section 240-131-6			
Maximum Lot Coverage	See Section 240-131-6			

Dimensional table notes:

- (1.) Maximum Building Height allowances vary depending upon the roof pitch of the structure, with gable roofs having a slope of 7/12 or greater allowed the maximum building height, hip and other sloped roofs with a slope of 4/12 or greater are allowed 5 feet less than the maximum building height, and flat roofs prohibited except on one-story additions totaling less than 300 square feet per parcel.
- (2.) Buildings in the flood plain that existed prior to November 6, 2009 may be elevated 2 feet above BFE or as required by the applicable law provided the building complied with building height regulations at the time of its construction.
- (3.) The second story must be set back at least 2 feet from the façade line of the floor below on two of the building's facades and the second story floor area shall not exceed 80% area of floor area immediately below it.
- (4.) In the Long Beach/Short Beach Neighborhood, to preserve and enhance views of Craigville Beach and the Centerville River, a view corridor shall be preserved using 20 feet of either side setback or, where side yard setbacks are less than 20 feet, the greater of either side yard setback existing on November 6, 2009. The view corridor shall remain free of view obstructing buildings, structures, site improvements or landscaping other than low growing plant material or existing natural vegetation for the entire depth of the property from the street to the river or beach.

240-131.6 Coverage Limitations: The following limitations apply to all development and redevelopment in the Craigville Beach Zoning District.

Lot Size	Maximum Building Coverage (footprint) Allowance	Maximum Lot Coverage Allowance
1,300-4,999 s.f.	1,100 s.f. plus 10.8% of lot area over 1,300 s.f.	50%
5,000-7,499	1,500 s.f. plus 6% of lot area over 5,000	50%, but no more than 3,200 s.f.
7,500-9,999	1,650 s.f. plus 6% of lot area over 7,500	3,200 s.f.
10,000-14,999	1,800 s.f. plus 4% of lot area over 10,000	3,300 s.f.
15,000-19,999	2,000 s.f. plus 6% of lot area over 15,000	3,400 s.f.
20,000-34,999	2,300 s.f. plus 4% of lot area over 20,000	3,600 s.f.
35,000-44,999	2,900 s.f. plus 4% of lot area over 35,000	3,600 s.f. or 10%, whichever is greater.

45,000 and above	3,300 s.f. plus 3% of lot area over 45,000	10%
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Section 240-131.7 Neighborhood Overlay Regulations

A. Purpose: The Neighborhood Overlay regulations establish uses, dimensional requirements and design guidelines to preserve the distinctive character; allow continued use and enjoyment of properties and structures; make provisions for changes, expansions; protect and preserve scenic views and vistas; protect and improve natural resources; and to limit damage from periodic flood events for each neighborhood within the Craigville Beach District.

B. Historic and Community Character. These regulations will ensure that development and redevelopment in the CBD contributes to and does not detract from the historic character of the Craigville Beach area; that any proposed additions to historic structures shall be consistent with the historic structure and shall be consistent with the character of the surrounding neighborhood, including elements such as building height, mass and orientation; and preserves views and ways to the water from public spaces, streets and ways.

C. Applicability: Development and redevelopment shall be subject to the following additional requirements and regulations based upon the applicable Neighborhood Overlay.

D. General Performance Standards

- 1) The development complies with the setbacks and lot coverage requirements set forth herein, and is in character with surrounding structures, particularly structures that predate it unless relief has been granted by the SPGA in accordance with Sections 240-131.4(E) and (F).
- 2) The development complies with the height limitations set forth herein.
- 3) Exposed foundation walls for raised septic systems and/or elevated structures are prohibited; foundation walls shall be screened through the use of foundation plantings and/or the use of other natural materials.
- 4) Stormwater management and erosion control for non-residential uses comply with best management practices through Low Impact Development or other adaptive management practice.
- 5) Up to 50 square feet of roof deck may be allowed atop the first or second floor of a structure if the railing and support structure for the roof deck are constructed fully below the tallest part of the roofline they are contained within.

E. Long Beach/Short Beach Neighborhood

(1) Permitted Principal Uses: The following principal uses are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the performance standards listed below.

(a.) Single Family Residence

(2) Permitted Accessory Uses: Customary and incidental uses and structures are permitted in the Long Beach/Short Beach Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131-7 C.

(3) Neighborhood Performance Standards All development and redevelopment shall meet the following standards:

- (a.) No land area shown as V-zone shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited. This provision shall not be construed to include duly permitted docks and piers.
- (b.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. Any proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.
- (c.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.
- (d.) **Transitional Provision** Any development that has obtained a hardship approval from the Cape Cod Commission for a building permit prior to the effective date of this section shall not be subject to these regulations for the development authorized by said hardship exemption.

F. Craigville Beach Neighborhood

(1) **Permitted Principal Uses:** The following principal uses are permitted in the Craigville Beach Neighborhood Overlay area subject to the performance standards listed below.

- (a.) Single Family Residence
- (b.) Small-scale food service
- (c.) Beach club
- (d.) Cottage colony
- (e.) Hotel or motel in existence as of July 16, 2008 that is lawfully established

(2) **Permitted Accessory Uses:** Customary and incidental uses and structures are permitted in the Craigville Beach Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131-7 C.

(3) **Neighborhood Performance Standards:** All development and redevelopment shall meet the following standards:

- (a.) No land area shown as V-zone shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zones which might increase the potential for flood damage shall be prohibited.
- (b.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.
- (c.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

(4) Beach Club Design Guidelines

Purpose: To maintain public views to the water and to maintain the neighborhood's existing character with small scale building masses and natural or traditional building materials.

- (a.) **Building Height and Massing:** New construction on Beach Club properties shall have modest massings to relate to the small scale of most structures in the beachfront neighborhood. Any structure with a footprint of 3000 square feet or more shall incorporate significant changes in massing to break up the facade, and should integrate one-story massings into the design to relate the building to the surrounding smaller structures.
- (b.) **Building Orientation:** Buildings shall be oriented with the narrow end facing the street and the water to maximize public views of the water across the site. New buildings or complexes should not extend over more than 150 feet of the lot frontage, and efforts should be made to limit the expansion of existing buildings.
- (c.) **Maintaining Views to Water:** Multiple buildings on one lot should be clustered close together to limit obstructed views of the water, or shall be separated from each other by 100 feet or more of road frontage to allow broad unobstructed views across the lot to the water.
- (d.) **Fences:** Fences shall be of open construction and low profile (such as split rail and low picket fencing) to maintain public views to the water. Fences over 3 feet in height should be limited to screening loading and delivery areas adjacent to buildings, or modest trash collection areas. Screening fences should not extend farther than necessary beyond the building footprint to maintain public views.
- (e.) **Building Materials:** Exterior building materials shall be those traditionally used in the region or other naturally weathering materials, such as wood shingle, wood clapboard, or board and batten siding.

G. Centerville River North Bank Neighborhood

(1) **Permitted Principal Uses:** The following principal uses are permitted in the Centerville River North Bank Neighborhood Overlay area subject to the performance standards listed below.

- (a.) Single Family Residence

(2) **Permitted Accessory Uses:** Customary and incidental uses and structures are permitted in the Centerville River North Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131.7 C.

- (3) **Neighborhood Performance Standards:** All development and redevelopment shall meet the following standards:
- (a.) Tree removal or vista pruning shall not interrupt the treeline as viewed from the south looking northward to the treeline.
 - (b.) No land area designated as V-zone of the FIRM maps shall be developed unless such development is demonstrated by the applicant to be located landward of the reach of the mean high tide. Any man-made alteration of sand dunes in the course of such development within said designated V zone which might increase the potential for flood damage shall be prohibited. This provision shall not be construed to include duly permitted docks and piers.
 - (c.) Any activity or development in a V-zone that creates an adverse effect by increasing elevation or velocity of flood waters due to a change in drainage or flowage characteristics on the subject site, adjacent properties or any public or private way is prohibited. A proposed activity shall not result in flood damage due to filling which causes lateral displacement of flood waters that, in the judgment of the SPGA, would otherwise be confined to said area. The burden of proof for this standard rest with the applicant and shall require certification by a professional engineer.
 - (d.) Open foundations shall be designed to accommodate only the height required to elevate the lowest structural member 2' above the BFE in V zones and 1 foot above BFE in A zones. For all new construction and substantial improvements within the V zones, the space below the lowest floor must either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

H. Craigville Village Neighborhood

(1) **Permitted Principal Uses:** The following principal uses are permitted in the Craigville Village Neighborhood Overlay area subject to the performance standards listed below.

- (a) Single Family Residence
- (b) Conference Center

(2) **Permitted Accessory Uses:** Customary and incidental uses and structures are permitted in the Craigville Village Neighborhood Overlay area subject to the use limitations and performance standards listed in 240-131.7 C.

(3) **Neighborhood Performance Standards:** All development and redevelopment shall meet the following Design Guidelines:

Purpose: Most buildings in the Craigville Village Neighborhood date from the late 1800s and early 1900s when the neighborhood developed as a Christian Camp Meeting Association. The neighborhood is still defined by its historic structures and their configuration around a central green, small street grid, and communal paths.

(a.) **Objectives:**

- (1.) To preserve the character-defining features of the original camp meeting neighborhood including its small lots, modest scale structures, and orientation of buildings to public areas.
- (2.) To ensure that additions and alterations to structures are compatible with the existing scale and character of the building and preserve the original massing and unique architectural features of its historic buildings.

(b.) **Application:**

The design guidelines set forth herein do not apply to structures in existence as of the date of the adoption of this section, but shall apply to all new development, to any additions to existing structures, and to all reconstruction projects except as provided for in Section 240-131 (G)(1)(e).

(c.) **Building Design.** The guidelines shall apply to construction of new structures and expansions and alterations of existing structures.

- (1.) Preserve the original massing of historic structures (pre-1945):
- (2.) Additions should be attached to secondary or less prominent facades of the building (the side or rear facades), and should be stepped back from the front and rear corners of the building so as to preserve the original massing of the structure, including its roof form.
- (3.) Work with modest massings: Additions should be scaled to be consistent with or smaller than the size of the original historic structure, following the neighborhood tradition of expanding small cottages incrementally with modest additions. Additions should generally have a lower roofline than the original structure to maintain the prominence of the original building, though some additions may be

slightly taller than the original structure if attached to the original structure with a smaller connecting mass.

- (4.) Roof forms: The roof pitch on new construction and additions should complement the roof pitch of the original historic structure and should maintain a pitch of at least 6 over 12.
- (5.) Retain Original Architectural Details and Unique Forms: Additions should be placed so as to limit the removal of distinctive architectural trim and features that are unique to the building. Additions and alterations should not interfere with character-defining features such as open porches, steeply pitched roof forms, unique windows, and carpenter gothic trim along eaves and entries. Siding materials used on the original structure should be retained, though other regional siding materials may be appropriate on additions.

Section 240-131.8 Additional Provisions

A. Other regulations

The following provisions of the Barnstable Code are hereby incorporated into this regulation: § 240-7 Application of District Regulations; § 240-9.C & D; § 240-10 Prohibited Uses; § 240-34 Flood Area Provisions; § 240-43 Accessory Uses; § 240-46.A & B Home Occupations; Article VI Off Street Parking Sections 240-52, 240-53.B through F as delimited only in the Craigville Beach neighborhood; and Sign Regulations § 240-59 through 63; Article XI Growth Management Sections 240-110 through 122; Article IX Site Plan Review; Article XII Administration and Enforcement § 240-123 – 240-124; and § 240-125 C Special Permit Provisions as these provisions of the Barnstable Code cited in this section may be amended from time to time

B. Conflicts

Unless otherwise stated, the requirements of the Craigville Beach District shall apply to uses and structures within the Craigville Beach District. In the event of a conflict, these regulations shall apply.

C. Severability

The provisions of this chapter are severable. If any court of competent jurisdiction shall invalidate any provision herein, such invalidation shall not affect any other provisions of this chapter. If any court of competent jurisdiction shall invalidate the application of any provision of this chapter to a particular case, such invalidation shall not affect the application of said provision to any other case within the Town.

Section 3

For the purposes of the Cape Cod Commission Act, the implementing regulations shall be deemed incorporated into the Zoning Ordinances of the Town of Barnstable upon the approval by the Cape Cod Commission.

Section 4

Amend the Town of Barnstable Zoning Ordinance § 240-5 Establishment of Districts by adding the CBD - Centerville Beach District to the list of Residential Districts

DATE: April 1, 2010

VOTE: 8 Yes, 4 No (Roll Call)