Town of Swampscott

Humphrey Street Zoning Bylaw Project

Review of possible changes to Zoning Bylaw

July 2009

Prepared for:
Town of Swampscott Zoning Bylaw Review Committee

Prepared by:
Eaton Planning
Chris Kluchman, AICP

Support for this project came from the Department of Housing and Community Development through a Mass Downtown Initiative technical assistance grant

Acknowledgements

Department of Housing and Community Development

Elizabeth Hahn

Humphrey Street Zoning Bylaw Committee

Chair, Wayne O'Keefe
Consultant: Chris Kluchman, AICP, Eaton Planning
Joey Burke
Patrick Jones, AIA
Richard Smith
Peter Spellios
Jill Sullivan

Photo Credits: All photos in this report are copyright Eaton Planning, unless otherwise noted. Special thanks to Richard Smith, who generously provided his own photographs, streetscape renderings, and historic images of Swampscott for the project.

Table of Contents

ACKNOWLEDGEMENTS 2
Department of Housing and Community Development *2*
Humphrey Street Zoning Bylaw Committee *2*
EXECUTIVE SUMMARY 4
Recommended Action Items *5*
INTRODUCTION 6
Project Goals and Outcomes *7*
Bylaw changes and other available tools: *9*
EXISTING CONDITIONS OF THE HUMPHREY STREET AREA 9
EXISTING REGULATORY FRAMEWORK AFFECTING HUMPHREY STREET 14
Recently Amended Bylaw standards *14*
SOLUTIONS REVIEWED AND RECOMMENDED BY PROJECT COMMITTEE 15
PUBLIC MEETING AND FEEDBACK 16
SUMMARY OF PROPOSED ZONING BY-LAW 16
STREETSCAPE IMPROVEMENTS 17
RECOMMENDED ACTION ITEMS 20
EXHIBITS 22
Exhibit 1. Massachusetts Sustainable Development Principles *22*
Exhibit 2. Proposed Humphrey Street Overlay District Regulations *25*
Exhibit 3 Shared Parking Standards *46*

Executive Summary

Using a grant from the Mass Downtown Initiative, the Town of Swampscott explored the regulatory challenges facing the Humphrey Street Commercial area along the waterfront. The goal was to revitalize the area by removing regulatory obstacles – primarily in the Zoning Bylaw – and creating special zoning and design rules for the area. The Town of Swampscott does not have a professional planner on it staff, however community volunteers have produced exemplary planning efforts: May 2009 Zoning Bylaw Revision, 2007 Humphrey Street Master Plan, 2005 Humphrey Street business owner survey and report.

The existing challenges for the area – as identified by a tour of the area, review of existing reports including the 2004 Town of Swampscott Master Plan, and materials from the Humphrey Street Revitalization Committee from 2006 – include:

- Almost all (re)development of commercial property requires a Special Permit;
- Many of the existing land uses and building forms (mixed use) and development patterns (zero lot line with little on-site parking) would not be permitted under the current zoning districts and dimensional regulations;
- A streetscape that lacks pedestrian amenities and is geared to move traffic through the area; and
- Lack of investment in renovating existing buildings.

The Humphrey Street Zoning Bylaw Committee met three times under this grant. They discussed the existing problems, reviewed an array of possible regulatory solutions, and reviewed and commented on specific zoning bylaw text. The committee convened a public meeting attended by six community members. At the meeting the consultant presented the proposed strategies and a discussion of how the strategies could be implemented. There was support for the proposed strategies at the meeting.

The report identifies the goals for the area, the existing conditions, the regulatory obstacles that hinder attainment of the goals, a list of action items, and DRAFT zoning bylaw amendments. The report also includes proposed streetscape improvements from the work of the Humphrey Street Revitalization Committee. The recommended strategies are listed below.

Recommended Action Items

	Action Item	Timeframe	Notes
1.	*Adopt Humphrey Street Overlay District Zoning Bylaw amendment package*	Spring 2010 Town Meeting	Further review and discussion at Town Boards and Committees needed prior to Town Meeting
2.	*Establish a Design Review Board and operating rules and regulations*	Following Spring 2010 Town Meeting	Appointment by Board of Selectmen
3.	*Apply for regional transportation funding for design and construction of streetscape improvements*	As soon as possible, not later than June 2010	Work with Metropolitan Area Planning Commission (MAPC) staff
4.	*Create Humphrey Street Association (HAS) to continue advocating for improvements*	January 2010	HSA should include merchants and residents. They can work on ongoing problems and operational items such as area-wide parking, landscape maintenance, and trash receptacles.

Introduction

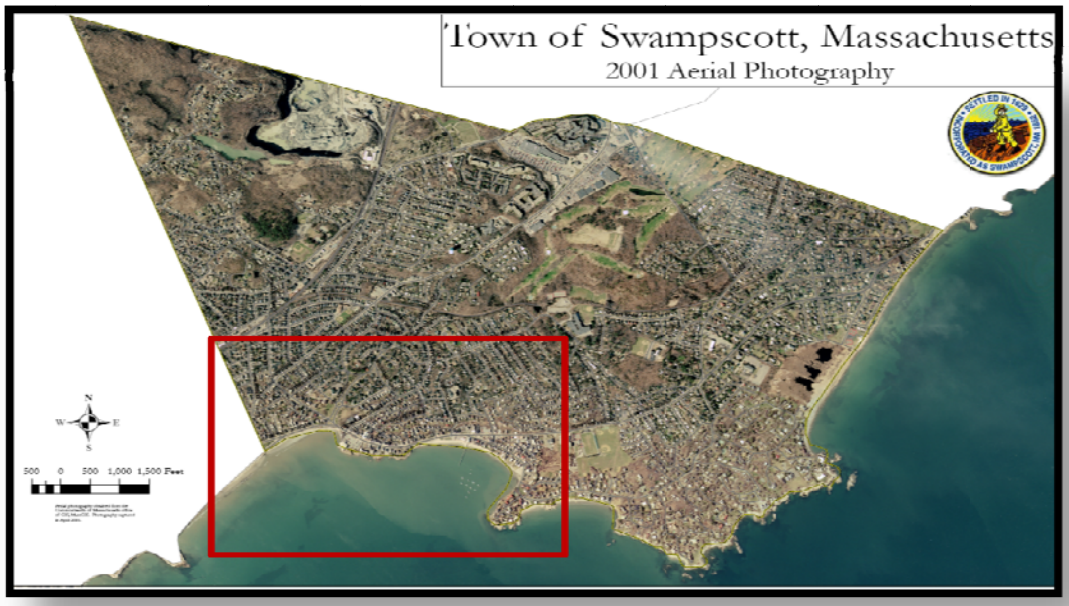
The Town of Swampscott sought and received grant assistance from the Department of Housing and Community Development's Mass Downtown Initiative (MDI) to provide professional planning experience to create special zoning regulations for the Humphrey Street area, which used to be a vibrant "downtown village" for the town. The Town's 2004 Master Plan recommended that such special rules be established, and during a 2008-2009 zoning bylaw revision project, regulations specifically for this area of Town were deferred pending completion of this project.

This Report summarizes the work done under the MDI grant by the planning firm, Eaton Planning from January to June 2009. It includes the results of an analysis of the existing Zoning By-law, review and feedback of possible regulatory approaches, from the Project Committee, (the "Committee") and input from a public forum held in June 2009. The report has the following sections:

1. Introduction
2. Existing Conditions of the Humphrey Street Area
3. Existing Regulatory Framework Affecting Humphrey Street
4. Analysis of Obstacles to Achieving Town Goals
5. Solutions Reviewed and Recommended by Project Committee
6. Public Forum and Feedback
7. Summary of Proposed Zoning By-law Text
8. Possible Streetscape Improvements

   <u>Exhibits</u>
   - Proposed Zoning Bylaw Text for a new district Humphrey Street Overlay District and a Design Review Process
   - Proposed Zoning Bylaw amendment to add provisions for Shared Parking

Figure 1. Town of Swampscott, showing Humphrey Street Area



Project Goals and Outcomes

The Town of Swampscott and the project committee wanted to create new zoning mechanisms that would distinguish this area of town from other commercial retail areas, communicate to property owners what sort of development was desired, and remove existing obstacles in the zoning bylaw that prevent appropriate redevelopment of the area.

Desired Project Outcome: Create Zoning bylaw text for the Humphrey Street area

Goals:

1. Bylaw should promote increase in small locally owned businesses, clearly define permitted uses appropriate for a town center and create clear and objective standards for design features.
2. Add incentives for Green/Low Impact development and affordable housing in this area.
3. Implement the Town Master Plan.

Figure 2: Humphrey Street Study Area

Figure 3. Western portion of Humphrey Street

Bylaw changes and other available tools:

Creating a positive regulatory atmosphere to keep Town Centers viable is consistent with the goals of a planning movement generally called "smart growth". The Commonwealth of Massachusetts calls these Sustainable Development Principles, which are included as Exhibit 1. Some of the tools that the Committee considered as a means to carry out the Commonwealth's Sustainable Development principles include:

- Allow for a variety of uses in this long-term commercial village area;
- Consider regulating building design more than land uses (often referred to as Form Based zoning);
- Implement shared parking to reduce the affects of parking standards on new businesses in a compact area;
- Create design standards that provide for human scale buildings;
- Embrace Private-Public partnerships; and
- Obtain funding for public streetscape improvements

Existing Conditions of the Humphrey Street Area

As described in the application for grant funding:

> *Humphrey Street has the potential to be an amenity for the entire town and a commercial district appropriate to and supportive of the residential districts around it. . . . Poor aesthetics, lack of character, the absence of a design review procedure, physical obstacles to pedestrians, traffic and difficulties in accessibility were cited by residents [in the 2004 MAPC Community Development Plan] asked about Humphrey Street. . . . The Humphrey Street Revitalization Committee emphasized the difficulties reported by small, local businesses – the lifeblood of downtown—to navigate the permitting process for new construction, changes in use, signage and other work.*

This series of photographs illustrate some of the opportunities and obstacles under the current regulatory framework (the current zoning bylaw, as amended by Swampscott Town Meeting in April 2009).

Figure 4. Renovated mixed use building on Humphrey Street showing attention to historic building details. The building was only allowed to be rebuilt on the footprint of an existing building – the same building could not have been built on a vacant lot.

Photo courtesy of Richard Smith

Figure 5. View down Blaney Street from Humphrey Street showing the proximity of residential uses adjacent to commercial uses that front on Humphrey Street.

Figure 6. Mixed use building with architectural details such as strong cornice line, support brackets, and large ground floor windows.

Figure 7. Western portion of Humphrey Street showing one to three story buildings in the B-1 zoning district.

The current maximum height standards for B-1 are a maximum of 2.5 stories but not in excess of 35 feet. The historic building at the right is more than 2.5 stories and most likely taller than 35 feet.

Figure 8. Renovated Storefront near Fisherman's Beach.

Figure 9. Three story buildings with residential above retail near Fisherman's Beach. The gable style rooflines allow for extra living space without as much bulk as a flat roof. This roof form is also a residential form, although the ground floors of these buildings are commercial.

The B-1 district allows a maximum height of 2.5 stories but not more than 35 feet – neither of which these buildings meet.

Figure 10. Three story buildings with residential above retail near Blaney Street.

The existing B-1 district allows a maximum height of 2.5 stories but not more than 35 feet – neither of which these buildings meet.

Photo courtesy of Richard Smith

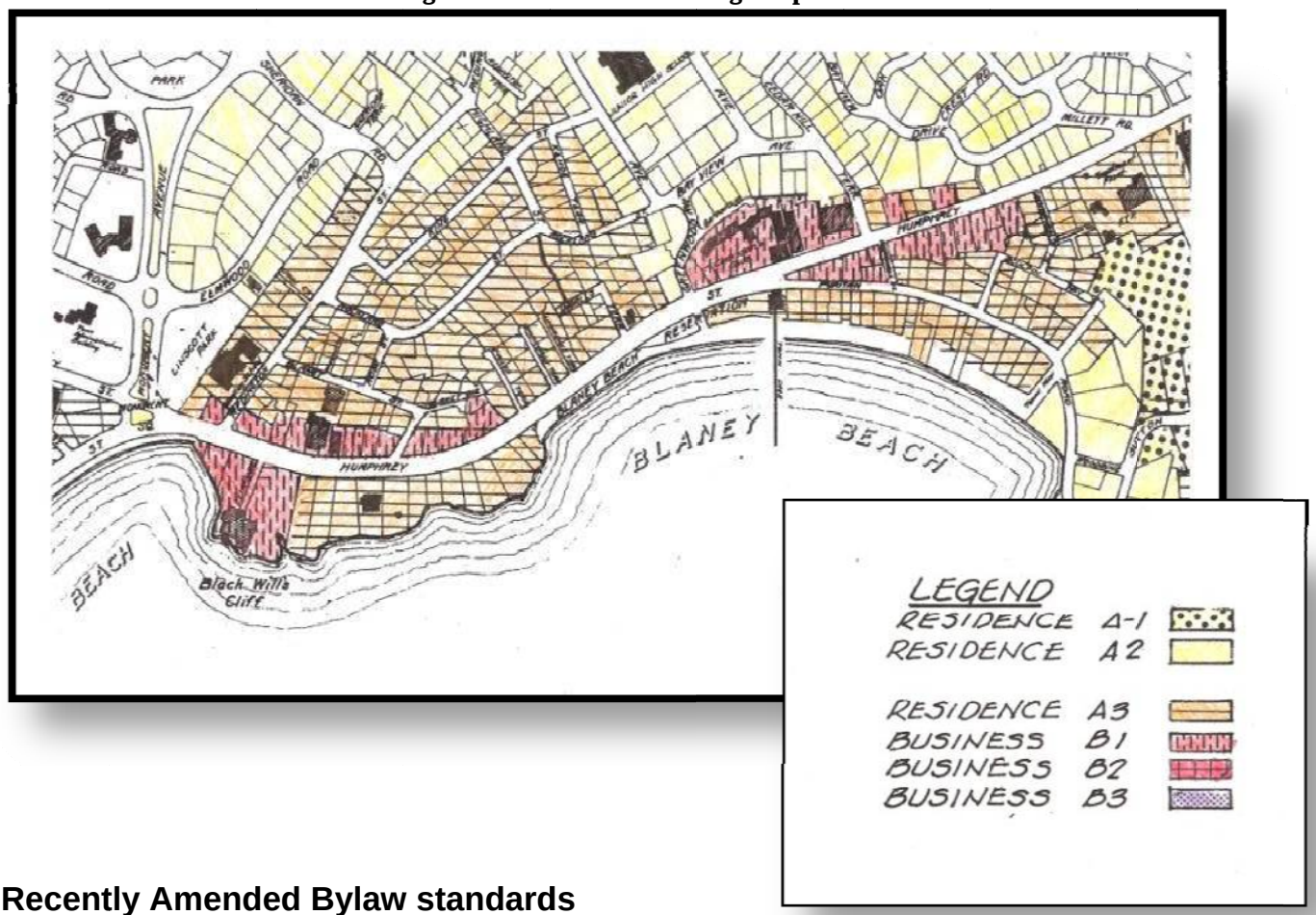
Figure 11. Residential uses abutting commercial activity

Photo courtesy of Richard Smith

Existing Regulatory Framework Affecting Humphrey Street

As Figure 12 shows, the Humphrey Street area is a mix of Business B1 (B1) zoning and Residence A-3 (A3). This mixture of zoning reflects the mixed and dual character of the study area. The western portion of the study area has commercial uses on both sides of the street, then commercial on the north side, and residential on the south, including some new residential townhouse development. The middle section of the study area has residential on the north, and beach on the south. The eastern portion of the study area is zoned commercial on both sides of Humphrey Street, although a large component of that area is developed with a residential multi-family development. Immediately surrounding the commercial uses are residential uses.

Figure 12. Current Zoning Map



Recently Amended Bylaw standards

In May 2009, Swampscott Town Meeting approved a set of revisions to the Zoning Bylaw, although they did not specifically address the Humphrey Street area. This report uses these newly amended zoning regulations as the "existing bylaw." The Bylaw revisions included changes to the Use Table, new off-street parking standards,

revisions to the sign standards, and new sections on Adult Entertainment, Accessory Apartments and Drive-through uses. The following section summarizes additional changes to the Zoning Bylaw that can be made to achieve the goals of this project.

Solutions Reviewed and Recommended by Project Committee

The project committee reviewed possible solutions at two meetings. Zoning Bylaw changes reviewed are listed on the left side of Table 1, and committee recommendations on the right. The details of these proposed approaches can be found in the May 7, 2009 consultant report: *Review of Possible Changes to the Zoning Bylaw*.

Table 1. Possible Solutions and Committee Recommendations

Proposed Solutions	Committee Recommendations
Structural Overlay district, Amendments to the B-1 district, or Form-Based zoning	Create a Humphrey Street Overlay District (HSOD)
Land Uses Allow mixed uses, allow residential in mixed use buildings by right (up to 6 units); make changes in size of commercial uses allowed by right (i.e. without triggering a special permit)	Include these provisions in the zoning amendment package for the B-1 district in the HSOD.
Dimensional Standards Make changes in the height, setback, lot size, building coverage, landscaping and parking requirements to promote development – when certain design standards are met.	Include these in the HSOD but insure that these development "incentives" are matched with design review.
Design Review Standards and Design Review Use clear and objective standards to achieve human scale and pedestrian amenities OR include incentives for increased standards with design review board as the regulating authority.	Use a mix of some clear and objective standards and some "incentive-based". Look at the Marblehead Design Review standards and process as an example so that the DRB is advisory.
Parking Implement shared parking standards to make redevelopment of smaller commercial spaces easier.	Apply shared parking standards; continue seeking area that could be municipal parking lot for the commercial area(s).

Public Meeting and Feedback

On June 24, 2009, the project Committee convened a public meeting to discuss the proposed zoning bylaw language. The consultant made a PowerPoint presentation that described past planning efforts and the proposed recommendations. The proposed HSOD text was available for meeting participants. There was an extended discussion about the problems and possible solutions – with members of the public supportive of the proposed zoning revisions. There was also interest in continued review of solutions for parking and streetscape improvements.

Summary of Proposed Zoning By-law

The proposed bylaw text was also discussed by the project committee at its final meeting, where some revisions were discussed. Exhibit 2 includes the Zoning Bylaw HSOD as revised following the Committee's final meeting. As noted by the Committee at that meeting, the Planning Board and Board of Selectmen, as well as Town Meeting members should review and discuss the proposed HSOD prior to Spring 2010 Town Meeting. The Committee will take this report and the draft bylaw revisions and continue the Zoning Bylaw amendment process.

Table 2 has a summary of the proposed HSOD. For the full text of the proposed bylaw revision, see Exhibit 2.

Table 2. Summary of Proposed Zoning By-law

Goal	Zoning Bylaw feature	Notes
Allow greater mix of uses and reduce need for special permit process	Additional uses and sizes allowed in B-1 and A-3 districts	Alternative would be to add these special provisions to the main use table in current zoning bylaw.
Encourage redevelopment	Allow reduced lot size and height to 45' if proposals meet design criteria; provide for alternatives to on-site parking requirements	

Goal	Zoning Bylaw feature	Notes
Get quality design	Establish 2 tiers of design requirements: Basic Design Standards Design Guidelines	This relies on a new Board – the Humphrey Street Design Review Board
Match May 2009 Zoning Bylaw	Use HS Site Plan Special Permit process established in that revision	Instead of site Plan Special Permit review, the HS SI SP could use a site plan review – which has different connotations than a special permit. Site Plan review has more certainty for the applicant

Streetscape Improvements

The design of the public streetscape is important to the success of the Humphrey Street area's revitalization. The following streetscape design issues were identified in the Humphrey Street Master Plan.

Table 3. Streetscape Standards from the 2007 Humphrey Street Master Plan

Elements	Humphrey Street Overlay District Area
Street trees	Street trees with grates in areas with constrained right of way
Street lights	Pedestrian scaled street lights (not cobra heads)
Sidewalks	Wide sidewalks to allow for street furniture, street trees, pedestrian activity (minimum of 8', 12 feet preferred)
Curb extensions (see Figure 13)	Curb extensions at all pedestrian crossings
Crosswalks	High visibility crosswalks Mid-block crosswalks where blocks are longer than 350'
Curb cuts	Driveway consolidation at the time of streetscape improvements
Slip lanes (See Figure 14)	Consider at intersections where vehicle movement is a priority.

Ideally, the public streetscape would be improved in concert with private (re)development under the design review process. However, requiring private development to change the streetscape "one project at a time" can be difficult and lead to spotty, mismatched "sidewalks to nowhere" until all properties along a street catch up. See Figures 15through 17 for illustrations of "before and after" Corridor streetscape improvements.

Figure 13 Illustration of Curb Bulb/Extension

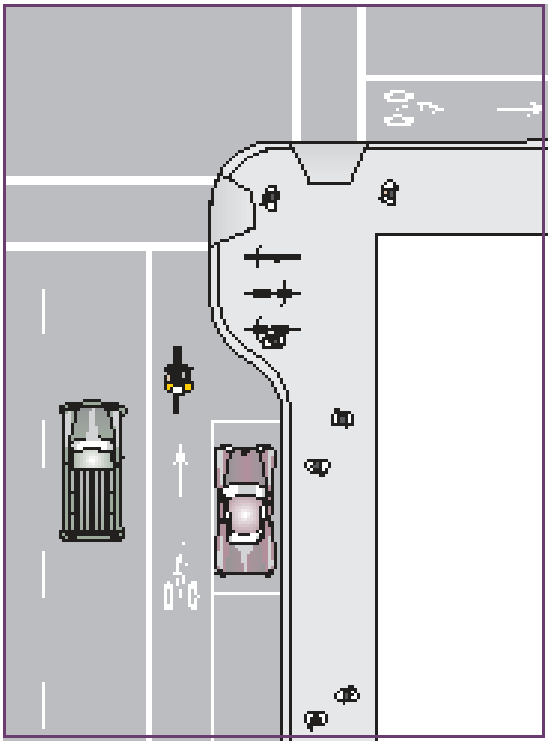


Figure 14: Illustration of Slip lane

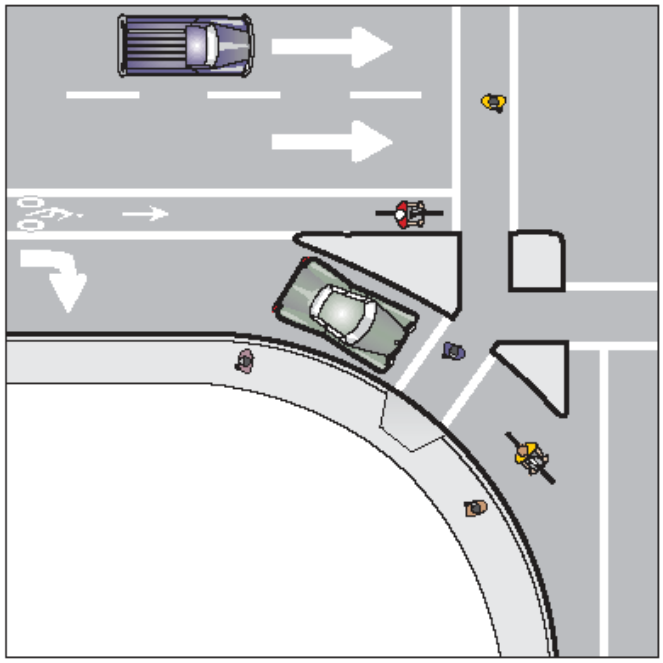


Figure 15. Existing Condition and Illustration of Streetscape Improvement

Illustration courtesy of Richard Smith

Figure 16. Existing Condition and Illustration of Streetscape Improvement

Illustration courtesy of Richard Smith

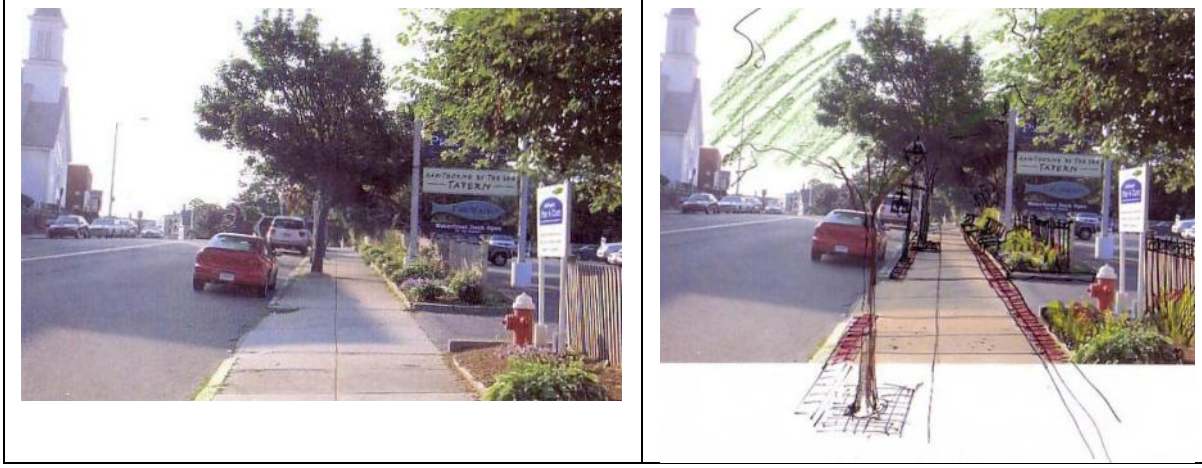


Figure 17. Existing Condition and Illustration of Streetscape Improvement

Illustration courtesy of Richard Smith

Recommended Action Items

The Town of Swampscott has an impressive track record of volunteer-led reforms to improve the quality of life, and encourage appropriate (re)development of its commercial areas. The work of community volunteers resulted in comprehensive Zoning bylaw revisions in May 2009. During that revision process, the volunteers realized the importance of making regulatory changes for Humphrey Street, and also that such revisions needed a separate and focused effort. The proposed Humphrey Street Overlay District Bylaw Revisions are the result of the volunteer and MDI grant-aided project. The May 2009 Zoning Bylaw revision left out specific amendments to Humphrey Street, anticipating that further amendments would be recommended. Table 3 summarizes the actions needed to implement the proposed changes discussed during this process. The Streetscape improvements are not technically part of the Zoning Bylaw revisions, but the quality of the streetscape, and the way it can be changed in welcome pedestrians and slow down through traffic is significant and should be "paired" with regulatory reform. Swampscott's Humphrey Street revitalization is an example of the strong connection between land use and transportation.

Table 3. Recommended Action Items to Implement Humphrey Street Zoning Revisions

	Action Item	Timeframe	Notes
1.	Adopt Humphrey Street Overlay District Zoning Bylaw amendment package	Spring 2010 Town Meeting	Further review and discussion at Town Boards and Committees needed prior to Town Meeting
2.	Establish a Design Review Board and operating rules and regulations	Following Spring 2010 Town Meeting	Appointment by Board of Selectmen
3.	Apply for regional transportation funding for design and construction of streetscape improvements	As soon as possible, not later than June 2010	Work with Metropolitan Area Planning Commission (MAPC) staff
4.	Create Humphrey Street Association to continue advocating for improvements	January 2010	HSA should include merchants and residents. They can work on ongoing problems and operational items such as area-wide parking, landscape maintenance, and trash receptacles.

Exhibits

Exhibit 1. Massachusetts Sustainable Development Principles

The Commonwealth of Massachusetts shall care for the built and natural environment by promoting sustainable development through integrated energy and environment, housing and economic development, transportation and other policies, programs, investments, and regulations. The Commonwealth will encourage the coordination and cooperation of all agencies, invest public funds wisely in smart growth and equitable development, give priority to investments that will deliver good jobs and good wages, transit access, housing, and open space, in accordance with the following sustainable development principles. Furthermore, the Commonwealth shall seek to advance these principles in partnership with regional and municipal governments, non-profit organizations, business, and other stakeholders.

1. Concentrate Development and Mix Uses

Support the revitalization of city and town centers and neighborhoods by promoting development that is compact, conserves land, protects historic resources, and integrates uses. Encourage remediation and reuse of existing sites, structures, and infrastructure rather than new construction in undeveloped areas. Create pedestrian friendly districts and neighborhoods that mix commercial, civic, cultural, educational, and recreational activities with open spaces and homes.

2. Advance Equity

Promote equitable sharing of the benefits and burdens of development. Provide technical and strategic support for inclusive community planning and decision making to ensure social, economic, and environmental justice. Ensure that the interests of future generations are not compromised by today's decisions.

3. Make Efficient Decisions

Make regulatory and permitting processes for development clear, predictable, coordinated, and timely in accordance with smart growth and environmental stewardship.

4. Protect Land and Ecosystems

Protect and restore environmentally sensitive lands, natural resources, agricultural lands, critical habitats, wetlands and water resources, and cultural and historic landscapes. Increase the quantity, quality and accessibility of open spaces and recreational opportunities.

5. Use Natural Resources Wisely

Construct and promote developments, buildings, and infrastructure that conserve natural resources by reducing waste and pollution through efficient use of land, energy, water, and materials.

6. Expand Housing Opportunities

Support the construction and rehabilitation of homes to meet the needs of people of all abilities, income levels, and household types. Build homes near jobs, transit, and where services are available. Foster the development of housing, particularly multifamily and smaller single-family homes, in a way that is compatible with a community's character and vision and with providing new housing choices for people of all means.

7. Provide Transportation Choice

Maintain and expand transportation options that maximize mobility, reduce congestion, conserve fuel and improve air quality. Prioritize rail, bus, boat, rapid and surface transit, shared-vehicle and shared-ride services, bicycling, and walking. Invest strategically in existing and new passenger and freight transportation infrastructure that supports sound economic development consistent with smart growth objectives.

8. Increase Job and Business Opportunities

Attract businesses and jobs to locations near housing, infrastructure, and transportation options. Promote economic development in industry clusters. Expand access to education, training, and entrepreneurial opportunities. Support the growth of local businesses, including sustainable natural resource-based businesses, such as agriculture, forestry, clean energy technology, and fisheries.

9. Promote Clean Energy

Maximize energy efficiency and renewable energy opportunities. Support energy

conservation strategies, local clean power generation, distributed generation technologies, and innovative industries. Reduce greenhouse gas emissions and consumption of fossil fuels.

10. Plan Regionally

Support the development and implementation of local and regional, state and interstate plans that have broad public support and are consistent with these principles. Foster development projects, land and water conservation, transportation and housing that have a regional or multi-community benefit. Consider the long-term costs and benefits to the Commonwealth.

Exhibit 2. Proposed Humphrey Street Overlay District Regulations

Humphrey Street Overlay District Table of Contents

ARTICLE IV. SPECIAL REGULATIONS. 26

4.5.0.0. HUMPHREY STREET OVERLAY DISTRICT. 26

4.5.1.0. Purpose. 26

4.5.2.0. Location of District. 26

4.5.3.0. Overlay District. 27

4.5.4.0. Permitted Uses and Review Processes. 28

4.5.5.0. Humphrey Street Site Plan Special Permit Design Standards. 31

A. Refuse Areas 33

B. Buffers between Districts 33

4.5.6.0. Alternative Parking Solutions 35

4.5.6.1 Shared Parking 35

4.5.6.2 Fee in Lieu of Providing On-site Parking Spaces 35

4.5.6.3 Reduction of Parking Requirements for Providing Interconnections or Dedication of Land 35

4.6.0.0. HUMPHREY STREET OVERLAY DISTRICT DESIGN STANDARDS. 36

4.6.1.0. Purpose and Applicability. 36

4.6.2.0. Basic Design. Standards 36

4.6.3.0. Humphrey Street Site Plan Special Permit Design Guidelines. 38

4.6.3.2 Reinforcement of the Corner 40

4.6.3.3 Main Entrance 41

4.6.3.4 Ground Floor Treatment 41

4.6.3.5 Awnings and Canopies 42

4.6.3.6 Roof-Mounted Equipment 42

4.6.3.7 Roofs 43

4.6.4.0. Humphrey Street Site Plan Special Permit Approval Criteria. 45

4.6.5.0. Humphrey Street Special Permit Approval Criteria. 45

4.6.6.0. Decision. 45

Editor's note:
Proposed zoning bylaw text is shown in this font.

Commentary - or text used to explain the proposed bylaw language or alternative choices, is shown in this font with a boxed paragraph.

ARTICLE IV. SPECIAL REGULATIONS.

Insert the following new section at the end of the existing Article IV.

4.5.0.0. Humphrey Street Overlay District.

4.5.1.0. Purpose.

The purposes of the Humphrey Street Overlay District (HSOD) are as follows:

4.5.1.1. To establish preferred patterns and a design framework for the historic downtown district of Swampscott and to protect and enhance the overall quality of the built environment in the district. This district seeks to promote economic development of businesses while balancing the aesthetic, energy efficiency, and sense of a "downtown" for the Swampscott community.

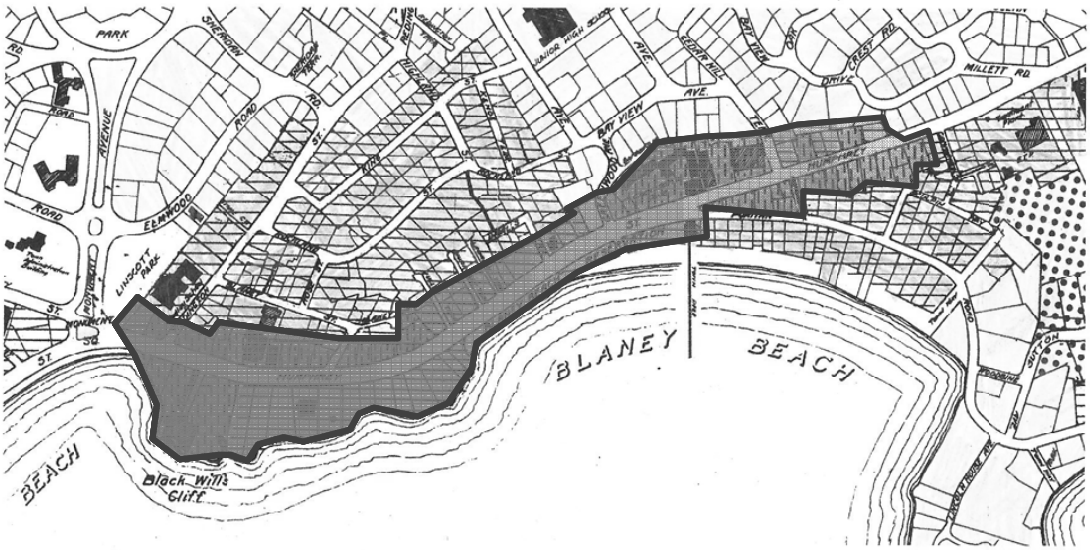
4.5.1.2. To enhance the human scale of development and respect the scale, character of residential neighborhoods that abut commercial uses and commercial areas. The district standards and guidelines seek to strengthen the pedestrian environment, promote building designs and practices that are adaptable to multiple uses for extended building lifecycles and add flexibility to respond to conditions and constraints inherent to specific sites.

4.5.1.3. These regulations apply to both public and private development in this district and will guide town officials and private citizens in making land use and design decisions about new development.

4.5.2.0. Location of District.

The HSOD shall include all land shown within the town's Zoning Map, which is on file at the Town Clerk's office.

The location of the proposed HSOD is shown on the attached map (Supporting Figure 1). This map will not be within the zoning bylaw, but instead, will become part of the official zoning map.

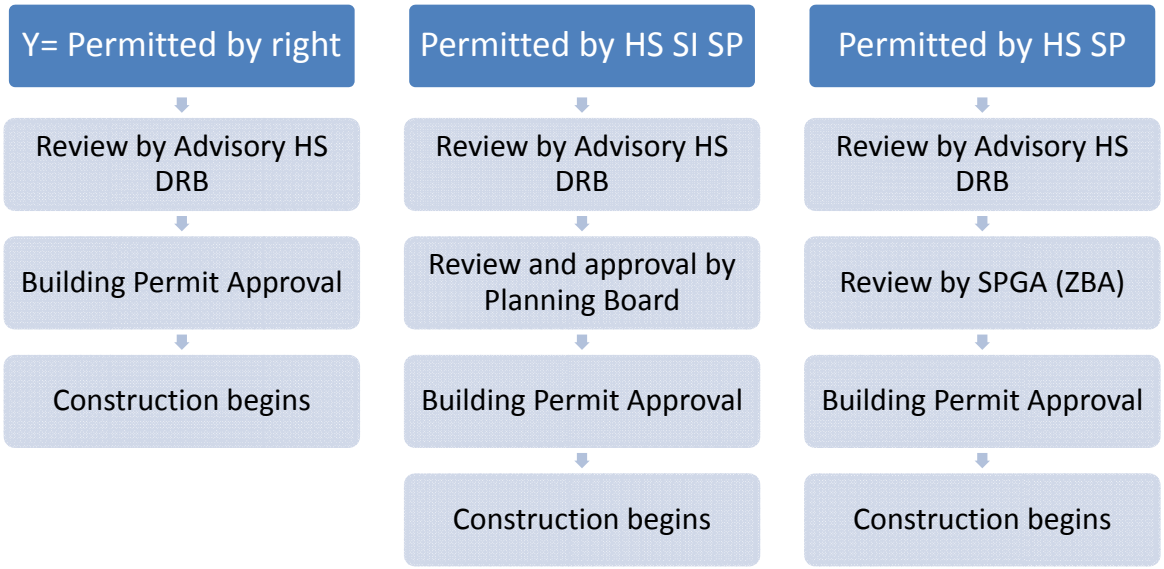


Supporting Figure 1. Proposed Humphrey Street Overlay District

4.5.3.0. Overlay District.

The HSOD is an overlay districts superimposed over the underlying districts set forth in this Zoning By-Law. Within a HSOD, the requirements of the underlying district continue to apply, subject to the following additional provisions.

Supporting Diagram: HSOD review processes



4.5.4.0. Permitted Uses and Review Processes.

The following uses fit with the purposes listed above to enhance the Humphrey Street area. These uses are permitted in accordance with the table below.

Symbols employed shall mean the following:

Y =	Permitted use as a matter of right, subject to the basic design standards in section 4.6.0.0, and advisory review by the HS Design Review Board
N =	An excluded or prohibited use
HS SI-P =	A use permitted with a Humphrey Street Site Plan Special Permit review in accordance with section 5.4.0.0 and in accordance with the Humphrey Street Site Plan approval criteria found in section 4.5.5.0 below.
HSSP =	A use authorized under special permit from the Board of Appeals in accordance with Section 5.3.0.0. of this By-law.

The existing Zoning Bylaw (As amended in May 2009) includes the Site Plan Special Permit process, added to streamline the permitting process and include the Planning Board as the SPGA. That process is included here for consistency with the existing permitting framework of the existing bylaw. The current bylaw does not identify projects in the use table as qualifying for the Site Plan Special Permit, but that approach is included here to be clear about the level of review required.

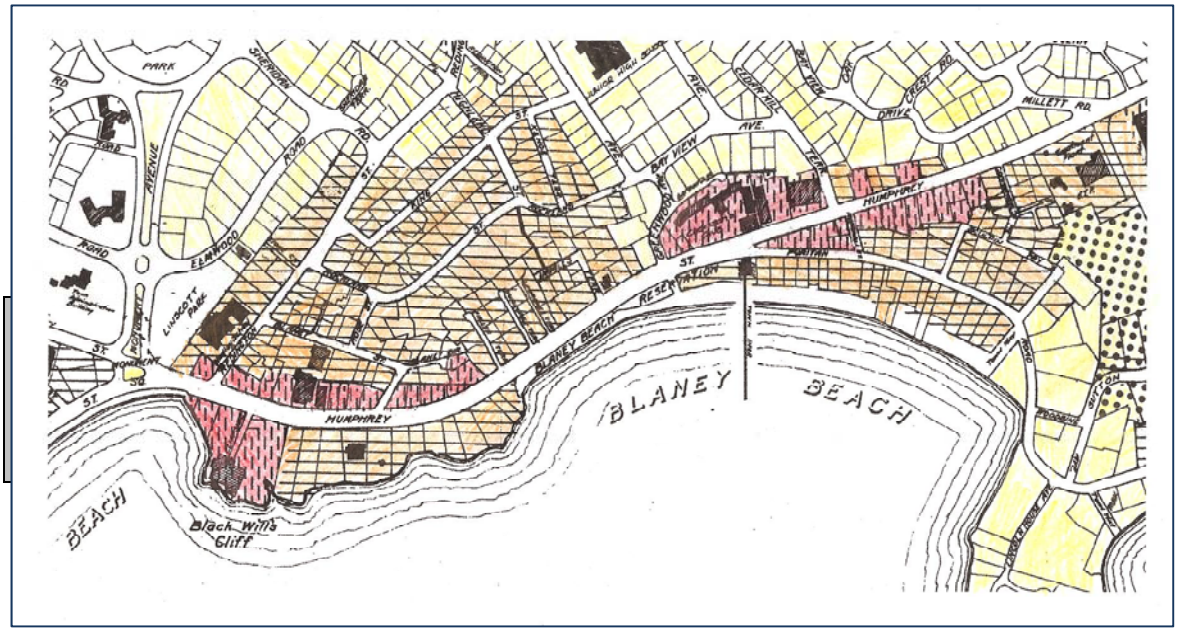
NEW for all development in HSOD is the requirement for an advisory review by the HS Design Review Board - which should be established with membership consisting of development and design professionals.

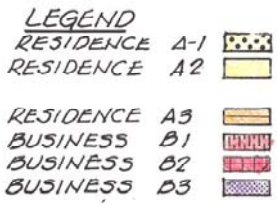
4.5.4.1 *Table of Additional Uses and Review Procedures within the HSOD*

Principal Use	Residence A-3	Business B-1	Notes
Residential			
Multi-family less than 6 units	HS SP	HS SI-P	
Multi-family more than 6 units	HS SP	HS SP	
Mixed Use Residential (and commercial) up to 10 units and 20,000 square feet of non-residential	HS SI-P	HS SI-P	
Institutional			
Theatre; museum; performing , cultural or arts facility or hall for public gathering	HS SP	HS SI-P	
Commercial			
Retail containing less than 2,000 sf	HS SI-P	Y	(no change in B-1 district)
Retail containing 2,000 sf to 5,000 sf	HS SP	HS SI-P	
Bakery containing less than 2,000 sf	HS SI-P	Y	(no change in B-1 district)
Bakery containing 2,000 sf to 5,000 sf	HS SP	HS SI-P	
Restaurant containing less than 2,000 sf	HS SP	Y	(no change in B-1 district)
Restaurant containing 2,000 sf to 7,500 sf	N	Y	(no change in A-3 district)
Restaurant containing more than 7,500 sf	N	HS SI-P	(no change in A-3 district)
Restaurant abutting one or more residentially zoned properties that are being used for residential purposes	HS SP	HS SP	(no change in B-1 district)
Restaurant providing delivery service (using more than 1 delivery vehicle/shift)	N	HS SI-P	(no change in A-3 district)

Principal Use	Residence A-3	Business B-1	Notes
Catering establishment	N	HS SI-P	(no change in A-3 district)
Personal Service containing 2,000 sf to 5,000 sf	N	Y	(no change in A-3 district)
Personal Service containing more than 5,000 sf	N	HS SI-P	(no change in A-3 district)
Bank or financial service containing 2,000 sf to 5,000 sf (with no drive through)	N	Y	(no change in A-3 district)
Automatic Teller machine (freestanding)	HS SP	HS SI-P	
Any allowed use containing outdoor seating, display or storage <u>on the front sidewalk without alcohol</u>	HS SP	Y	

Note to HSOD Use Table: Hours of Operation and provision of Liquor license are subject to additional regulation and/or SPGA approval.





4.5.5.0. Humphrey Street Site Plan Special Permit Design Standards.

All proposed uses or activities in the Humphrey Street Design Overlay District are subject to the LOT AREA, BUILDING HEIGHT PARKING and SIGN Regulations of the underlying zone, except as noted below. Applications for a Humphrey Street site plan special permit shall be made in accordance with the regulations of the Site Plan Special Permit Granting Authority, who shall require conformance with the following standards before issuing a Humphrey Street site plan special permit.

4.5.5.1. Dimensional Requirements and Exceptions

A. At least sixty (60) percent of the FRONTAGE of a LOT, measured in percentage of linear feet of the LOT FRONTAGE, shall be occupied by BUILDINGS that are set back no more than ten (10) feet from the Front LOT

LINE and that are at least twenty (20) feet in depth. This requirement may be waived for additions to existing Buildings where the addition does not exceed the setback of the existing Building or where the addition is not visible from any STREET. A deeper setback may be allowed for a forecourt when a garden and/or paved terrace is provided

B. Buildings that meet the applicable Design Standards in Section 4.6.0.0 and the approval criteria in that section may increase the allowed building height to a maximum of 45 feet with approval of a Humphrey Street Special Permit.

Note - the current A-3 and B-1 height standard is 2.5 stories or 35 feet.

C. The minimum Lot size may within the B-1 and the A-3 district may be reduced to 2,500 square feet when a proposal that meet the applicable Design Standards in Section 4.6.0.0 and the approval criteria in that section.

4.5.5.2. Parking

A. All OFF-STREET PARKING areas shall be located behind or to the side of the Principal Structure on the Lot. No parking area shall be located closer to the Front Lot Line than the front Building façade.

B. The required setback from Side and Rear LOT LINES specified for OFF-STREET PARKING areas shall consist entirely of landscaped area, except for required access drives.

C. In establishing parking requirements for uses in the Humphrey Street Overlay District, consideration shall be given to the Town's goal of making this overlay a "park-once" district where on-street and municipal off-street spaces are used to enable customers to use one space for multiple destinations.

4.5.5.3. Off-Street Loading, Parking of Trucks, Buses, and Commercial Vehicles

A. Within the Humphrey Street Overlay District, Off-street Loading shall only be required if it is a practical option due to the availability of adequate space in a rear parking lot or alley.

B. Parking stalls for trucks, buses, or other commercial vehicles exceeding either seven and a half (7 ½) feet in width or eighteen (18) feet in length shall be located at least fifty (50) feet from the nearest DWELLING UNIT in a residential district.

C. Stalls for such vehicles shall be specifically identified in the site plan, and shall be of such dimensions as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the stalls so identified and approved.

4.5.5.4. Screening - Generally

A. Refuse Areas

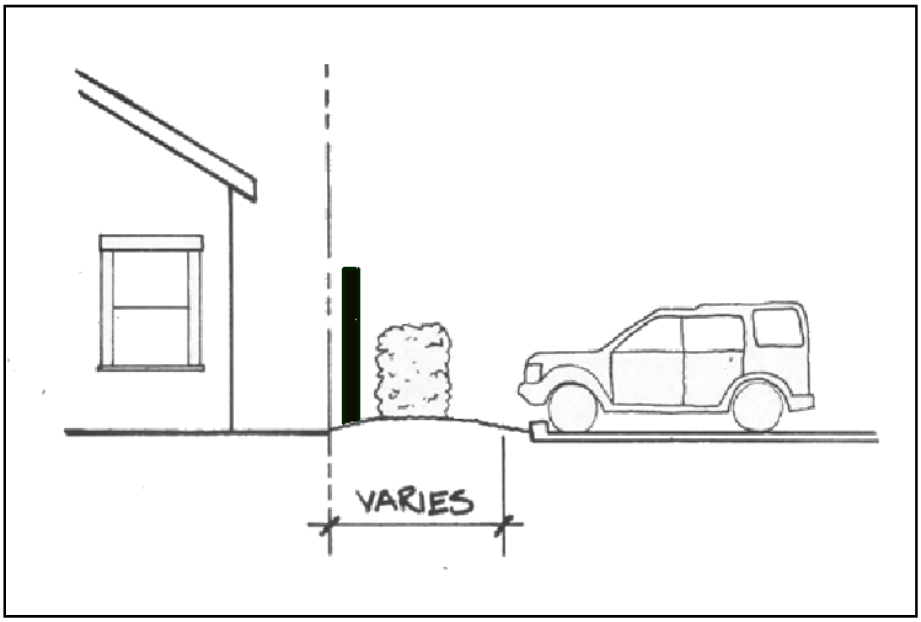
1. All refuse containers for uses other than Single-family and Two-family homes shall meet the following conditions, which may only be waived with a Special Permit granted by the Zoning Board of Appeals:
   a. Refuse containers shall not be visible from the Street.
   b. Refuse containers shall be set back from the front property line at least as far as the primary Structure on the property. No refuse container shall be located in the Front Yard.
   c. Refuse containers shall be enclosed or screened by a Structure constructed out of the same or similar materials to the primary Structure on the property or an approved alternative. The enclosure shall screen the containers from view from the public way and protect the containers from raccoons, rodents, and other pests.
   d. Outdoor Refuse containers shall not be stored within ten (10) feet of exterior windows or doors that open directly onto habitable space within housing units on the basement, ground, or first floors of Buildings containing housing.

B. Buffers between Districts

Where two (2) land use districts abut each other, the more intense district use must provide a buffer Planting Strip when adjacent to residential districts or to less intense residential districts. All development must follow the buffer and screening requirements in Table 4.5.2 and illustrated in Figure 4.5.1.

Table 4.5.2 Buffer Screening between districts	
Subject Lot in District where Side or Rear LOT LINE abuts Residential district (or a less intense Residential district).	**Buffer width**
Residence A, A-1, A-2	None
Residence A-3	5 feet
Business B-1	10 feet

Figure 4.5.1 Buffer Planting Strip



4.5.6.0. Alternative Parking Solutions

4.5.6.1 Shared Parking

A. Where an application for a USE PERMIT, BUILDING PERMIT, Site Plan Approval, or Special Permit proposes shared parking with one (1) or more other separately owned properties and such shared parking has been approved, the owners of the properties shall enter into a legal agreement guaranteeing access to, use of, and management of designated shared parking spaces.

B. The agreement shall be in a form approved by the Town Counsel and shall be included as an enforceable condition of any USE PERMIT, BUILDING PERMIT, Site Plan approval, or Special Permit.

4.5.6.2 Fee in Lieu of Providing On-site Parking Spaces

A. Where the required off-street spaces cannot be provided on-site and are not currently available on the Street and/or in municipal parking lots, the applicant may, at the option of the Town, pay a fee in lieu of one (1) or more required spaces, in an amount established by the Board of Selectmen sufficient to cover the estimated cost of providing additional public parking spaces in the general location of the proposed use.

B. Such fee shall be kept in a dedicated fund for municipal parking purposes and shall be used for such purposes within four (4) years or returned to the applicant (or the applicant's successor).

4.5.6.3 Reduction of Parking Requirements for Providing Interconnections or Dedication of Land

A. Parking requirements may be reduced at the discretion of the reviewing authority where adjoining parking areas are connected directly to one another or to a service road or alley to reduce turning movements onto roads.

B. Parking requirements may be reduced at the discretion of the reviewing authority where the applicant makes an offer of dedication of land to the Town for a municipal parking lot and the Town accepts such offer. In the case of such dedication, REQUIRED YARDS and other LOT dimension requirements may also be reduced to reflect the reduction in size of the parcel retained by the applicant.

The following section lists two sorts of design regulations. 1) basic design standards that must be met by all building permit applicants. This provides a minimum level of design standards. This section may be used in concert with the proposed HS Site Plan Special

Permit and HS Special Permit as described above, or in place of that approach. 2) Design Guidelines. These are recommended approaches that applicants are encouraged to meet.

Both the Basic Design Standards and the Design Guidelines include an advisory review by the HS DRB (as illustrated in the supportive diagram above).

Here's how this approach works:

A new restaurant of 3,000 sf is proposed within the HSOD. It is permitted by right which means that the building must meet the basic design standards below. The proposal is reviewed by the HS DRB. They issue an advisory recommendation (perhaps the applicant will amend their plans) and the application goes to the Zoning Administrator for building permit approval.

A use requiring a HS Site Plan Special Permit would go before the HS DRB which would review the basic design standards AND the HS SI SP standards in 4.6.3.0. They would issue an advisory recommendation and the project would move to the Planning Board for review.

4.6.0.0. Humphrey Street Overlay District Design Standards.

4.6.1.0. Purpose and Applicability.

The purposes of the Humphrey Street Overlay District Basic Design Standards provide for a review of all building permit applications to ensure that all proposals are consistent with certain basic design standards that enable new development to meet the purposes of the Humphrey Street Overlay District as outlined in Section 4.5.1.0.

The Design Standards shall apply to all new development, addition or redevelopment 2,000 square feet or more where there is an exterior renovation. The advisory Design Review Board may waive its review for applicants at its discretion; such applicants may proceed directly to Building Permit.

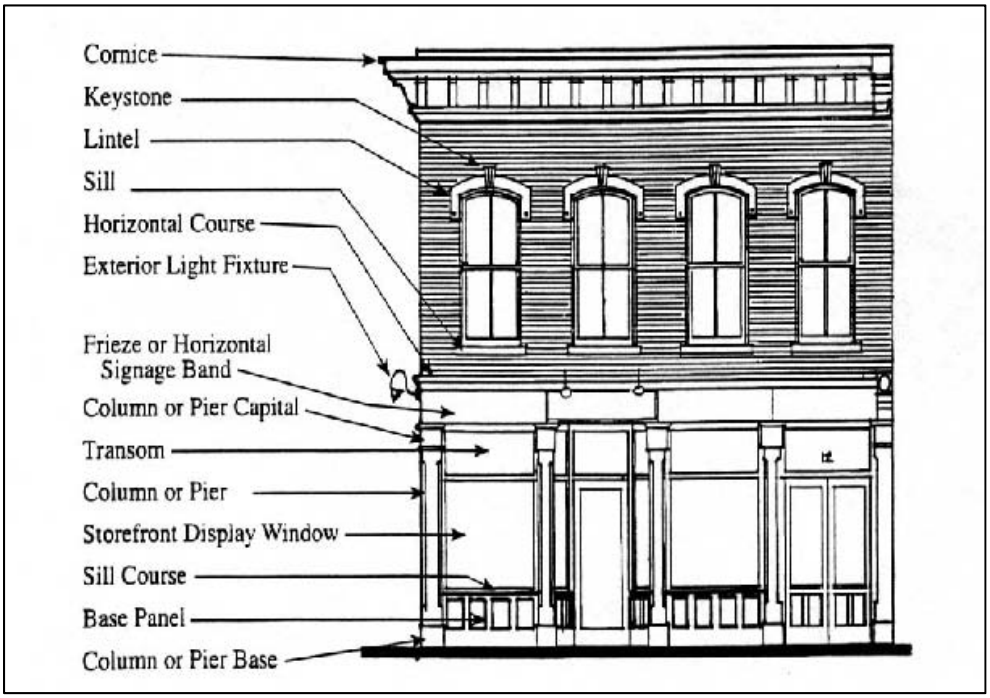
4.6.2.0. Basic Design. Standards

All buildings shall provide detailed design on all street-facing walls (45 degrees or less from street lot line). The Humphrey Street Design Review Board (HS DRB) shall determine if the Basic Design standards are met. They will issue an advisory recommendation to the Zoning Administrator.

At least 4 of the architectural features in items below, as illustrated in figure 4.6.1, must be included in the application. The applicant may select the elements that he or she wants, and it is not within the approval body's authority to prescribe specific elements; except when the approval body may require specific design elements or changes to

promote compatibility with adjacent uses and to achieve the desired community character or pedestrian-orientation.

Figure 4.6.1 Detailed Design Features



4.6.2.1 Regularly spaced and similarly-shaped windows are provided on all building stories;

4.6.2.2. Ground floor windows or window displays shall be provided along at least 30 percent of the building's (ground floor) street-facing elevation(s); windows and display boxes shall be integral to the building design and not mounted to an exterior wall; and

4.6.2.3. Display windows are trimmed, recessed, or otherwise defined by wainscoting, sills, water tables, or similar architectural features;

4.6.2.4. On multi-story buildings, ground floors are defined and separated from upper stories by appropriate architectural features (*e.g.,* cornices, trim, awnings, canopies, arbors, trellises, overhangs, or other features) that visually identifies the transition from ground floor to upper story; such features should be compatible with the surrounding architecture;

4.6.2.5. The tops of flat roofs are treated with appropriate detailing (*i.e.,* cornice, pediment, flashing, trim, or other detailing) that is compatible with the surrounding architecture; and Pitched roofs have eaves, brackets, gables with decorative vents, or other detailing that is consistent with the surrounding architecture;

4.6.2.6 Primary building entrances shall open directly to the outside and, if not abutting a street, shall have walkways connecting them to the street sidewalk; every building shall have at least one primary entrance that does not require passage through a parking lot or garage to gain access; and are designed with weather protection, such as awnings, canopies, overhangs, or similar features; and

4.6.2.7 An alternative feature providing visual relief, as approved through HS Site Plan Special Permit.

4.6.3.0. Humphrey Street Site Plan Special Permit Design Guidelines.

The HS DRB and the Site Plan Special Permit Granting Authority, in additions to the Basic Design Standards included above, shall encourage adherence to the following guidelines before issuing a Humphrey Street Site Plan Special Permit.

Proposals should follow local development patterns (i.e. open space and view corridors, common setbacks, streetscapes). The continuation of such patterns should contribute to a unified visual appearance within an area. Not all established development patterns present opportunities for a desirable interface. Applicants should be prepared to address such situations with respect to the current design proposal and how the departure from the existing pattern benefits the community

4.6.3.1. Hard Surface Sidewalk Extension

A. The area between a Building and the Front Lot Line should be hard-surfaced for use by pedestrians as an extension of the sidewalk as shown in Figure 4.6.1, except that this area may contain tree wells, planting strips and gardens.

B. For each one hundred (100) square feet of hard-surface area between the Building and the Front Lot Line at least one of the following amenities should be provided. Figure 4.6.2 shows examples of these amenities. Structures built within two (2) feet of the FRONT LOT LINE are exempt from the requirements of this subparagraph:

1. A bench or other seating;

2. A tree;

3. A landscape planter

4. A bicycle parking facility.

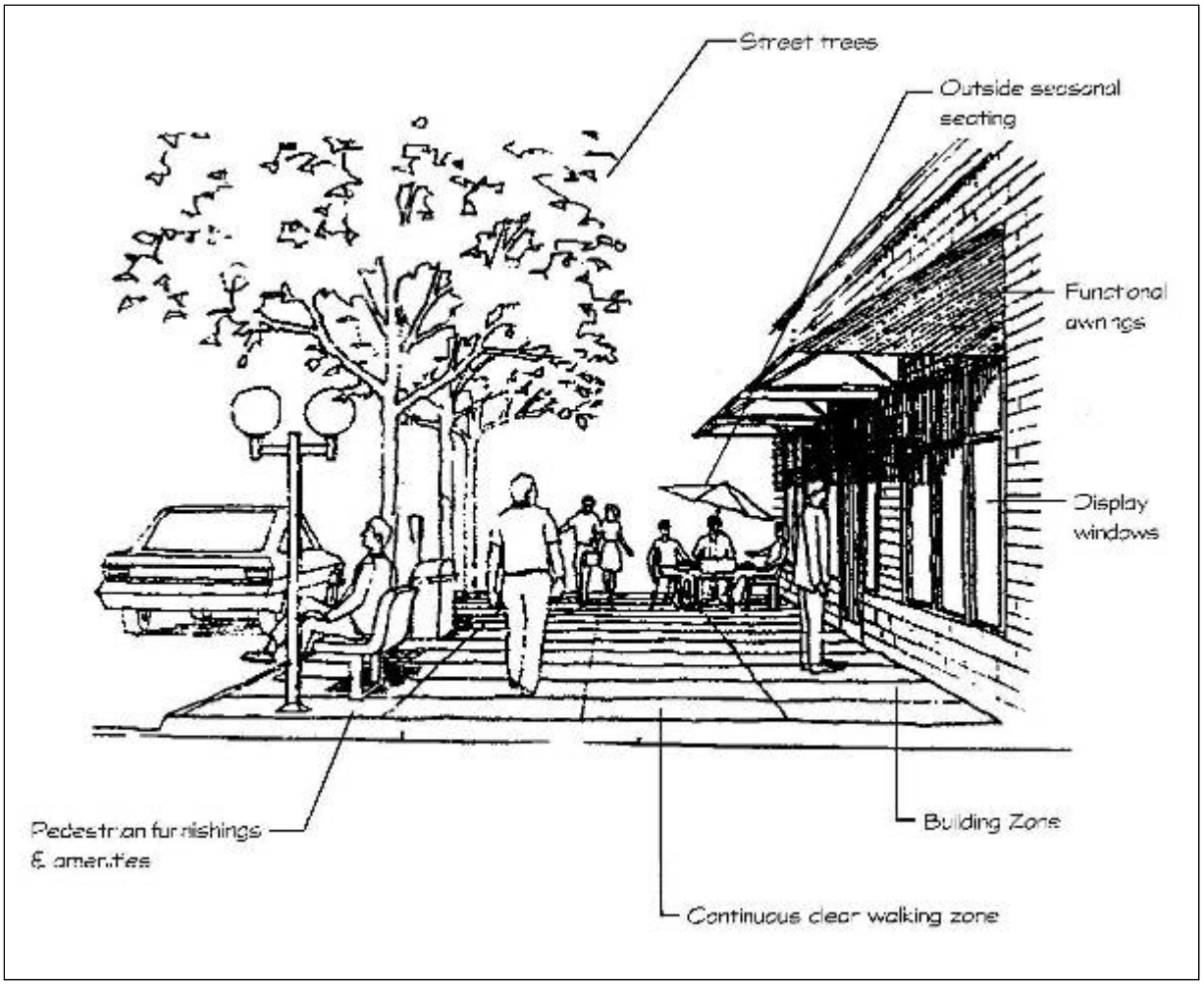
C. Wherever possible, buildings should be located directly adjacent and parallel to the sidewalk. Parking should be behind the buildings set back from the sidewalk.

D. Clearly visible and direct pedestrian paths should be established between neighboring buildings, between buildings and outlying parking areas and between buildings and transit facilities.

E. Where pedestrian circulation paths cross vehicular routes, a change in paving materials, textures or colors should be provided to emphasize the conflict point, improve visibility, enhance safety and provide added aesthetic appeal.

F. The placement of patios, plazas and similar spaces (including outdoor dining areas) should take into consideration the impact of solar orientation. Spaces having a southern or western orientation

Figure 4.6.2 Pedestrian Amenities



4.6.3.2 Reinforcement of the Corner

On sites located at public street right-of-way intersections (corners) within the Humphrey Street Overlay District.

A. The primary STRUCTURES should be within ten (10) feet of both FRONT LOT LINES within the first thirty (30) feet from the corner.
B. At least one of the STREET-facing walls should be at least forty (40) feet long;
C. The highest point of the BUILDING'S Street-facing elevation should be within twenty-five (25) feet of the corner;
D. A main entrance into the BUILDING should be on a STREET facing wall and either at the corner, or within twenty-five (25) feet of the corner; and
E. Off-street Parking is discouraged within forty (40) feet of the corner.

4.6.3.3 Main Entrance

A. At least one entrance of the PRINCIPAL BUILDING should face the FRONT LOT LINE. Where there is more than one (1) FRONT LOT LINE, the entrance may face either the FRONT LOT LINE or diagonally towards the corner.
B. For residential Buildings that have more than one (1) main entrance only one entrance should face the FRONT LOT LINE.
C. Residential Building entrances that face a shared landscaped courtyard, landscaped to at least the LANDSCAPING standards elsewhere in this By-law, are exempt from this requirement.

4.6.3.4 Ground Floor Treatment

A. Where the underlying district is non-residential, the ground floor facing the STREET for new STRUCTURES should be designed for non-residential USE by following the requirements for windows and entrance doors in this section. This should not prohibit residential USE of such ground floor spaces, but it is intended to make them attractive and marketable for non-residential uses as market conditions permit.
B. The ground level of the primary STRUCTURE should be visually distinct from upper stories. This separation may be provided by:

    1. A cornice above the ground level;

    2. An arcade;

    3. Changes in material or texture; or

    4. A row of clerestory windows on the BUILDING'S Street facing elevation.

C. Windows on Street Frontages should comply with the following:

1. Where the underlying district is non-residential, new facades that face a STREET should maintain a minimum ratio of two-thirds (2/3) glass to (1/3) solid material on the ground floor.

2. No reflective sheeting or other window blocking techniques should hall be permitted other than cloth drapery and window shades.

4.6.3.5 Awnings and Canopies

A. If there are no existing awnings on the BUILDING façade that have been approved by the Town, the proposed new awnings should meet the following standards:

1. Awnings should project at least three (3) feet from the Building wall façade;

2. Awning covers should be made of durable material that look like natural fabric and have no-gloss sheen;

3. Awnings may be flat or angled.

4. Hand cranked or "traditional" awnings are preferred

4.6.3.6 Roof-Mounted Equipment

All roof-mounted equipment, including satellite dishes and other communication equipment, excluding solar panels; should be screened in one of the following ways:

A. A parapet as tall as the tallest part of the equipment;
B. A screen around the equipment that is as tall as the tallest part of the equipment; or
C. A set back from the Street-facing perimeters of the Building three (3) feet for each foot of height of the equipment.

4.6.3.7 Roofs

Dormer windows are encouraged in pitched roofs. Buildings should have either:

A. A sloped roof with a pitch no flatter than 6/12; or
B. A roof with a pitch of less than 6/12 and a cornice that meets the following requirements as shown on Figure 4.6.3.

1. There should be two parts to the cornice. The top part of the cornice should project at least six (6) inches from the face of the Building and be at least two (2) inches further from the face of the Building than the bottom part of the cornice; and

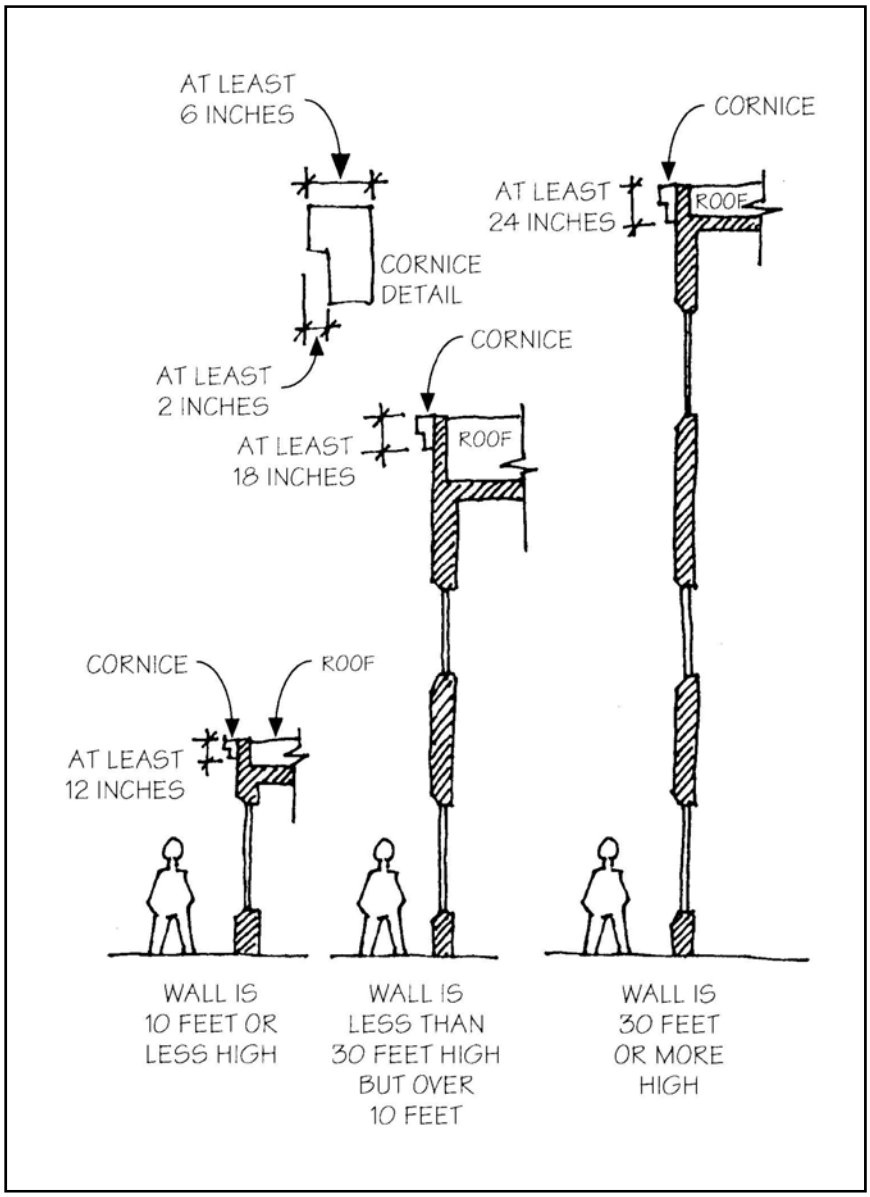
2. The height of the cornice is based on the height of the Building as follows:

   A). Buildings ten (10) feet or less in height should have a cornice at least twelve (12) inches high.

   b). Buildings greater than ten (10) feet and less than 30 feet in height should have a cornice at least eighteen (18) inches high.

   c). Buildings thirty (30) feet or greater in height should have a cornice at least twenty four (24) inches high.

Figure 4.6.3 Cornice Design



4.6.4.0. Humphrey Street Site Plan Special Permit Approval Criteria.

When determining whether an application has met the standards and addressed the standards in sections 4.5.0.0 and the *guidelines* in sections 4.6.0.0, the Special Permit Granting Authority shall find that the proposal meets the following approval criteria:

4.6.4.1 All new buildings and major remodels shall be designed consistent with the architectural context in which they are located. This standard is met when the approval body finds that all of the criteria below are met.

A. There is continuity in building sizes between new and existing buildings;

B. The ground floor and upper floor elevations and architectural detailing are compatible with adjacent commercial buildings;

C. Roof elevation is compatible with adjacent commercial buildings (roof pitch, shape, height step-down);

D. There is continuity of building sizes on the site, if more than one building is proposed;

E. There is continuity in the rhythm of windows and doors on the proposed building(s);

F. The relationship of buildings to public spaces, such as streets, plazas, other areas, and public parking, including on-street parking, is strengthened by the proposed building(s).

4.6.4.2 Proposed development meets the purpose of the HSOD; and

4.6.4.3 Proposed development meets the standards in section 4.5.00 and the standards and guidelines in 4.6.00; and

4.6.4.4 The HS DRB has reviewed the project.

4.6.5.0. Humphrey Street Special Permit Approval Criteria.

Applications for a special permit shall be made in accordance with the regulations of the Special Permit Granting Authority, who shall require conformance with the following standards before issuing a Humphrey Street special permit:

4.6.5.1 Proposed development meets the purpose of the HSOD; and

4.6.5.2. Proposed development meets the standards and *guidelines* in sections 4.5.0.0 and 4.6.0.0.; and

4.6.5.3 The HS DRB has reviewed the project.

4.6.6.0. Decision.

In granting a Humphrey Street Site Plan Special Permit, or a Humphrey Street Special Permit, the Site Plan Special Permit Granting Authority/Special Permit Granting Authority may impose reasonable restrictions based upon or in addition to the considerations listed in Sections 4.5.0.0 and 4.6.0.0 and may set time limitations on the work to be done.

Exhibit 3 Shared Parking Standards

The following model shared parking ordinance is from the American Planning Association Website (http://www.planning.org/smartgrowthcodes/phase1.htm#1)

101. Purpose

(1) The purposes of the ordinance are to:

(a) allow a reduction in the total number of parking spaces required for certain properties in cases where a mix of adjacent land uses have varying peak periods of parking demand;

(b) reduce the overall amount of impervious surfaces, specifically the amount of land devoted to surface parking; and

(c) support [*insert applicable plan name*] policies that call for:

[*List relevant plan policies here such as: 1. Encouraging compact development and efficient use of land; 2. Promoting nonmotorized vehicle trips including walking and bicycling; and 3. Improving accessibility and mobility to common destinations for users of all transportation modes*.]

102. Applicability

(1) Applicants for a zoning permit for any change of use [shall *or* may] evaluate the feasibility of shared parking arrangements as part of their application where:

(a) The proposed use is in an area identified in [*applicable plan name*] as characterized by concentrated or mixed-use development, including land located in the following zoning districts:

[1. *Central business district*]

[2. *Town center district*]

[3. *Transit station or transit-oriented development district*]

[4. *Regional center district*]

[5. *Neighborhood commercial district*]

[6. *Main street district*]

Comment: *These are sample names for zoning districts. Users of this model can substitute their own districts.*

(b) The number of parking spaces proposed by the applicant is more than [10] percent of, or more than [10] spaces greater than, the minimum number of parking spaces required by the [parking standard ordinance], whichever is greater.

103. General Provisions

(1) Shared parking is allowed between two or more uses to satisfy all or a portion of the minimum off-street parking requirement.

(2) Shared parking is permitted between different categories of uses or uses with different hours of operation.

(3) A use for which an application is being made for shared parking shall be located within [800] feet of the parking facility.

(4) The reductions to parking permitted through shared use of parking shall be determined as a percentage of the minimum-parking requirement as modified by the reductions permitted in other sections of the parking ordinance.

Comment: *A jurisdiction may allow initial reductions in parking requirements for certain uses or in certain districts that would be calculated prior to the consideration of a shared parking arrangement. Seattle, for example, allows for reductions in parking standards for landmark buildings, for uses in areas where transit is available, and in pedestrian commercial zones.*

(5) An agreement providing for the shared use of parking, executed by the parties involved, shall be filed with [zoning administrator]. Shared parking privileges shall continue in effect only as long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, parking shall be provided as otherwise required by this chapter.

[*Section 104: Alternative 1*]

104. Calculation of Parking Requirements for Shared Parking; Shared Parking Feasibility Study

(1) Where shared parking arrangements are proposed, the [zoning administrator] shall determine the number of parking spaces that

may be shared based on a shared parking feasibility study prepared by the applicant for a zoning permit. The[zoning administrator] shall promulgate written guidelines for the preparation of such studies by [date].

(2) A shared parking feasibility study shall:

(a) identify the properties and uses for the study (the study may include properties and uses not the subject of the zoning permit, provided that the applicant obtains a letter of authorization from the property owner or his or her agent);

(b) determine the number of parking spaces that would be required by applying the standard for the uses for all of the properties in subparagraph (2)(a) above;

(c) determine the peak parking demand for the combined demand of all of the uses for all of the properties in subparagraph (2)(a) above using standard parking generation rates in sources approved by the [zoning administrator]; and

(d) compare the results of (b) and (c) above.

If the [zoning administrator] finds that the shared parking feasibility study is consistent with guidelines promulgated pursuant to paragraph (1) above, the [zoning administrator] shall use the lesser of the two parking demands calculated in subparagraph (2)(d) above as the minimum number of parking spaces to be provided for all the properties and uses in the study;

(3) If standard parking generation rates for any of the uses in the study are not available, the applicant may collect data at similar sites to establish local parking demand rates. If the shared parking feasibility study assumes use of an existing parking facility, the applicant shall conduct field surveys to determine actual parking accumulation.

Comment: *The Urban Land Institute (2004) has developed procedures for conducting shared parking studies. For parking generation rates see, for example, APA PAS Report No. 510/511,* Parking Standards *(2001), which contains examples of parking standards from hundreds of ordinances around the U.S. In addition, see* Parking Generation, 3d edition *(2004) published by the Institute of Transportation* and Shared Parking Planning Guidelines *(ITE 1995), which contains guidelines for planning and regulating shared parking facilities.*

In The High Cost of Free Parking *author Donald Shoup assails planners' use of parking standards altogether. He argues that, because of numerous significant flaws in how jurisdictions*

calculate parking standards the amount of parking that gets built bears little or no relationship to what is actually needed. This has resulted in an oversupply of parking in many jurisdictions, which has had far reaching negative implications on everything from the natural environment to downtown revitalization efforts to making transit infeasible through low-density auto-dependent land use patterns. Readers of this report are strongly encouraged to read The High Cost of Free Parking*. Although critical of the status quo in parking policy, it is sure to spark a lively debate in your community out of which some creative solutions to this problem could emerge (Shoup 2005).*

[*Section 104-Alternative 2*]

104. Calculation of Parking Requirements for Shared Parking Between Different Categories of Uses, Uses with Different Hours of Operation, and Uses of the Same Type

(1) Shared Parking for Different Categories of Uses. Business establishments constituting different categories of use may share parking as follows:

(a) If an office use and a retail sales and service use share parking, the parking requirement for the retail sales and service use may be reduced by 20 percent, provided that the reduction shall not exceed the minimum parking requirement for the office use.

(b) If a residential use shares parking with a retail sales and service use other than lodging uses, eating and drinking establishments or entertainment uses, the parking requirement for the residential use may be reduced by 30 percent, provided that the reduction does not exceed the minimum parking requirement for the retail sales and service use.

(c) If an office and a residential use share off-street parking, the parking requirement for the residential use may be reduced by 50 percent, provided that the reduction shall not exceed the minimum parking requirement for the office use.

(2) Shared Parking for Uses With Different Hours of Operation.

(a) For the purposes of this Section, the following uses shall be considered daytime uses, operating anytime between the hours 8:01 a.m. and 5:59 p.m. [Monday through Friday only]:

1. Customer service and administrative offices

2. Retail sales and services, except [eating and drinking establishments and] entertainment uses

3. Wholesale, storage and distribution uses

4. Manufacturing uses

5. Other similar primarily daytime uses, as determined by the [zoning administrator].

(b) For the purposes of this section, the following uses shall be considered nighttime uses, operating anytime between the hours of 6:00 p.m. and 8:00 a.m., or [Saturday and] Sunday uses:

1. Auditoriums accessory to public or private schools
2. Religious facilities
3. Entertainment uses, such as theaters, bowling alleys, and dance halls
[4. Eating and drinking establishments]
5. Other similar primarily nighttime or Sunday uses, as determined by the [zoning administrator]

Comment: *A good deal of judgment must be applied to determine which uses are "daytime" and which are "nighttime" activities because these are not cut-and-dried determinations. Of these, eating and drinking establishments may be the most problematic. A restaurant that is a "supper club" would be a "nighttime" use, but one that serves breakfast and lunch would not. For that reason, they have been placed in brackets.*

(c) The [zoning administrator] may authorize upon application the use of up to 90percent of the required off-street parking for a daytime use to serve as the required off-street parking provided for a nighttime or Sunday use and vice-versa, except that this may be increased to 100 percent when the nighttime or Sunday use is a religious facility. The applicant shall demonstrate that there is no substantial conflict in the principal operating hours of the uses for which the sharing of parking is proposed.

(3) Shared Parking for the Uses of the Same Type

(a) The [zoning administrator] may authorize in writing shared parking arrangements between two or more commercial uses having the same or overlapping operating hours, allowing reductions in the total minimum number of required parking spaces as follows:

1. Up to a 20 percent reduction in the total minimum number of required parking spaces for four or more separate establishments;

2. A 15 percent reduction in the total minimum number of required spaces for three establishments; and

3. A 10 percent reduction in the total minimum number of required spaces for two establishments

(b) No reductions to the parking requirement shall be made if the proposed business establishments have previously received a reduction through the provisions for shared parking under paragraphs (1) or (2) above.

(c) The establishments for which the application is being made for shared parking shall be located within 800 feet of the parking facility. The parking facility shall be located in a commercial or residential-commercial zone.

(d) The reductions to parking quantities allowed through shared parking shall be determined as a percentage of the minimum parking requirement as stated in Section [cite to Section establishing minimum parking requirements by use].

(e) New business establishments seeking to meet parking requirements by becoming part of an existing shared parking arrangement shall provide the [zoning administrator] with an amendment to the agreement stating their inclusion in the shared parking facility or area.

105. Written Agreement between Property Owners to Share Parking

(1) Where an application for a zoning permit for which shared parking is proposed includes two or more separately owned properties and the [zoning administrator] has made a determination of the minimum number of required parking spaces for the each of the applicable properties and uses, the [zoning administrator] shall require that the owners of the properties enter into a legal agreement guaranteeing access to, use of, and management of designated shared parking spaces. The agreement shall be in a form approved by the [local government law director], included as a condition of the zoning permit, and enforceable by the [local government].

(2) Where an application for a zoning permit for which shared parking is proposed includes two or more properties owned by the same property owner and the [zoning administrator] has made a determination of the minimum number of required parking spaces

for the applicable properties and uses, the [zoning administrator] shall require that the owner of the properties shall enter into a legal agreement with the [local government] guaranteeing access to, use of, and management of designated shared parking spaces. The agreement shall be in a form approved by the [local government law director], included as a condition of the zoning permit, and enforceable by the [*local government*].

106. Shared Parking Plan

(1) The [zoning administrator] may require an applicant for a zoning permit that incorporates shared parking to submit a shared parking plan. Such a plan shall be included as an addendum to a site plan and shall be drawn to the same scale. A shared parking plan includes one or more of the following:

(a) A site plan showing parking spaces intended for shared parking and their proximity to the uses they will serve.

(b) A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses, if such distinctions can be made.

(c) A pedestrian circulation plan that shows connections and walkways between parking areas and land uses.

(2) The shared parking plan shall satisfy the following standards, as applicable:

(a) Shared spaces for residential units must be located within [300] feet of dwelling unit entrances they serve.

(b) Shared spaces at nonresidential uses must be located within [500] feet of the principal building entrances of all sharing uses. However, up to [20] percent of the spaces may be located greater than [500] feet but less than [1,000] feet from the principal entrances.

(c) Clearly delineated and direct pedestrian connections must be provided from the shared parking area(s) to the building entrances.

(d) Pedestrians shall not be required to cross an arterial street to access shared parking facilities except at a signalized intersection along a clearly delineated pedestrian pathway.