

2. A below-grade dwelling unit shall be permitted only if access is provided directly to the outside of the building;
3. Density shall be determined by the most restrictive abutting residential zone, except for those lots which are served by public water and sewer, where density shall be determined by the least restrictive abutting residential zone. If no residential zone is abutting, density shall be determined by the nearest residential zone. Residential uses shall meet the requirements of such abutting or nearest residential zone; [Applicant's note: May need to be changed but is unclear what covenant is.]
4. Any additions or exterior alterations shall be compatible with the original architecture of the building. The exterior design of new construction, including the architectural style, facade materials, roof pitch, building form, and height shall be compatible with neighboring properties;
5. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area;
6. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
7. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with all applicable federal, state and local regulations;
8. The proposed conversion has sufficient water for the needs of the dwellings and will not cause an unreasonable burden on an existing water supply nor adversely affect groundwater resources;

C. Section 14-226. Dimensional Requirements

(a) Minimum lot size:

1. Residential: Lot size shall be determined by the most restrictive abutting residential zone, except for those lots which are served by public water and sewer, where lot size shall be determined by the least restrictive abutting residential zone. If no residential zone is abutting, density shall be determined by the nearest residential zone. Residential uses shall meet the requirements of such abutting or nearest residential zone. [Applicant's Note: May need same change as 14-224 (a) (3).]

(b) Minimum yard dimensions:

(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

1. *Front yard:*

Principal or accessory structures: ~~Twenty (20)~~ Ten (10) feet, except that a front yard need not exceed the average depth of front yards on either side of the lot.

2. *Rear yard:*

Principal or accessory structures: ~~Ten (10)~~ Five (5) feet.

3. *Side yard:*

Principal structures: ~~Ten (10)~~ Five (5) feet.

Accessory structures: Ten (10) feet except that the minimum distance from a principal structure may be five (5) feet.

4. *Side yard on side streets:*

Principal or accessory structures: ~~Ten (10)~~ Five (5) feet.

(d) *Maximum lot coverage:* Fifty (50) percent of lot area.

(e) *Minimum lot width:* Forty (40) feet.

(f) *Maximum structure height:*

Principal or accessory attached structure: ~~Thirty-five (35)~~ Forty-seven (47) feet.

Accessory detached structure: Eighteen (18) feet.

D. Zone specific off-street parking exceptions and modifications.

(f) *I-RI, Island Business Zone:* Off-street parking shall be required at twenty-five (25%) percent of the required number of parking spaces for specified uses as provided in division 20 (off-street parking) of this article, ~~except that residential uses shall meet the full parking requirement.~~

III. PUBLIC COMMENT

As of the writing of this report, 47 e-mails or letters of public comment have been submitted for the Board's review and are compiled in the packet under public comment. Some of the themes from the public include the following:

- Concerns the scale and massing of the buildings that could be constructed under the proposal are not compatible with the scale of the existing built environment on the islands.
- Concerns with the loss of water views if all of the IB zone was redeveloped to the proposed standards.
- Concerns with the impacts of this scale of development on the services and utilities on the island.
- Concerns raised about the traffic congestion and lack of parking on Peaks Island within the IB zone.
- Concerns that the zoning amendments are premature and that a broader look at the Island zoning is needed.

- Concerns that this will be used for short term occupancy or seasonal occupancy rather than providing year-round affordable housing.

IV. DISCUSSION

The Portland Island Land Use and Zoning Study was prepared adopted in 1985. Three of the land use goals of the plan are as follows:

- The Portland Islands pose a completely unique situation for land use planning and zoning. Unlike most other densely inhabited island on the Maine coast, which are separate municipalities, the Portland islands are similar to the neighborhoods of a large, urban mainland municipality and pose strong contrasts of urban vs. rural and seasonal vs. year-round living. Similarly, unlike other areas of seasonal home concentrations in the rural Lakes regions of the State, the islands are subject to spillover growth pressures from the ‘city’, and invite comparison to the mainland’s relatively high level of public services in terms of streets, sewage, schools, waste collections, fire protection, police and libraries.
- The islands are different from the mainland in terms of the natural features, their resource value, the public services available (or possible), and the people who reside and work there. The City’s land use policies and regulations should reflect this essential difference.
- The overall land use goal is to balance future growth and development on the islands to preserve those essential natural, physical and social factors that contribute to the islands unique value and character.

In 1989, the City Council adopted the Portland Island Groundwater Management Study as part of the Comprehensive plan and adopted I-B, IR-1 and IR-2. The zones were an outgrowth of the following policy from the Island Study:

- Protect groundwater aquifer resources from degradation or depletion as a result of the cumulative impact of development. Ground water resources shall be managed so that the islands can be self-sufficient in reliance upon natural systems for water supply and sewage disposal.

Thus the goal to balance future growth and development guided the uses and dimensional standards established for the island zoning. In addition, Portland’s Comprehensive Plan also includes goals and polices to encourage a diverse mix of housing that offers options across all income levels throughout the city.

The IB zone is located on House, Peaks, Little Diamond, Great Diamond, and Cliff Islands. Excerpts from the zoning map of the various island locations, including one highlighting the location of 2 Island Avenue, are shown in Attachment A. The text amendment as proposed by the applicant would apply to all IB zones. The Shoreland Zone overlay impacts many of the IB zone, which are located along the Island coastlines.

The uses and dimensional standards of the Island Business zone and IR-1 and IR-2 are summarized in two charts in Attachment A and the full zoning text is found as Attachment B. The Island Business zone permits single family detached dwelling units as a permitted use, while two to four unit buildings require a conditional use review by the Zoning Board of Appeals. In addition to the standard review criteria for conditional uses the Island business zone has eight (8) zone related standards for multiple unit buildings. The allowable residential density in the IB zone is based upon the adjoining residential zone. The closest

residential zone to 2 Island Avenue is the IR-2 zone, so a minimum lot of 20,000 sf is required for a residential use. The land area for 2 Island Avenue is 14,771 square feet and it is considered a legally non-conforming developed lot. In this case, the property owner could seek to have four units on the site under the conditional use standards. Under the density bonus provisions to ensure affordable housing, a fifth unit could be added meeting Portland's inclusionary zoning regulations. To achieve that number of residential units sought by the applicant without factoring in density bonuses for affordable units, then a higher density, such as 1,000 sq ft per unit, would need to be considered.

Mr. Carter's proposal includes reduced setbacks, increased height limits for structures in the IB zone, and reduced parking requirements. The current minimum yard dimensions in the IB zone are less than the IR-2 and IR-2 zones (Attachment A). The IB front yard setback is 20 feet, but not to exceed the average depth of the front yards on either side, 10 feet for rear and side yards, and a maximum lot coverage of 50%. The maximum allowable building height for a principle structure is 35 feet. The applicant is proposing to have the setbacks reduced to 5 feet and a maximum building height of 47 feet. The three island zones compared for this memo all have a maximum building height of 35 feet. For comparison, Portland's Neighborhood Business (B-1) zone has a maximum building height of 35 in off-peninsula locations, unless the property is adjacent to R-6 where 45 feet would apply. The B-1 allowable building height is 45 feet on the peninsula. In terms of B-1, the setbacks are a maximum setback of 10 feet, with minimum rear and side set at 10 and 5 feet, respectively.

The bulk of the public comment received for this proposal raises concerns about the proposed text amendments in relationship to the impacts of the changes to the smaller scale development patterns found on the islands, sensitive environment, and limited resources to support more intensive development on Peaks Island. The staff is seeking the Board's guidance on the applicant's proposal and any potential alternative measures:

- The Board's assessment of Mr. Carter's proposal.
- The proposal could be narrowed to Peaks Island, and only where sewer and water are available.
- The development pattern for the islands is more rural in character. The setbacks in the IB are currently 10 feet and the applicant's proposal reduces the setbacks to five feet. While 5 foot setbacks are common in Portland's urban areas (ie. B-1 zone), the question is whether the reduced setback is the appropriate separation between buildings on the islands. In addition to questions about the compatibility of the lesser setbacks with the existing built environment, the staff is also checking into the applicable building code and fire safety rules, which can provide guidance on separation requirements.
- The number of units permitted could be set a level above the four currently allowed, but below the amount proposed.
- One alternative drafted by staff for discussion purposes would be to add the following as a conditional use:

(k) Up to twelve (12) dwelling units on Peaks Island, subject to the conditions of 14-224 (a) above and the following additional conditions:

- 1) At least 33 percent of the units meet the definition of “workforce housing for rent” or “workforce housing for sale” from Division 30 for a minimum of 30 years;
- 2) At least 66 percent of the units are restricted to year- round residents and shall include deed restrictions prohibiting rental periods of less than one year at a time.

This approach could address the need for more permanent affordable housing on the Islands. The potential language above is a very preliminary draft and the amendments may need additional refinements that address how to ensure that the units are for year round residents, particularly families.

- Alternatively, note that a development would be eligible for a density bonus if it provides a percentage of deed-restricted affordable units regardless. That bonus could be as high as 25 percent under certain circumstances.
- A minimum lot area per dwelling unit requirement could be added to the IB zone. For example, the IB zone could require a minimum of 1,000 square feet of lot area for each unit allowed. That provision would keep smaller lots in the IB zone from being overdeveloped.
- The applicant is proposing a building height of 47 feet. An alternative option could be as follows:

Maximum structure height:

Principal or accessory attached structure: ~~Thirty-five (35) feet~~ Forty-five feet provided that the height of the building walls within XXX feet of any public way do not exceed thirty-five (35) feet.

- The applicant is proposing to apply the 25% reduction for off-street parking to residential uses as well. Currently residential uses must provide two parking spaces per unit. Public comment has raised concerns about insufficient parking on the island.
- Some of the public comments received have suggested that rather than changing the IB zoning text, and impacting a broader area, this proposal might better be considered under the terms of a conditional or contract zoning agreement. The staff concern with this approach is that there does not appear to be anything in particular about this parcel that may warrant such treatment.

V. Next Steps:

- Revise the proposal and/or explore additional options based upon the guidance of the Board
- The proposal from Mr. Carter is a text amendment to the IB zone and Off-street parking requirements. The proposed zoning amendments are not a map amendment, even though there is a site being considered for development. The City Code does not require a

neighborhood meeting for Text Amendments, but the staff recommends that Mr. Carter hold a neighborhood meeting on Peaks Island.

- Hold a second workshop.

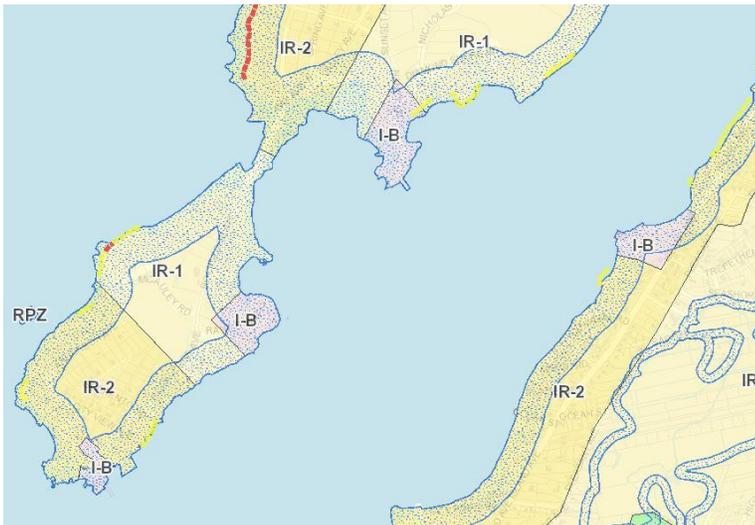
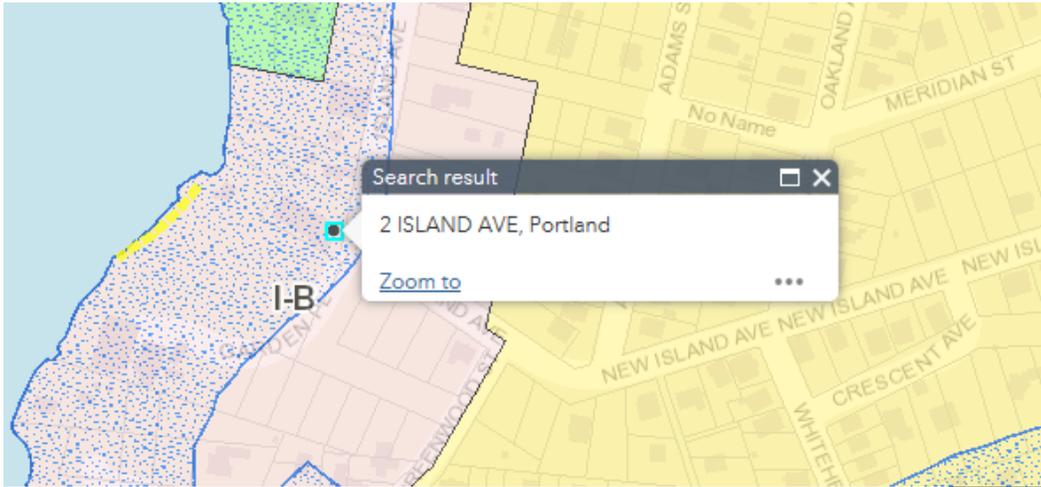
Attachments:

- A. Island Business Map Locations, Use Chart and Dimensional Chart
- B. Island Business Zone Text

Applicant's Submission

Public Comment

A. Locations of IB Zones

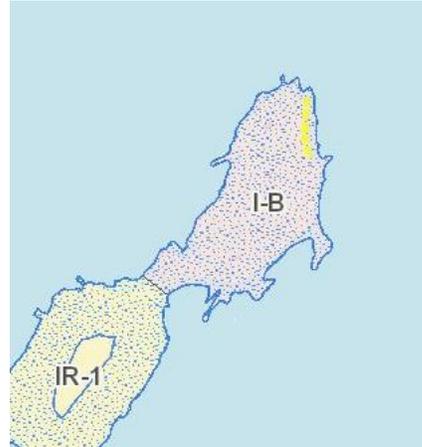


Little Diamond, Great Diamond, and Peaks Islands

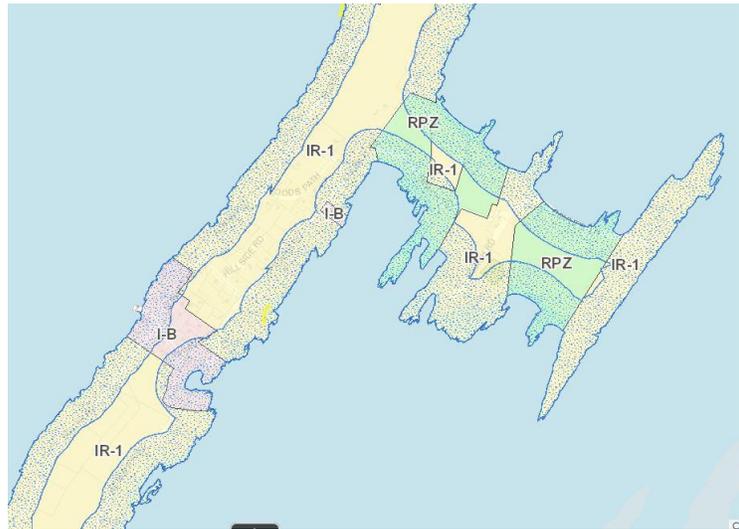
Peaks Island



House Island



Cliff Island



Comparison of Permitted and Conditional Uses

Attachment A

Comparison of Permitted and Conditional Use in Island-Business, IR-2 and IR-1 Zones (Summary)		
IB Permitted Uses	IR2 Permitted Uses	IR1 Permitted Uses
Single-family detached	Single-family detached	Single-family detached
	Planned Residential Unit Development (minimum of 5 acres) – density 1 unit/20,000 sf based on net area - standards	Planned Residential Unit Development (minimum of 5 acres)- density 1 unit/40,000 sf based on net area - standards
Retail or service establishments (excluding auto service and inns)		
Marinas and yacht clubs		
Lodging houses between 2-9 rooms		
Wharves, piers docks or landing ramps		
Accessory Uses, including home occupations	Accessory Uses, including home occupations, private tenting for 1 with water and sanitation, roadside stands of less than 200 sf for agricultural produce produced on premises and sale of fish and shellfish caught by occupant	Accessory Uses, including home occupations, private tenting for 1 with water and sanitation, roadside stands of less than 200 sf for agricultural produce produced on premises and sale of fish and shellfish caught by occupant
Handicapped family unit	Handicapped family unit	Handicapped family unit
Peaks Island Only- bed and breakfast		
Studios for artists and craftspeople – not to exceed 1,000 sf		
	Boathouses and storehouses for fishing equipment	Boathouses and storehouses for fishing equipment
Off-street parking	Parking and storage of equipment related to commercial fishing	Parking and storage of equipment related to commercial fishing
		Agriculture
Wind energy systems	Wind energy systems	Wind energy systems
I-B Conditional Uses	IR-2 Conditional Uses	IR-1 Conditional Uses
2-3, or 4 family dwelling (with standards for review)[Density determined by most restrictive residential zone, except where sewer and water, then least restrictive {List of conditions * see below)		
	Accessory dwelling unit with standards [not listed here], including accessory units on Peaks Island on existing lawfully non-conforming lots as of May 1, 2015: <ul style="list-style-type: none"> i. Shall remain under common ownership with the primary unit on the lot; ii. Shall not be sold as condominium units or otherwise separated from the ownership of the pre-existing unit on the site; iii. Shall be rented to households earning up to 100% of AMI and are subject to income verification as further outlined in implementing regulations; 	Accessory dwelling unit with standards [not listed here], including accessory units on Peaks Island on existing lawfully non-conforming lots as of May 1, 2015: <ul style="list-style-type: none"> i. Shall remain under common ownership with the primary unit on the lot; ii. Shall not be sold as condominium units or otherwise separated from the ownership of the pre-existing unit on the site; iii. Shall be rented to households earning up to 100% of AMI and are subject to income verification as further outlined in implementing regulations;

	iv. Shall be rented on an annual basis and may not be used for seasonal or weekly rentals; and v. Shall be built within the principal building or as an attachment in accordance with subsection (d).	iv. Shall be rented on an annual basis and may not be used for seasonal or weekly rentals; and v. Shall be built within the principal building or as an attachment in accordance with subsection (d).
Automobile service stations		
Inns		
	<i>b) Institutional: (with standards)</i>	<i>Institutional: (with standards)</i>
Schools	Schools and other educational facilities	Schools and other educational facilities, including seasonal camps other than campgrounds
Places of religious assembly	Places of assembly, excluding yacht clubs and marinas	Places of assembly, excluding yacht clubs and marinas
Private clubs, fraternal organizations		
Municipal Uses	Municipal Uses with standards	Municipal Uses with standards
	<i>c) Other</i>	<i>Other</i>
	Utility substations	Utility substations
Nursery schools, kindergartens and day care centers for 7+	Nursery schools and kindergartens	Nursery schools and kindergartens
	Cemeteries	Cemeteries
		Raising of domesticated animals, excluding pigs and reptiles with min lot of 3 acres and no closer than 100 feet to any street or lot line, except domesticated chickens and provided such use will not create odor, noise, health or safety hazards, or other nuisance to neighboring properties
	Wharves, piers, docks, or landing ramps	Wharves, piers, docks, or landing ramps
	Lodging Houses with more than 2 but no more than 9 rooms	
		Campgrounds, excluding recreational vehicles (with standards)
	Day Care centers or home babysitting services	Day Care centers or home babysitting services (with conditions)
Temp wind anemometer towers	Temp wind anemometer towers	Temp wind anemometer towers
<p>** Conditions for 2, 3 and 4 unit</p> <ol style="list-style-type: none"> 1. No open outside stairways or fire escapes above ground floor shall be constructed or have been constructed in the immediately preceding five (5) years; 2. A below-grade dwelling unit shall be permitted only if access is provided directly to the outside of the building; 3. Density shall be determined by the most restrictive abutting residential zone, except for those lots which are served by public water and sewer, where density shall be determined by the least restrictive abutting residential zone. If no residential zone is abutting, density shall be determined by the nearest residential zone. Residential uses shall meet the requirements of such abutting or nearest residential zone; 4. Any additions or exterior alterations shall be compatible with the original architecture of the building. The exterior design of new construction, including the architectural style, facade materials, roof pitch, building form, and height shall be compatible with neighboring properties; 5. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area; 6. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; 7. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with all applicable federal, state and local regulations; 8. The proposed conversion has sufficient water for the needs of the dwellings and will not cause an unreasonable burden on an existing water supply nor adversely affect groundwater resources; 		

B. Dimensional Standards

Attachment A

Comparison of Dimensional Standards in Island-Business I-B, Residential IR-2 and IR-1 Zones (Summary)			
Dimensional Standards	IB	IR-2	IR-1
Minimum Lot Size Residential	Determined by most restrictive, unless sewer and water, then least restrictive	20,000 sf, except for 14-433 lots of record and sec. 14-145.9	Forty thousand (40,000) square feet for lots with public water; sixty thousand (60,000) square feet for lots without public water; except as provided in section 14-433 (lots of record and accessory structure setbacks for existing buildings) and section 14-145.3(a)1 of this article.
Retail	20,000 sf (no min if sewer and water)		
Restaurants and drinking establishments	20,000 sf unless sewer and water, then 10,000 sf		
Schools	20,000	20,000 sf	40,000 sf
Churches and other places of worship	20,000	Places of Assembly: Large: 30,000 sf Medium: 15,000 sf Small: 7,500 sf	Places of Assembly: Large: 30,000 sf Medium: 15,000 sf Small: 7,500 sf
Private clubs	20,000		
Seasonal camps and campgrounds			10 acres
Animal Raising			3 acres
Lodging houses	30,000 3 rooms plus 10,000 for each additional room, unless public sewer and water than 5,000 for first 3 rooms, plus 5,000 for each additional room	Thirty thousand (30,000) square feet for three (3) lodging rooms, plus ten thousand (10,000) square feet for each additional lodging room in excess of three (3).	
Inns or Bed and Breakfasts	10,000 sf /room unless served by public water and sewer, then 5,000 for first 3 and 5,000 sf each additional room		
Municipal Uses	20,000 sf		
Lots with subsurface waste water disposal (excluding Peaks	20,000 sf	20,000 sf	In issuing any permit for new development, the building or planning authority shall require that any lot located in the IR-1 zone shall be at least forty thousand (40,000) square feet in area when the lot is to be serviced by a subsurface wastewater disposal system, except those lots which are located in a subdivision approved by the Planning Board after June 8, 1968, and excluding Peaks Island.
#12 – Merging lot provision –	Excluding Peaks – Where insufficient land area, may merge lots not contiguous with site and protected with	[Excluding Peaks Island from this subsection 7.,] any property owner whose lot does not meet the minimum lot size requirements	Excluding Peaks Island from this subsection h., any property owner whose lot does not meet the minimum lot size

	a conservation easement	outlined in subsection f. of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description....	requirements outlined in subsection g. of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description. ...
Min Street frontage	40 ft	70 ft, except lots of record lots created (not in a subdivision) after July 15, 1985 need not have frontage if permanent easement or row in existences as of 1985	100 feet
Min Yard Dimensions			
Front Yard	20 ft, except front yard shall not exceed average depth of front yards on either side	25 ft, except front yard shall not exceed average depth of front yards on either side	30 feet
Rear	10 ft	25 ft (structure with more than 100 sf)	30 feet (10 ft for structures with ground coverage of 144 sf.
Side	10 ft (accessory may be 5 feet from a principal structure)	20 ft (structure with more than 100 sf) – 15 feet for accessory structure of 144 sf or less) with 5 feet from principal structure	20 ft (structure more than 110 sf) – 15 feet for accessory structure of 144 feet
Side yard on Side Street	10 ft	20 ft ** provision for reducing setback – see below)	20 ft
Max. Lot Coverage	50%	20%	20%
Min Lot Width	40 ft	80 ft	100 ft
Max Structure Height			
Principal or accessory attached	35 ft	35 ft (27 ft for Little Diamond)	35 ft
Accessory detached	18 ft		
Max. floor area for places of assembly on a collector or arterial road		Large: Not limited Medium: 4,500 sf Small 2,250 sf	Large: Not limited Medium: 4,500 sf Small 2,250 sf
Max. floor area for places of assembly not on a collector or arterial road		Large: 4,500 sf Medium: 2,250 sf Small: 1,125 sf	Large: 4,500 sf Medium: 2,250 sf Small: 1,125 sf

DIVISION 12.1. I-B ISLAND BUSINESS ZONE

Sec. 14-222. Purpose.

The purpose of the I-B island business zone is to provide limited areas on the islands for retail and service establishments that serve primarily the needs of the local island market area.
(Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-223. Permitted uses.

The following uses are permitted in the I-B island business zone:

- (a) Single-family detached dwellings;
- (b) Retail or service establishments, excluding those listed below:
 - 1. Automobile service stations;
 - 2. Inns;
- (c) Marinas and yacht clubs;
- (d) Lodging houses, with more than two (2) but not more than nine (9) lodging rooms;
- (e) Wharves, piers, docks, or landing ramps;
- (f) Off-street parking;
- (g) Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article including but not limited to home occupations;
- (h) Handicapped family unit, as defined in section 14-47, for handicapped persons plus staff.
- (i) Peaks Island only: Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.
- (j) Studios for artists and craftspeople, provided that the

area of such studios does not exceed one thousand (1,000) square feet for each studio space.

- (k) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 30-85, § 1, 7-15-85; Ord. No. 33-91, § 13, 1-23-91; Ord. No. 125-97, § 8, 3-3-97; Ord. No. 164-97, § 3, 12-1-97; Ord. No. 10-10/11, 8-2-10; Ord. No. 33-11/12, 1-18-12)

Sec. 14-224. Conditional uses.

The following uses are permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

- (a) Two-, three- or four-family dwelling, provided that:
1. No open outside stairways or fire escapes above ground floor shall be constructed or have been constructed in the immediately preceding five (5) years;
 2. A below-grade dwelling unit shall be permitted only if access is provided directly to the outside of the building;
 3. Density shall be determined by the most restrictive abutting residential zone, except for those lots which are served by public water and sewer, where density shall be determined by the least restrictive abutting residential zone. If no residential zone is abutting, density shall be determined by the nearest residential zone. Residential uses shall meet the requirements of such abutting or nearest residential zone;
 4. Any additions or exterior alterations shall be compatible with the original architecture of the building. The exterior design of new construction, including the architectural style, facade materials, roof pitch, building form, and height shall be compatible with neighboring properties;
 5. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area;

6. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 7. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with all applicable federal, state and local regulations;
 8. The proposed conversion has sufficient water for the needs of the dwellings and will not cause an unreasonable burden on an existing water supply nor adversely affect groundwater resources;
- (b) Automobile service stations;
 - (c) Inns;
 - (d) Schools;
 - (e) Nursery schools, kindergartens and day care centers for seven (7) or more children;
 - (f) Municipal uses, provided outside storage and parking area uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.
 - (g) Places of religious assembly;
 - (h) Private clubs, fraternal organizations.
 - (i) Temporary wind anemometer towers, as defined in section 1-47, are permitted provided the following standards are met in addition to section 14-430:
 1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a certificate of occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the board of appeals with the application; and

3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the board of appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to corporation counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the city, of the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

(j) Wind energy systems, as defined and allowed in Article X, Alternative energy.

(Ord. No. 30-85, § 1, 7-15-85; Ord. No. 435-89, 5-15-89; Ord. No. 163-89, § 1, 12-11-89; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 33-11/12, 1-18-12)

Sec. 14-225. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.
(Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-226. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulation and exceptions) of this article, lots in the I-B zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. Residential: Lot size shall be determined by the most restrictive abutting residential zone, except for those lots which are served by public water and sewer, where lot size shall be determined by the least restrictive abutting residential zone. If no residential zone is abutting, density shall be determined by the nearest residential zone. Residential uses shall meet the requirements of such abutting or nearest residential zone.
2. Retail or service establishments: Twenty thousand (20,000) square feet, except that no minimum lot size shall be required if served by public water and sewer.
3. Restaurants and drinking establishments: Twenty thousand (20,000) square feet, except that ten thousand (10,000) square feet shall be required if served by public water and sewer.
4. Schools and other educational facilities: Twenty thousand (20,000) square feet.
5. Churches and other places of worship: Twenty thousand (20,000) square feet.
6. Private clubs, fraternal organizations: Twenty thousand (20,000) square feet.
7. Lodging houses: Thirty thousand (30,000) square feet for three (3) lodging rooms, plus ten thousand (10,000) square feet for each additional lodging room in excess of three (3), unless served by public water and public sewer. Five thousand (5,000) square feet for three (3) lodging rooms, plus five

thousand (5,000) square feet for each additional lodging room in excess of three (3) if served by public water and public sewer.

8. Inns or bed and breakfasts: Ten thousand (10,000) square feet for each guest room, unless served by public water and public sewer. Five thousand (5,000) square feet for three (3) guest rooms, plus five thousand (5,000) square feet for each additional guest room in excess of three (3) if served by public water and public sewer.
9. Municipal uses: Twenty thousand (20,000) square feet.
10. Automobile service station: Twenty thousand (20,000) square feet.
11. In issuing any permit for new development, the building or planning authority shall require that any lot located in an I-B zone shall be at least twenty thousand (20,000) square feet in area when the lot is to be serviced by a subsurface wastewater disposal system, [excluding Peaks Island].
12. [Excluding Peaks Island from this subsection 12,] any property owner whose lot does not meet the minimum lot size requirements outlined in subsection 11 of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description. The Planning Authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the Planning Authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and

conservation purposes only, and shall be subject to the following restrictions:

- a. No structure shall be permitted on this property.
- b. No parking or storage of vehicles or machinery shall be permitted on this property at any time.
- c. No area of this property shall be paved.
- d. No exterior storage for commercial use shall be permitted on this property.
- e. The easement deed shall reference the lot which is benefited by this conservation easement. No conservation easement shall be used to benefit more than one (1) lot.

Conservation easements shall only be granted over lots which conform either to the provisions of section 14-433 or to the minimum lot size provisions set forth in (a)1 of this section. Conservation easements shall not be granted over any lot which is encumbered by any other easement which prohibits all construction on that lot.

A conservation easement may also name as a holder or grant a third-party right of enforcement to a nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality of real property.

Nothing in this section shall be construed to allow an owner of a currently existing and developed lot to convey or permit a portion of that lot to be used to fulfill the requirements of this section if such conveyance would render the existing lot nonconforming under the terms of this chapter. The lot upon which a building is to be constructed shall meet the minimum lot size requirements of section

14-433.

13. Where an existing subsurface disposal system serving an existing structure requires replacement, the replacement system shall meet the requirements of CMR 241 Section 2-E. The land area requirements in subsection 11 of this section shall not apply to such a replacement system.

For purposes of this subsection the mean high tide mark shall be considered to be the shoreline lot line.

(b) *Minimum street frontage:* Forty (40) feet.

(c) *Minimum yard dimensions:*

(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

1. *Front yard:*

Principal or accessory structures: Twenty (20) feet, except that a front yard need not exceed the average depth of front yards on either side of the lot.

2. *Rear yard:*

Principal or accessory structures: Ten (10) feet.

3. *Side yard:*

Principal structures: Ten (10) feet.

Accessory structures: Ten (10) feet except that the minimum distance from a principal structure may be five (5) feet.

4. *Side yard on side streets:*

Principal or accessory structures: Ten (10) feet.

(d) *Maximum lot coverage:* Fifty (50) percent of lot area.

(e) *Minimum lot width:* Forty (40) feet.

(f) *Maximum structure height:*

Principal or accessory attached structure: Thirty-five
(35) feet.

Accessory detached structure: Eighteen (18) feet.

(Ord. No. 30-85, § 1, 7-15-85; Ord. No. 163-89, § 2, 12-11-89; Ord. No.
125-97, § 9, 3-3-97; Ord. No. 165-15/16, 3-7-2016)

Sec. 14-227. Other requirements.

Every use in a I-B zone shall be subject to the following requirements:

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises and not for a period exceeding thirty (30) days.
- (d) *Noise:* The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty (60) decibels on the A scale between 7:00 a.m. and 9:00 p.m. and fifty-five (55) decibels on the A scale between 9:00 p.m. and 7:00 a.m., on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.

(Ord. No. 30-85, § 1, 7-15-85; Ord. No. 15-92, § 16, 6-15-92; Ord. No. 15-04/05, 8-2-04; Ord. No. 240-09/10, 6-21-10)