

Town of Barnstable Town Council

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MEETING AGENDA

July 15, 2021

7:00 PM

Councilors:

Matthew Levesque
President
Precinct 10

Paula Schnepf
Vice President
Precinct 12

Gordon Starr
Precinct 1

Eric R. Steinhilber
Precinct 2

Paul Hebert
Precinct 3

Nikolas Atsalis
Precinct 4

David W. Bogan
Precinct 5

Paul C. Neary
Precinct 6

Jessica Rapp Grasseti
Precinct 7

Debra S. Dagwan
Precinct 8

Tracy Shaughnessy
Precinct 9

Kristine Clark
Precinct 11

Jennifer L. Cullum
Precinct 13

Administrator:
Cynthia A. Lovell
Cynthia.Lovell@
town.barnstable.ma.us

Administrative
Assistant:
Kelly Crahan
Kelly.Crahan@
town.barnstable.ma.us

The July 15, 2021 Town Council Meeting of the Barnstable Town Council shall be conducted remotely and shall be physically closed to the public. Alternative public access shall be provided as set forth below.

Alternative Public Access

1. Remote Participation: Real-time public comment may be addressed to the Barnstable Town Council utilizing the Zoom video link or telephone number and access meeting code:

Join Zoom Meeting <https://zoom.us/j/92602398466> Meeting ID: 926 0239 8466
US Toll-free 1-888 475 4499

2. Written Comments may be submitted to:

https://tobweb.town.barnstable.ma.us/boardscommittees/towncouncil/Town_Council/Agenda-Comment.asp

3. The meeting will be televised live via Comcast Channel 18 access:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

PUBLIC SESSION

1. ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. MOMENT OF SILENCE

4. PUBLIC COMMENT

5. COUNCIL RESPONSE TO PUBLIC COMMENT

6. TOWN MANAGER COMMUNICATIONS

7. ACT ON MINUTES (Including Executive Session)

8. COMMUNICATIONS- from elected officials, boards, committees, and staff, commission reports, correspondence and announcements

9. ORDERS OF THE DAY

A. Old Business

B. New Business

10. ADJOURNMENT

SPECIAL MEETING August 5, 2021/Fiscal Policy
NEXT REGULAR MEETING: August 19, 2021

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as a regular member to a term expiring 06/30/2024; Robert Jones, as a regular member to a term expiring 06/30/2024; **Land Acquisition and Preservation Committee:** Ann Canedy, as a regular member to a term expiring 06/2024; Phyllis Miller, as a regular member to a term expiring 06/2024; Tracy Pratt, as a regular member to a term expiring 06/30/2024; Anne H. Rowland, as a regular member to a term expiring 06/2024; **Licensing Authority:** Larry Decker, as an associate member to a term expiring 06/30/2024; **Mid Cape Cultural Council:** Margeaux Weber, as a regular member to a term expiring 06/2024; **Old King's Highway Historic District Committee:** George Jessop, an architect representative member, to a term expiring 06/30/2024; **Planning Board:** Stephen Costello, as a regular member to a term expiring 06/30/2024; **Recreation Commission:** Brendan Burke, as a regular member to a term expiring 06/2024; Tim Lus, as a regular member to a term expiring 06/30/2024; **Registrar of Voters:** Lucien Poyant, as an appointed member to a term expiring 06/2024; **Sandy Neck Board:** Ann Canedy, as a regular member to a term expiring 06/2024; Thomas O'Neill, a member-at large to a term expiring 06/30/2024; **Shellfish Committee:** Jacob Angelo, as a member-at-large to a term expiring 06/2024; Tyler Hagenstein, as a professional fisheries trained member to a term expiring 06/2024; **Youth Commission:** Lucas McCauley as a student member to a term expiring 06/2022; Mark Beal, as a student member to a term expiring 06/2022; Jenna Schmidt, as a student member to a term expiring 06/2022; Piper Hunt, as a student member to a term expiring 06/2022; Luc-Andre Sader, as a student member to a term expiring 06/2022; Isabelle Rudy, as a student member to a term expiring 06/2022; Michaela Stampfl, as a student member to a term expiring 06/2022; Laik O'Reilly, as a student member to a term expiring 06/2022; Connor O'Reilly, as a student member to a term expiring 06/2022; **Zoning Board of Appeals:** Aaron Webb, an associate member to a term expiring 06/30/2024; Emanuel Alves, an associate member to a term expiring 06/30/2024; Jake Dewey, as a regular member to a term expiring 06/30/2024 **(May be acted upon) (Roll Call Majority)**.....16-17

2021-181A Reappointments to a Board/Committee/Commission: **Youth Commission:** Caleb Levesque as a student member to a term expiring 06/2022 **(May be acted upon) (Roll Call Majority)**..... 18

2021-182 Regulatory Development Agreement with 77 Pleasant Street Realty Trust / Wayne Kurker Trustee to Redevelop 77 Pleasant Street, Hyannis with an 81 space gravel parking lot. The redevelopment also includes relocating an existing historic residential two-family dwelling within 21 feet of Pleasant Street which will continue as a two-family dwelling **(Public Hearing) (Roll Call 2/3 of Full Council)**.19-32

2021-187 Appropriation Order in the amount of **\$89,950** in Community Preservation Funds for the restoration work to the Barnstable Historic Society Inc.'s building at 3087 Main Street/Rte. 6A, Barnstable **(Public Hearing) (Roll Call Majority)**.....33-34

B. NEW BUSINESS

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2022-002 Supplemental Appropriation Order in the amount of **\$15,000** for the purpose of paying operating expenses of the Legal Department for the services of the law firm of Anderson & Kreiger which is serving as outside counsel to the Town with respect to two lawsuits filed against the Town by the Conservation Law Foundation **(Refer to Public Hearing 08/05/2021)**.....38-39

2022-003 Appropriation and Transfer Order in the amount of **\$816,793** from Community Preservation Undesignated Funds for the renovation of Centerville Recreation Playground located at 524 Main Street, Centerville, MA **(Refer to Public Hearing 08/19/2021)**.....40-41

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Approve Minutes: July 1, 2021

Please Note: The lists of matters are those reasonably anticipated by the Council President which may be discussed at the meeting. Not all items listed may be discussed and other items not listed may be discussed to the extent permitted by law. It is possible that if it so votes, the Council may go into execute session. The Council may also act on items in an order other than as they appear on this agenda. Persons interested are advised that in the event any matter taken up at the meeting remains unfinished at the close of the meeting, it may be continued to a future meeting, and with proper notice.

A. OLD BUSINESS (Second Reading) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM# 2021-130
INTRO: 06/17/2021, 07/15/2021

2021-130 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Conservation Commission:** William Hearn, as a regular member to a term expiring 06/2024; **Council on Aging:** Jean Ahonen, as a regular member to a term expiring 06/2022; **Mid Cape Cultural Council:** Michele McCoy, as a regular member to a term expiring 06/2023; **Infrastructure and Energy Committee:** Clay Schofield, as a regular member to a term expiring 06/2022; Jane Ward, as a regular member to a term expiring 06/2022; **Planning Board:** Michael Mecinas, as a regular member to a term expiring 06/2024; **Recreation Commission:** Nicholas Avery, as a regular member to a term expiring 06/2022; **Sandy Neck Board:** Maureen Piccione, as a regular member to a term expiring 06/2024; **Waterways Committee:** Todd Walantis, as a regular member to a term expiring 06/2022; Gregory Egan, as a regular member to a term expiring 06/2023; **Youth Commission members:** Sean Beal, as a student member, to a term expiring 06/2022; Alexander Arabadzhev, as a student member, to a term expiring 06/2022;

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
<u>06/17/2021</u>	<u>First Reading, Referred to Second Reading 07/15/2021</u>

-
- Read Item
 - Rationale
 - Council Discussion
 - Vote

A. OLD BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM# 2021-130A
INTRO: 06/17/2021, 07/15/2021

2021-130A APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individual to a multiple-member Board/Committee/Commission: **Youth Commission member:** Cameron Levesque, as a student member, to a term expiring 06/2022

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
<u>06/17/2021</u>	<u>First Reading, Referred to Second Reading 07/15/2021</u>

- Read Item
- Rationale
- Council Discussion
- Vote

A. OLD BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM# 2021-130B
INTRO: 06/17/2021, 07/15/2021

2021-130B APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council appoints the following individual to a multiple-member Board/Committee/Commission: **Youth Commission member:** Mary Steinhilber, as a student member, to a term expiring 06/2022

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
<u>06/17/2021</u>	<u>First Reading, Referred to Second Reading 07/15/2021</u>

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

A. OLD BUSINESS (Public Hearing) (Roll Call Majority Full Council)

BARNSTABLE TOWN COUNCIL

**ITEM# 2021-174
INTRO: 05/06/21, 07/15/2021**

2021-174 AMENDING ARTICLE XIV, CHAPTER 240, SECTION 128 OF THE ZONING ORDINANCE TO ADD A DEFINITION FOR ACCESSORY DWELLING UNIT (ADU) AND DWELLING UNIT, AND REVISE THE DEFINITION OF DWELLING, SINGLE-FAMILY AND ADD ARTICLE V, CHAPTER 240, SECTION 47.2 ACCESSORY DWELLING UNITS (ADUS) TO THE ZONING ORDINANCE

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

SECTION 1

By amending Article XIV, Chapter 240, Section 128 by adding a definition of “Accessory Dwelling Unit (ADU)” as follows:

ACCESSORY DWELLING UNIT (ADU)

An Accessory Dwelling Unit (ADU) is a self-contained Dwelling Unit, inclusive of sleeping, cooking, and sanitary facilities, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller.

SECTION 2

By amending Article XIV, Chapter 240, Section 128 by adding a definition of “Dwelling Unit” as follows:

DWELLING UNIT

Complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

SECTION 3

By amending Article XIV, Chapter 240, Section 128 by striking in the definition of DWELLING, SINGLE-FAMILY the phrase “including permanent provisions for living, sleeping, eating, cooking and sanitation” so it reads as follows:

DWELLING, SINGLE-FAMILY

A detached residential building designed for and occupied by a single family and providing complete independent living facilities for one or more persons.

SECTION 4

By adding Article V, Chapter 240, Section 47.2 **Accessory Dwelling Units (ADUs)** which reads as follows:

A. Purpose and Intent.

The intent of permitting Accessory Dwelling Units (ADUs) is to:

- (1) Increase the number of dwelling units available for year-round rental in Town while remaining within our current wastewater capacity limitations;

- (2) Adapt single-family residential properties so they are supportive of residents at a variety of stages in their life cycle;
- (3) Encourage greater diversity and support of all populations with particular attention to young adults and senior citizens; and
- (4) Encourage a more economic and efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and
- (5) Provide homeowners with a means of obtaining rental income to defray housing costs.

B. Procedural Requirements

- (1) An ADU that conforms to the requirements contained herein shall be permitted as an accessory use to a lawful single family dwelling use, except that no ADU shall be permitted on a lot at the same time as a family apartment exists on that lot pursuant to §240-47.1.
- (2) Prior to issuance of a building permit for an ADU, site plans, floor plans and elevations shall be submitted showing the proposed interior and exterior changes to existing buildings or new buildings and improvements on a lot associated with a proposed ADU.
- (3) The construction of any accessory dwelling unit must be in conformity with the Federal, State, and local laws and regulations, including all historic, and Old King's Highway requirements if applicable.

C. Use and Dimensional Requirements

The Building Commissioner may issue a Building Permit authorizing the installation and use of an Accessory Dwelling Unit within a lawful existing or new single-family dwelling to which the ADU is accessory, or in a new or existing detached building accessory to and on the same lot as the principal dwelling subject to the following:

- (1) No more than one (1) ADU may be created per lot. This provision is not subject to variance.
- (2) If the primary entrance of an ADU is not proposed to be shared with that of the principal dwelling, such entrance shall be less visible from the street view of the principal dwelling than the main entrance of the principal dwelling.
- (3) An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property. Any addition or new construction shall be consistent in design with the principal single family dwelling, considering the following: architectural details, roof design, building spacing and orientation, door and window location, and building materials. Any person aggrieved by the determination of a Town official with respect to a determination under this subsection may appeal said determination to the Zoning Board of Appeals.
- (4) The ADU shall contain no more than two bedrooms. ADUs, in accordance with the definition, shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller. ADUs with more than two bedrooms may be permitted by special permit from the Zoning Board of Appeals. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.
- (5) Occupancy of the ADU shall not exceed two persons; occupancy limitations shall not apply to children ages 18 and under. Occupancy of an ADU by more than two persons over the age of 18 may be permitted by special permit from the Zoning Board of Appeals.
- (6) Once an ADU has been added to a single-family dwelling or lot, the accessory dwelling unit shall not be enlarged beyond the square footage allowed by this section.
- (7) All parking for the ADU shall be off street.

- (8) The Board of Health must have documented to the Building Commissioner that sewage disposal will be satisfactorily provided for in accordance with the provisions of Title 5 and Board of Health regulations, including provisions for an appropriate reserve area on the site. The principal dwelling unit and accessory dwelling unit shall meet all wastewater requirements for the combined number of bedrooms/ wastewater flow on the lot. If the property is served by municipal sewer, the Department of Public Works shall certify adequate capacity is available to serve the additional unit.
- (9) The rights and requirements of this ordinance hereby transfer upon the sale of a property containing an ADU built under the provisions of this ordinance.
- (10) An ADU and the principal dwelling to which it is accessory may be rented only in accordance with the terms of this section.
- (11) An ADU shall be used only as a rental, except that the owner of the property may reside in the ADU while renting the principal dwelling. The rental period for an ADU and for a principal dwelling shall not be shorter than 12 consecutive months. Both the ADU and the principal dwelling may be rented concurrently.
- (12) Any commercial use, with the exception of permitted home occupations, shall not be allowed on a property on which there is an ADU.

SPONSOR: Town Council Zoning & Regulatory Advisory Subcommittee (as constituted on December 16, 2020): Paula Schnepf, Councilor Precinct 12; Kristine Clark, Councilor Precinct 11; Jennifer Cullum, Councilor Precinct 13; Gordon Starr, Councilor Precinct 1

DATE	ACTION TAKEN
<u>05/06/2021</u>	<u>Refer to Planning Board</u>

-
- Read item
 - Motion to Open Public Hearing
 - Rationale
 - Public Hearing
 - Close Public Hearing
 - Council Discussion
 - Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2021-174
INTRO: 05/06/2021, 07/15/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, AICP, Director, Planning & Development Department
DATE: May 06, 2021
SUBJECT: Amending Article XIV, Chapter 240, Section 128 of the Zoning Ordinance to add a definition for Accessory Dwelling Unit (ADU) and Dwelling Unit, and revise the definition of Dwelling, Single-Family and add Article V, Chapter 240, Section 47.2 Accessory Dwelling Units (ADUs) to the Zoning Ordinance

RATIONALE: This item proposes an update to the Town's Zoning Ordinance to allow Accessory Dwelling Units (ADUs) as an accessory use to single-family residential dwellings town-wide. The intent and purpose of this amendment, as stated in the proposed ordinance is to increase the number of dwelling units available for year-round rental while remaining within our current wastewater capacity limitations; allow adaptation of single-family residential properties to be supportive of residents at a variety of stages in their life cycle; encourage greater diversity and support of all populations with particular attention to young adults and senior citizens enabling an intergenerational community; encourage a more economic and efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods; and provide homeowners with a means of obtaining rental income to defray housing costs.

The proposed Accessory Dwelling Unit ordinance directly responds to goals and recommendations in the Town's Housing Production Plan and the associated Housing Needs Assessment. These plans identify the need for expanded housing choice and additional supply of rental housing to support an intergenerational community by encouraging aging in place and the attraction and retention of younger residents. The Needs Assessment emphasizes the need for more alternative choices to single-family houses, which currently compose the majority of the Town's housing stock. Limited housing choice and the high cost of housing results in homeownership being out of reach for many families. These factors, coupled with very low vacancy rates, place a significant burden on those seeking rental housing options. The Housing Production Plan, which is a compilation of housing recommendations for the community based on the Needs Assessment and an extensive community engagement process, explicitly recommends permitting market-rate Accessory Dwellings Units accessory to existing single-family homes and in outbuildings throughout Barnstable to increase housing options.

The proposed Accessory Dwelling Unit ordinance is based on the Cape Cod Commission's model Accessory Dwelling Unit ordinance. The model ADU ordinance allows ADUs by-right to support the addition of small scale housing alternatives in an effort to meet housing needs within our region. In an overview of the model ADU ordinance, the Commission highlights how the gap between median annual income and the cost of housing continues to widen. At the same time, the average household size is declining creating a demand for smaller units. Allowing ADUs by right will expand housing choices and increase the number of smaller units, which the Commission notes as being an important part of meeting Cape Cod's housing challenge especially in areas of our region with limited infrastructure and sensitive habitats. To date nine other towns on Cape Cod have adopted by-right Accessory Dwelling Unit bylaws.

Additionally, the new "Housing Choice" legislation, adopted by the Commonwealth on January 14, 2021, encourages and promotes new housing production by making it easier to approve housing supportive zoning. The new legislation reduces the required vote for the approval of zoning amendments allowing as of right ADUs, whether within the principal dwelling or a detached structure on the same lot, from a two-thirds majority vote to a simple majority vote.

Furthermore, Town Council's Strategic Plan housing goal includes developing and promoting rental housing to meet the needs of residents. One of the identified strategies is to review zoning issues identified by the Council to

determine how to best achieve housing goals through zoning and regulatory changes. Our current zoning allows for the incorporation of accessory apartments through the Accessory Affordable Apartment Program (AAAP) and our Family Apartment ordinance. However, the Housing Production Plan notes that although AAAP has been a successful tool for producing affordable housing, the process requires a Comprehensive Permit and Zoning Board of Appeals approval for each unit, which was noted to be a cumbersome process. The Family Apartment ordinance allows, within a residential district, one temporary family apartment occupied only by the property owner or a member(s) of the property owner's family as accessory to a single-family residence to provide families the ability to live together as a family unit. While the Family Apartment ordinance allows more diverse housing it is limited by factors including duration and is prohibited for non-family members. Allowing ADUs as of right is an effort aimed at increasing the supply of rental housing to better meet the needs of our residents.

The proposed zoning ordinance allows ADUs “by right” to encourage the creation of new units, while including limitations on size, dimension, style, number of bedrooms, and occupancy necessary to protect community character. ADUs are further limited by the general standards required for all buildings (setbacks, height, etc.) and uses contained in the underlying zoning. The ordinance proposes allowing specific restrictions to be exceeded with the grant of a Special Permit by the Zoning Board of Appeals: bedrooms in excess of two and occupants (over 18) in excess of two. A third standard, ADUs in excess of 900 square feet, is the subject of the second item under consideration.

The proposed ordinance does not include an owner occupancy requirement, consistent with the recommendation in the Cape Cod Commission’s model. It allows the rental of both or either of the units, so long as the ownership of the units is not severed. The proposed zoning ordinance requires that any rental on a property with an ADU be no shorter than 12 consecutive months, in keeping with the goal of increasing the supply of year-round rentals. This provision prevents the owner of a single family dwelling with an ADU from offering any rental for a time period shorter than 12 consecutive months, thereby deterring short term rentals in neighborhoods and promoting housing opportunity for year-round residents.

The ordinance also requires properties with ADUs to remain within established wastewater capacity limitations. The principal dwelling unit and ADU must meet all wastewater requirements for the combined number of bedrooms/wastewater flow on a lot. No additional wastewater disposal capacity is permitted by this zoning amendment.

FISCAL IMPACT: There is no significant fiscal impact of the proposed zoning amendment.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends the proposed zoning amendment.

STAFF SUPPORT: Elizabeth Jenkins, AICP, Director, Planning & Development; Arden Cadrin, Housing Coordinator; Kate Maldonado, Assistant Director, Planning & Development; Gloria McPherson, Planning & Economic Development Coordinator; Brian Florence, Building Commissioner; Karen Nober, Town Attorney; Charles McLaughlin, Assistant Town Attorney; Kathleen Connolly, Assistant Town Attorney

A. OLD BUSINESS (Public Hearing) (Roll Call 2/3 Full Council)

BARNSTABLE TOWN COUNCIL

**ITEM# 2021-175
INTRO: 05/06/21, 07/15/2021**

2021-175 AMENDING ARTICLE XIV, CHAPTER 240, SECTION 128 OF THE ZONING ORDINANCE TO REVISE THE DEFINITION OF ACCESSORY DWELLING UNIT (ADU) AND AMENDING ARTICLE V, CHAPTER 240, SECTION 47.2(C)(4) TO ALLOW ADUS WITH GREATER THAN 900 SQUARE FEET BY SPECIAL PERMIT FROM THE ZONING BOARD OF APPEALS

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

SECTION 1

By amending Article XIV, Chapter 240, Section 128 by adding in the definition of “Accessory Dwelling Unit (ADU)” the phrase “unless special permit relief is granted with respect to the requirements of 240-47.2(C)(4) with regard to square footage” so it reads as follows:

ACCESSORY DWELLING UNIT (ADU)

An Accessory Dwelling Unit (ADU) is a self-contained Dwelling Unit, inclusive of sleeping, cooking, and sanitary facilities, incorporated within a lawful principal single-family dwelling or within a detached building accessory to and on the same lot and in the same ownership as a lawful principal single-family dwelling use. The ADU shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress. ADUs shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller, **unless special permit relief is granted with respect to the requirements of 240-47.2(C) (4) with regard to square footage.**

SECTION 2

By amending Article V, Chapter 240, Section 47.2(C) (4) by adding the phrase “and/or a maximum habitable floor area greater than 900 square feet” so it reads as follows:

The ADU shall contain no more than two bedrooms. ADUs, in accordance with the definition, shall have a maximum habitable floor area that is not larger than 1/2 of the habitable floor area of the principal single family dwelling unit (exclusive of floor area that converted to the ADU), or 900 square feet, whichever is smaller. ADUs with more than two bedrooms **and/or a maximum habitable floor area greater than 900 square feet** may be permitted by special permit from the Zoning Board of Appeals. Garages, unfinished attics and basements, common entries, porches and decks shall not be included in the floor area calculations.

SPONSOR: Town Council Zoning & Regulatory Advisory Subcommittee (as constituted on December 16, 2020): Paula Schnepf, Councilor Precinct 12; Kristine Clark, Councilor Precinct 11; Jennifer Cullum, Councilor Precinct 13; Gordon Starr, Councilor Precinct 1

DATE

ACTION TAKEN

- Read item
- Motion to Open Public Hearing
- Rationale
- Public Hearing
- Close Public Hearing
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2021-175
INTRO: 05/06/2021, 07/15/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, AICP, Director, Planning & Development Department
DATE: May 06, 2021
SUBJECT: Amending Article XIV, Chapter 240, Section 128 of the zoning ordinance to revise the definition of Accessory Dwelling Unit (ADU) and amending Article V, Chapter 240, Section 47.2(C)(4) to allow ADUs with greater than 900 square feet by special permit from the Zoning Board of Appeals

BACKGROUND: The proposed amendment adds to the definition for an Accessory Dwelling Unit (ADU) and the dimensional requirements for an ADU as defined within Article V, Chapter 240, Section 47.2(C)(4) to allow that an ADU with more than 900 square feet may be permitted by a special permit from the Zoning Board of Appeals. The new “Housing Choice” legislation, adopted by the Commonwealth on January 14, 2021, encourages and promotes new housing production by establishing that zoning for ‘as of right’ ADUs, defined to be no larger than 900 square feet, shall be adopted by a simple majority vote. The ability to seek relief by special permit for ADUs that are greater than 900 square feet diverges from the Commonwealth’s Housing Choice provisions and therefore requires a two-thirds majority vote. Massachusetts General Laws Chapter 40A Section 5 was amended to note that “any amendment that requires a simple majority vote shall not be combined with amendments that require a two-thirds majority vote.” Therefore, consistent with the guidance from local officials on determining voting thresholds for zoning ordinances and bylaws, the additional provision to seek a special permit for an ADU greater than 900 square feet is voted upon as a separate amendment in an effort to not combine provisions that require different voting thresholds.

The ability to seek a special permit for an ADU greater than 900 square feet enables additional flexibility supporting more diverse housing options and aligns with the provisions of the Family Apartment ordinance which similarly allows an apartment that exceeds the established maximum square footage to be authorized by special permit from the Zoning Board of Appeals. Despite any allowed increase in square footage for the ADU, the principal dwelling unit and the ADU shall meet all wastewater requirements for the combined number of bedrooms/wastewater flow on the lot.

FISCAL IMPACT: There is no significant fiscal impact of the proposed zoning amendment.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends the proposed zoning amendment.

STAFF SUPPORT: Elizabeth Jenkins, AICP, Director, Planning & Development; Arden Cadrin, Housing Coordinator; Kate Maldonado, Assistant Director, Planning & Development; Gloria McPherson, Development Coordinator, Planning & Economic; Brian Florence, Building Commissioner; Karen Nober, Town Attorney; Charles McLaughlin, Assistant Town Attorney; Kathleen Connolly, Assistant Town Attorney

A. OLD BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM# 2021-181
INTRO: 06/17/2021, 07/15/2021

2021-181 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION:

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member Board/Committee/Commission: **Airport Commission:** Wendy Bierwith, as a regular member to a term expiring 06/30/2024; John Griffin, as a regular member to a term expiring 06/30/2024; Norman Weill, as a regular member to a term expiring 06/30/2024; **Board of Assessors:** William Garreffo, as a regular member to a term expiring 06/30/2024; **Board of Health:** John Norman, as a regular member to a term expiring 06/30/2024; **Community Preservation Committee:** F.P. Tom Lee, as a regular member to a term expiring 06/30/2024; Katherine Garofoli, as a regular member to a term expiring 06/30/2024; Deb Converse, as a Housing Authority Representative member to a term expiring 06/30/2024; **Comprehensive Financial Advisory Committee:** Hector Guenther, as a regular member to a term expiring 06/2024; John Schoenherr, as a regular member to a term expiring 06/30/2024; **Conservation Commission:** George Gillmore, as a regular member to a term expiring 06/30/2024; **Council On Aging:** Anna Valtsakis, as a regular member to a term expiring 06/30/2024; **Disability Commission:** Michael Hersey, as a regular member to a term expiring 06/30/2024; Sheila Mulcahy, as a regular member to a term expiring 06/30/2024; Steve Spillaine, as a regular member to a term expiring 06/2024; **Elderly & Disabled Taxation Aid Committee:** William Garreffo, as a regular member to a term expiring 06/30/2024; **Golf Committee:** Keith Hochstein, as a regular member to a term expiring 06/30/2024; **Historical Commission:** Cheryl Powell, as a regular member to a term expiring 06/30/2024; Marilyn Fifield, as a regular member to a term expiring 06/30/2024; Jack Kay, as a regular member to a term expiring 06/2022; **Housing Committee:** Donald Lynde, as a regular member to a term expiring 06/30/2024; Jacob Dewey, as a regular member to a term expiring 06/30/2024; **Infrastructure and Energy Committee:** John Solomon, as a regular member to a term expiring 06/30/2024; Peter Doyle, as a regular member to a term expiring 06/30/2024; **John F. Kennedy Memorial Trust Fund Committee:** Lynne Poyant, as a regular member to a term expiring 06/30/2024; Robert Jones, as a regular member to a term expiring 06/30/2024; **Land Acquisition and Preservation Committee:** Ann Canedy, as a regular member to a term expiring 06/2024; Phyllis Miller, as a regular member to a term expiring 06/2024; Tracy Pratt, as a regular member to a term expiring 06/30/2024; Anne H. Rowland, as a regular member to a term expiring 06/2024; **Licensing Authority:** Larry Decker, as a regular member to a term expiring 06/30/2024; **Mid Cape Cultural Council:** Margeaux Weber, as a regular member to a term expiring 06/2024; **Old King's Highway Historic District Committee:** George Jessop, an architect representative member, to a term expiring 06/30/2022; **Planning Board:** Stephen Costello, as a regular member to a term expiring 06/30/2024; **Recreation Commission:** Brendan Burke, as a regular member to a term expiring 06/2024; Tim Lus, as a regular member to a term expiring 06/30/2024; **Registrar of Voters:** Lucien Poyant, as an appointed member to a term expiring 06/2024; **Sandy Neck Board:** Ann Canedy, as a regular member to a term expiring 06/2024; Thomas O'Neill, a member-at large to a term expiring 06/30/2024; **Shellfish Committee:** Jacob Angelo, as a member-at-large to a term expiring 06/2024; Tyler Hagenstein, as a professional fisheries trained member to a term expiring 06/2024; **Youth Commission:** Lucas McCauley, as a student member to a term expiring 06/2022; Luc-Andre Sader, as a student member to a term expiring 06/2022; Isabelle Rudy, as a student member to a term expiring 06/2022; Piper Hunt, as a student member to a term expiring 06/2022; Jenna Schmidt, as a student member to a term expiring 06/2022; Michaela Stampfl, as a student member to a term expiring 06/2022; Laik O'Reilly, as a student member to a term expiring 06/2022; Connor O'Reilly, as a student member to a term expiring 06/2022; Mark Beal, as a student member to a term expiring 06/2022; **Zoning Board of Appeals:** Aaron Webb, as an

associate member to a term expiring 06/30/2024; Emanuel Alves, as an associate member to a term expiring 06/30/2024; Jake Dewey, as a regular member to a term expiring 06/30/2024

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
<u>06/17/2021</u>	<u>First Reading, Referred to Second Reading 07/15/2021</u>

- Read Item
- Rationale
- Council Discussion
- Vote

A. OLD BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM# 2021-181A
INTRO: 06/17/2021, 07/15/2021

2021-181A REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member Board/Committee/Commission: **Youth Commission:** Caleb Levesque as a student member to a term expiring 06/2022;

SPONSOR: Appointments Committee

DATE	ACTION TAKEN
<u>06/17/2021</u>	<u>First Reading, Referred to Second Reading 07/15/2021</u>

- Read Item
- Rationale
- Council Discussion
- Vote

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM# 2021-182
INTRO: 06/17/2021, 07/15/2021

2021-182 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND 77 PLEASANT STREET REALTY TRUST/WAYNE KURKER TRUSTEE

ORDERED: That the Town Council hereby authorizes the Town Manager, pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable (the “Code”), to enter into and execute a Regulatory Agreement between the Town of Barnstable and 77 Pleasant Street Realty Trust/Wayne Kurker Trustee, for the property at 77 Pleasant Street, Hyannis, 0.79± acres, shown on Town of Barnstable Assessor’s Map 327 as Parcel 118, and which is more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 17602, Page 345 (the “Property”); and further authorizes the redevelopment of the Property and grants the requested zoning relief and approval under Chapter 112, Article I of the Code pursuant to and as described in this Regulatory Agreement.

REGULATORY AGREEMENT

77 Pleasant Street Realty Trust / Wayne Kurker Trustee

77 Pleasant Street Hyannis, MA

This Regulatory Agreement (“Agreement”) is entered into by and between the Applicant, 77 Pleasant Street Realty Trust / Wayne Kurker Trustee, the Owner of the property, 77 Pleasant Street, Hyannis, MA, 02601, hereinafter (together the “Applicant” and/or “Developer”), with a mailing address of 1 Willow Street, Hyannis, MA 02601 and the Town of Barnstable (the “Town”), a municipal corporation with a mailing address of 367 Main Street, Hyannis, MA 02601, on this ___ day of _____, 2021, pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Chapter 168 of the Code of the Town of Barnstable.

WITNESS:

WHEREAS, this Agreement shall establish the following: permitted uses and bulk and dimensional requirements, within the proposed Redevelopment (as defined herein), the duration of this Agreement, and any other terms and conditions mutually agreed upon between the Applicant and the Town;

WHEREAS, the Town is authorized to enter into this Agreement pursuant to Chapter 168 of the Code of the Town of Barnstable;

WHEREAS, the Applicant owns the property known as and numbered 77 Pleasant Street, Hyannis, MA, 02601, which is shown on Barnstable Assessor’s Map 327, as Parcel 118, and which is more particularly described in the deed recorded with the Barnstable County Registry of Deeds in Book 29661, Page 224 (hereafter, the “Property”);

WHEREAS, the site and existing dwelling was previously used as a two-unit duplex residential dwelling.

WHEREAS, the Property consists of approximately 35,004+/- SF of land, more or less, and is located in the HD Harbor District 240.24.1.7A (1);

WHEREAS, the Applicant proposes to move the historic portion of the house and move it up within 21' ft. of Pleasant Street, thereby preserving the historic structure and creating a residential streetscape within the historic district. The dwelling will be used for market rate rentals and workforce housing. The Applicant proposes to use the balance of the property as an 81 space, Open-Air Parking Lot to provide parking for harbor side uses, all as shown on the plans submitted and attached hereto as Exhibit A (hereafter, the "Redevelopment Plans," and such proposed site work and improvements all as shown on the Redevelopment Plans are hereafter referred to herein, collectively, as the "Redevelopment");

WHEREAS, the Redevelopment is consistent with the Town of Barnstable's Design and Infrastructure Plan;

WHEREAS, the Town and Applicant desire to set forth in this Agreement their respective understandings and agreements with regard to the Redevelopment;

WHEREAS, the Applicant is willing to commit to the reuse of the Property substantially in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the Redevelopment and therefore considers this Agreement to be in its best interests;

WHEREAS, this Agreement shall vest land use development rights with the Applicant/Owner and/or its successors for the duration of this Agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare;

WHEREAS, the Redevelopment will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA);

WHEREAS, the Property is located in the Hyannis Growth Incentive Zone (GIZ) as originally approved by the Cape Cod Commission by decision dated April 6, 2006 and re-designated by decision dated April 19, 2018, and as authorized by Barnstable County Ordinance 2005-13, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11, and 18-11, Chapter G, Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS, the Redevelopment is not subject to review by the Cape Cod Commission as a Development of Regional Impact as it does not trigger any Cape Cod Commission jurisdictional thresholds;

WHEREAS, the parcel which comprises the Property has undergone Formal Site Plan Review and the Town of Barnstable Site Plan Review Committee preliminarily approved the project (see attached SPR letter), for the combined use for a 81 space gravel open air parking lot and continued use of residential dwelling as a duplex.

WHEREAS, the approved Redevelopment proposal shall require final approval by the Site Plan Review Committee.

WHEREAS, the Redevelopment has undergone review by the Hyannis Main Street Waterfront Historic District Committee, where an approval was obtained to relocate the structure on the lot. (See attached Decision).

WHEREAS, the Redevelopment proposal has undergone three hearings on the Regulatory Agreement application and received an affirmative majority vote from the Planning Board on February 8, 2021;

WHEREAS, the Redevelopment proposal has undergone a public hearing on the Agreement before the Barnstable Town Council and has received a two-thirds vote approving the Agreement on _____;

WHEREAS, this Agreement authorizes the use, intensity of uses and dimensions specified herein. Any substantial deviation from the authorized terms of this Agreement shall require review by the Town Council and Planning Board pursuant to Chapter 168-10 of the Code;

NOW, THEREFORE, in consideration of the agreements and covenants set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which each of the parties hereby acknowledge to each other, the Applicant and Town do enter into this Agreement, and hereby agree to covenant as follows:

1. The Applicant shall move the historic portion of the house and move it up within 21' ft. of Pleasant Street, thereby preserving the historic structure and creating a residential streetscape within the historic district. The dwelling will be used for market rate rentals and workforce housing. The Applicant proposes to use the balance of the property as an 81 space, Open-Air Parking Lot to provide parking for harbor side uses, all as shown on the plans submitted and attached hereto as Exhibit A (hereafter, the "Redevelopment Plans," and such proposed site work and improvements all as shown on the Redevelopment Plans are hereafter referred to herein, collectively, as the "Redevelopment") and as further described in paragraph 4 below;

2. The Developer shall construct the Redevelopment on the Property in accordance with the Redevelopment Plans which are attached as Exhibit A to this Agreement and which are entitled as follows:

a. "Preliminary Parking Layout Plan", 77 Pleasant Street, Hyannis, MA 02601, Applicant – 77 Pleasant Street Realty Trust / Wayne Kurker Trustee Owner – 77 Pleasant Street Realty Trust / Wayne Kurker Trustee

Engineer/Surveyor – Baxter & Nye Engineering & Surveying - Registered Professional Engineers and Land Surveyors, 78 North Street, 3rd Floor, Hyannis, MA, 02601.

Issued for: Site Plan Review March 3rd 2020; June 16, 2020 and October 16, 2020, Revised for Planning Board, February 2, 2021 & Landscape Plan issued for Planning Board January 14, 2021 as follows:

- i. Preliminary Parking Layout Plan - C3.0
- ii. Landscape Plan - C3.1

3. The Town hereby grants the following waivers from the Town of Barnstable Zoning Ordinance for the Redevelopment, as requested by the Developer:

- a. Section 240-24.1.7A (1) Principal permitted uses. To allow for an open-air parking lot;
- b. Section 240-24.1.7A (1) Principal permitted uses. To allow for use of a two-unit residential dwelling;
- c. Section 240-24.1.7C. Dimensional, bulk and other requirements, for the side yard setback.
- d. Section 240-24.1.7C. Maximum Lot Coverage. Applicant seeks a waiver from the maximum lot coverage, providing 76.5+/-%, where a maximum of 70% is allowed. (Note Building Commissioner has determined that the gravel parking lot is not considered impervious area, however Applicant seeks the waiver to allow for future paving of the parking lot at the Applicant's option, subject to approval by Site Plan Review).
- e. Section 240-24.1.11A. (4)(d)(1) Trees. One three-inch minimum caliper low-water use, low-maintenance tree must be provided for every five parking spaces and must be located within 50 feet of the parking lot. Trees shall be maintained and irrigated as necessary and planted within at least 50 square feet of permeable area. Existing trees located in the interior of lots shall be credited towards this requirement. Applicant seeks a waiver from the total number of trees at 11 Trees, where 16.2 Trees are required.

f. Section 240-24.1.11A. (4)(d)(4) Twenty-one or more spaces: at least 10% of the interior parking lot must be landscaped. Planting along the perimeter shall not be considered as part of the 10%. Interior planting beds are ideally continuous to allow for maximum plant bed size and are constructed as rain gardens to control stormwater. No landscaped island shall be less than six feet wide, except that in parking lots with 51 or more parking spaces where the minimum island width shall be 10 feet. Applicant seeks a waiver of the 10% requirement, providing 2.4+/-%, where 10% is required.

g. Section 240-24.1.11A. (5)(f) Street trees. One deciduous tree with a three-inch minimum caliper is required to be planted within the front setback for every 30 feet of frontage of property if the front setback is greater than zero feet. Trees in paved areas shall have a minimum of 25 square feet of permeable area for growth. Trees in islands shall have a minimum of 50 square feet of permeable area for growth. All landscaped areas shall be continuously maintained, irrigated, and fertilized. Plant materials shall be organically maintained to the maximum extent possible. Applicant seeks a waiver from the total number of trees providing 1 Tree, where 2.4 Trees are required. In addition, the Applicant has agreed to provide one additional deciduous tree with a three-inch minimum caliper to the Town, to be planted offsite at a location of their choice within the Hyannis Main Street Waterfront Historic District.

4. The Redevelopment provides, without limitation, the following site design, traffic safety, and community benefits:

a. Redevelopment – The relocated historic dwelling and use will be a great complement to the district and will improve aesthetics on Pleasant Street, by preserving an existing historic structure and creating a streetscape in the Historic District, where it does not currently exist.

b. Employee Housing / Market Rate Rentals – In addition to the relocation of the structure, the Applicant is proposing to continue use of the two residential units, which can be used as employee housing, or for market rate rentals.

c. The existing site has one (1) curb cut on Pleasant Street. The proposed site will continue to have only one (1) curb cut on Pleasant Street which will contain both the entrance and exit for the site.

d. Traffic flow and site access -The site is located in an area which has adequate roads and access. The Applicant has designed a large internal que, contained entirely within the site which will prevent any backups onto the public ways.

e. Public and Environmental Benefits – The relocated Historic Dwelling and creation of a new streetscape where one currently does not exist, has a great benefit to the Historic District as well as to the public as a whole.

f. Public and Environmental Benefits – The Applicant shall establish a “Clean Harbor Fund”, which will work to clean up trash and debris in the harbor. To start this fund the Applicant has agreed to contribute \$2500.00 annually to the Town, for as long as the parking lot is in operation, to be deposited into a Town account to be used solely for this purpose.

g. Public and Environmental Benefits – Applicant shall purchase and install the Rectangular Rapid Flashing Beacon (RRFB) and coordinate with the Town Engineer and the Department of Public Works, all in accordance with the recommendation from the Town Engineer to the Planning Board, dated December 22, 2020. Provided however that the Applicant shall not be required to expend more than \$20,000.00 for this purpose. If the Applicant determines that the cost will exceed \$20,000.00, then the Applicant at his option may pay the sum of \$20,000.00 to the Town for this purpose or complete the installation of the RRFB.

In either case, payment to the Town or completion of the RRFB, shall occur prior to the operation of the parking lot.

h. Environmentally, the site is appropriate for the use as it is not located in a Groundwater Protection District, being located in the AP.

5. The Applicant shall file with the Site Plan Review Committee a plan meeting all requirements of Article X Site Plan Review. Site Plan Review approval shall be obtained prior to the issuance of any building permit, including demolition permits, or an Open-Air Private Parking Lot license. The final

plan shall comply and/or respond to the conditions of the Preliminary Site Plan review approval on June 23, 2020.

6. The approved Redevelopment proposal shall require final approval by the Site Plan Review Committee.

7. The Applicant shall complete the relocation and substantially complete the exterior of the dwelling prior to the issuance of an Open-Air Private Parking Lot license.

8. The Applicant shall obtain an Open-Air Private Parking Lot license pursuant to §406A of the Town Code for the non-accessory parking use and the use of the property shall remain in compliance with all conditions of that license.

9. The Applicant shall be in compliance with all conditions of the Certificate of Appropriateness issued by the Hyannis Main Street Waterfront Historic District Commission. Prior to issuance of any building permit, including demolition permits, or an Open-Air Private Parking Lot license the Applicant shall submit to the Planning & Development Department Director measured drawings of the existing Joseph C. Linnell House prepared by a professional building designer, licensed builder, or architect sufficient to recreate the house should it be substantially damaged during the relocation process.

10. The Applicant shall have complied with the requirement to establish a "Clean Harbor Fund" in accordance with 4 f. and shall complete the requirements regarding the RRFB as set forth in paragraph 4 g.

11. This Agreement shall run with the land, and all of the terms, conditions, and obligations contained in this Agreement shall be binding on any successor or assignor of the Applicant.

12. The term of this Agreement shall be five (5) years from the effective date of the Agreement (hereafter, the "Term"), and the development rights authorized herein must be exercised prior to expiration of the Term of this Agreement or it shall be null and void. Once the development rights authorized herein have been timely exercised, all terms and conditions of this Agreement shall remain in effect until the Property is no longer used in accordance with the Redevelopment Plans in a manner that requires additional zoning relief.

13. The Developer will replace a portion of the existing sidewalk on Pleasant Street where the proposed on-site sidewalk ties into the existing sidewalk on Pleasant Street which will comply with the Americans with Disabilities Act and Town of Barnstable requirements for public sidewalks.

14. Lighting for the Development shall be contained on-site, shall be down cast, and shall not contribute to light pollution of the area.

15. The site shall be landscaped consistent with the landscape plan identified in paragraph 1, above. All landscaping within the development shall be low water use and shall minimize the use of fertilizers and pesticides.

16. The Developer shall install a stockade fence per the location and specifications shown on the Preliminary Parking Layout Plan sheet C3.0.

17. Exterior construction impacts shall be minimized and construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m. weekdays, and 8:30 a.m. to 2:00 p.m. Saturdays and Sundays. The Building Commissioner shall establish protocols to minimize the location of staging, noise, dust, and vibration. Failure to comply with these protocols following written notice from the Building Commissioner shall

be grounds for the issuance of a stop work order until agreement as to compliance with the protocols is achieved.

18. During all stages in the reconstruction of the dwelling and construction of the parking lot, all vehicles, equipment and materials associated with the development shall be required to be located off the right of way of Pleasant Street except as may be required to install utilities, and work authorized by this Agreement and as approved by Public Works and then only on a temporary basis.

19. Changes to the approved Redevelopment Plans referenced in Condition No. 1 shall require an amendment to this agreement under either §168-5 or §168-10 of the Barnstable Code, as determined by the Town.

20. Subsequent to the issuance of a Certificate of Occupancy for the units, each apartment shall be registered with the Health Division’s Rental Registration Program.

21. The Developer shall maintain the minimum signage as required by licensing for open air parking lots. No flags, banners, or other temporary signage shall be used to advertise the parking lot. There shall be no soliciting parking (ex, attendants waving or holding signs).

22. Upon completion of all work, Developer shall cause a registered engineer or land surveyor to submit as-built plans accompanied by a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with

the approved site plan. This document shall be submitted prior to the issuance of the final certificate of occupancy.

23. The development allowed in this permit shall be considered full build-out of the property. The structures authorized shall not be expanded nor other buildings and structures added without compliance with §168-10 of the Barnstable Code.

IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed on the day and year first above written.

Dated this ___ day of _____, 2021.

TOWN OF BARNSTABLE 77 PLEASANT STREET REALTY TRUST / WAYNE KURKER TRUSTEE

By: _____ by: _____
Name: Mark Ells Town Manager Name: Wayne Kurker, Trustee

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared Mark Ells, Town Manager of the Town of Barnstable, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document in my presence.

Notary Public

My Commission expires:

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document in my presence.

Notary Public
My Commission expires:

EXHIBIT A: REDEVELOPMENT PLANS

SPONSOR: Tracy Shaughnessy, Councilor Precinct 9

DATE	ACTION TAKEN
<u>06/17/2021</u>	<u>First Reading, Referred to Public Hearing 07/15/2021</u>

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2021-182

INTRO: 06/17/2021, 07/15/2021

SUMMARY

TO: Town Council
FROM: 77 Pleasant Street Realty Trust / Wayne Kurker Trustee
THROUGH: Elizabeth Jenkins, AICP, Director, Planning & Development
DATE: June 17, 2021
SUBJECT: Regulatory Development Agreement with 77 Pleasant Street Realty Trust / Wayne Kurker Trustee to Redevelop 77 Pleasant Street, Hyannis with an 81 space gravel parking lot. The redevelopment also includes relocating an existing historic residential two-family dwelling within 21 feet of Pleasant Street which will continue as a two-family dwelling.

RATIONALE: The Developer, 77 PLEASANT STREET REALTY TRUST / WAYNE KURKER TRUSTEE, which entity has standing to proceed as owner of the property evidenced by deed recorded with the Barnstable Registry of Deeds recorded at Book 29661, Page 224 dated May 19, 2016 of the property located at and commonly known as 77 Pleasant Street, Hyannis, Massachusetts shown on Town of Barnstable Assessor's Map 327 as Parcel 118, consisting of 39,004 ± square feet (0.803 ± acres), located within the Downtown Hyannis Growth Incentive Zone (GIZ), has filed an application to enter into a Regulatory Agreement with the Town of Barnstable under Chapter 168 and Chapter 240 of the Barnstable Code to redevelop said property by moving the historic portion of the existing house up within 21 feet of Pleasant Street, thereby preserving the historic structure and creating a residential streetscape within the Historic District. The dwelling will be used for needed market rate rentals and workforce housing. The Applicant proposes to use the balance of the property as an 81 space, Open-Air Parking Lot to provide parking for harbor side uses.

The Developer has undergone more than two public hearings on the Agreement application and received a unanimous vote from the Planning Board recommending an approval of the proposed Regulatory Agreement on February 8, 2021.

The development is not subject to review by the Cape Cod Commission as a Development of Regional Impact as it does not trigger any Cape Cod Commission jurisdictional thresholds. The Developer has received approvals as follows: Site Plan Review (Preliminary), Hyannis Main Street Waterfront Historic Commission and Planning Board approvals.

The Redevelopment will provide the following site design, traffic safety, and community benefits:

- The relocated historic dwelling and use will be a great complement to the district and will improve aesthetics on Pleasant Street, by preserving an existing historic structure and creating a streetscape in the Historic District, where it does not currently exist.
- In addition to the relocation of the structure, the Applicant is proposing to continue use of the two residential units, which can be used as employee housing, or for market rate rentals.
- The existing site has one curb cut on Pleasant Street. The proposed site will continue to have only one curb cut on Pleasant Street which will contain both the entrance and exit for the site.
- The site is located in an area which has adequate roads and access. The Applicant has designed a large internal que, contained entirely within the site which will prevent any backups onto the public ways.
- Environmentally, the site is appropriate for the use as it is not located in a Groundwater Protection District, being located in the AP.

The Redevelopment will provide community and environmental benefits as follows.

The Applicant will establish a “Clean Harbor Fund”, which will work to clean up trash and debris in the harbor. To start this fund the Applicant has agreed to contribute \$2,500 annually to the Town, for as long as the parking lot is in operation, to be deposited into a Town account to be used solely for this purpose.

The Applicant will purchase and install a Rectangular Rapid Flashing Beacon (RRFB) to be installed on South Street, provided that the Applicant shall not be required to expend more than \$20,000.00 for this purpose; then the Applicant at his option may pay the sum of \$20,000.00 to the Town for this purpose or to complete the installation of the RRFB and coordinate with the Town Engineer and the Department of Public Works.

FINANCIAL IMPACT: The “Clean Harbor Fund”, which will work to clean up trash and debris in the harbor, will be established through a condition within the parking lot license noting that the Applicant will contribute \$2,500.00 annually, for as long as the parking lot is in operation, to be submitted to Marine and Environmental Affairs for processing and use of the fund. The Department of Public Works has verified that the sum of \$20,000 should be sufficient to cover the cost of procuring and installing the Rectangular Rapid Flashing Beacon (RRFB). Of note, there are maintenance costs associated with the installation of RRFBs. RRFBs are solar powered and therefore do not have electricity costs, however they require battery replacement approximately every 3 years estimated to cost \$500 and light bar replacement approximately every 10 years estimated to cost \$1,000. Assuming annualized operations and maintenance cost of $\$500/3 + \$1,000/10 = \$266.67$, the associated maintenance costs would be an average of \$300 each year.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this Regulatory Agreement

STAFF ASSISTANCE: Elizabeth S. Jenkins, AICP, Director of Planning & Development; Kate Maldonado, Assistant Director of Planning & Development; Karen Nober, Town Attorney



Town of Barnstable
Planning Board

www.townofbarnstable.us/planningboard



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Steven Costello

Vice Chair
Jeffrey Swartz

Clerk
Patrick Foran

Members
Mary Barry
Stephen Robichaud
Aimee Guthinger
Robert Twiss

Town Council Liaison
Matthew Levesque

Staff
Director
Elizabeth Jenkins

Kate Maldonado
Assistant Director

Principal Assistant
Karen Herrand

June 14, 2021

Matthew Levesque, President
Barnstable Town Council
367 Main Street
Hyannis, MA 02601

RE: **Report of the Barnstable Planning Board to Town Council on proposed Regulatory Agreement with 77 Pleasant Street Realty Trust, Wayne Kurker, Trustee**

Dear President Levesque,

On October 16, 2020, 77 Pleasant Street Realty Trust, Wayne Kurker, Trustee submitted an application to the Planning Board for a Regulatory Agreement pursuant to Chapter 168 of the Code of the Town of Barnstable. The Applicant seeks to use the property as a private open air parking lot composed of 81 parking spaces. The existing historic residential two-family dwelling will be moved within 21 feet of Pleasant Street and will continue as a two-family residential use. The subject property is 77 Pleasant Street, Hyannis, Massachusetts, shown on Assessor's Map 327 as Parcel 118. It is zoned Harbor District (HD).

The Planning Board held a duly posted and noticed public hearing on the proposal on November 23, 2020 which was continued to December 14, 2020, January 25, 2021 and February 8, 2021. At the conclusion of the hearing, the Planning Board unanimously voted to recommend the Town Council execute a Regulatory Agreement consistent with the final agreement reviewed by the Board, including minor non-substantive revisions.

Respectfully Submitted,

Steven Costello, Planning Board Chair

cc: Elizabeth Jenkins, Director, Planning & Development
Ann Quirk, Town Clerk

367 Main Street, Hyannis, MA 02601



BARNSTABLE
TOWN CLERK

File

19 MAY 23 AM 1:08

Town of Barnstable
Planning & Development Dept.
Hyannis Main Street Waterfront Historic District Commission
www.town.barnstable.ma.us/hyannismainstreet

Decision – Certificate of Appropriateness
Wayne Kurker, Trustee
77 Pleasant Street, Hyannis

The Hyannis Main Street Waterfront Historic District Commission, pursuant to the Code of the Town of Barnstable Chapter 112, Historic Properties, Article III, Hyannis Main Street Waterfront Historic District, hereby approves a Certificate of Appropriateness for the following property:

Property Address: 77 Pleasant Street
Assessor's Map/Parcel: 327/118

The public hearing on this application was opened on May 15, 2019. The applicant sought a Certificate of Appropriateness in order to relocate the Joseph C. Linnell House from its present location to the site shows as "Relocated Existing Duplex Dwelling" on the plan entitled "Parking Lot 77 Pleasant Street, Hyannis, MA 02601" prepared for Wayne Kurker, 1 Willow Street, Hyannis MA, 02601, Prepared by Baxter Nye Engineering & Surveying, dated January 9, 2019. Should the relocation of the house prove to be infeasible, the applicant proposed to demolish the house and build a "historic replica" on the site shows as "Relocated Existing Duplex Dwelling" on the plan entitled "Parking Lot 77 Pleasant Street, Hyannis, MA 02601" prepared for Wayne Kurker, 1 Willow Street, Hyannis MA, 02601, Prepared by Baxter Nye Engineering & Surveying, dated January 9, 2019.

After consideration of the testimony given and materials submitted by the applicant and members of the public, the Commission found the proposal as amended at the public hearing and detailed in the conditions of this decision will appropriately contribute to the historic character of the Hyannis Main Street Waterfront Historic District. The Commission considered the design, color, size, location, and context of the proposed signage and found it to be appropriate for the protection and preservation of the district, with the understanding gained at the hearing that the applicant will make every possible effort relocate the house as indicated on submitted plans, and any portion of the house that does not survive the relocation will be replicated in design and dimensions, reusing any existing materials not beyond recovery. Components of the building not able to be preserved may be replicated with compatible modern materials as detailed in the conditions of this decision.

Based on these findings, the Commission voted to grant the certificate of appropriateness subject to the following conditions:

1. The application is approved as amended to relocate and rehabilitate the Joseph C. Linnell House consistent with the site plan entitled "Parking Lot 77 Pleasant Street, Hyannis, MA 02601" prepared for Wayne Kurker, 1 Willow Street, Hyannis MA, 02601, Prepared by Baxter Nye Engineering & Surveying, dated January 9, 2019.
2. Prior to the commencement of any work, measured drawings of the Joseph C. Linnell House shall be produced from recorded, accurate measurements.
3. The relocation of the house shall consist of the entirety of the front (easterly) elevation, and include the portion of the building extending approximately forty feet to the west. The portion of the building to be moved shall not include the approximately five by ten foot kitchen entrance projection on the south elevation of the building.

1 of 1



Town of Barnstable
Site Plan Review
200 Main Street, Hyannis, MA 02601
www.town.barnstable.ma.us
Office: 508-862-4679



June 23, 2020

Ford and Ford Attorneys at Law
72 Main Street
PO Box 485
West Harwich, MA 02671

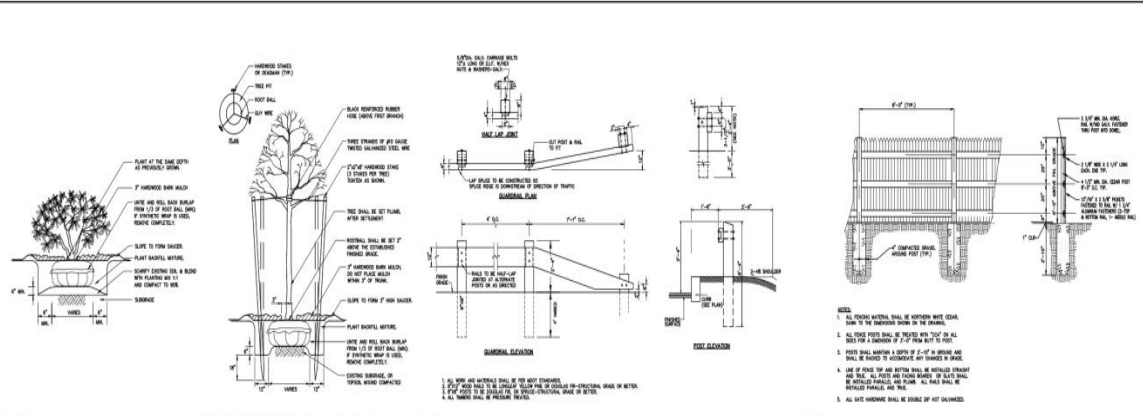
SPR 029-20 Wayne Kurker Tr /77 Pleasant St Realty Trust (Attorney Jeff Ford)
77 Pleasant Street, Hyannis
Map/Par: 327/118
Zoning: HD/AP

Proposal: Move existing dwelling on the site and add an 81 space gravel open air private parking lot.

Dear Attorney Ford,

At the informal site plan review meeting held on June 9, 2020 and the Formal Site Plan Review meeting held on June 18, 2020 it was determined by the Building Commissioner that the above proposal is provisionally approvable and may proceed through the Regulatory process. The Site Plan Review Committee made the following preliminary comments:

- Approval is based upon, and must be substantially constructed in accordance with site plans entitled: 1174 Pitchers Way, Hyannis dated 04-21-2020.
 - **Brian Florence:**
 - Applicant will need to return to Site Plan Review with a complete set of final plans after the Regulatory Agreement is completed.
 - Subsequent to the granting of relief by the Planning Board, any revisions to the plans required by the Site Plan Review Committee will be binding and if they are in conflict with the Planning Board decisions, the Applicant will be required to return to the Planning Board to modify the Regulatory Agreement.
 - **Paul Wackrow:** Paul.Wackrow@town.barnstable.ma.us
 - May need to revisit historic approval if guardrail is required; Building re-location already approved. Planning Board and Town Council appearances may require finalized plans.
 - Analysis required that moving the house is feasible; structural engineer to prepare
 - Proposed use is not allowed under zoning; thus Regulatory Agreement
 - **Richard Scall:** Richard.Scall@town.barnstable.ma.us
 - Town Manager hearing required for private open air parking lot license.
 - **Hyannis Fire:** Captain Webb
 - Access to site is good.
 - Will need to review final plans prior to approval



SPRINK PLANTING DETAIL **TREE PLANTING (for Trees under 4' caliper) DETAIL** **TIMBER GUARDRAIL DETAIL** **STORAGE BIN DETAIL**



Plant Legend
(PLANTS NOTED MAY BE SUBSTITUTED WITH EQUIVALENT VEGETATION - AS APPROVED BY THE BUILDING DEPARTMENT)

KEY	DESCRIPTION	BOTANICAL	QTY	SIZE
(1)	FLOWERING PEAR	<i>Pyrus alabaster</i>	2	4" CAL.
(2)	HONEY LOCUST	<i>Gleditsia inaequalis</i>	6	4" CAL.
(3)	RED MAPLE	<i>Acer rubrum</i>	3	4" CAL.
(4)	JANPERS	<i>Jasione orthoceras</i>	4	4 FT.
(5)	MARTY BARBERRY	<i>Berberis thunbergii</i>	1000	4 FT.

- NOTES:**
- PLANT SIZE SHALL BE 1/2 SPANAM PEAK BUSH AND 2/3 PORTULAC FELD LOW BY SCALING.
 - MALCH SHALL BE HORIZONTAL QUALITY WOODS BARK, WHERE MALCH BINS ARE AROUND A BUILDING THE MALCH SHALL BE HELD 30" OFF THE BUILDING AND 1/2" WOODSHED PROTECTIVE SHALL BE PLACED WITHIN THIS 30" AS A DRIP EDGE AROUND THE BUILDING FOOTING. FINISHING COLOR TO BE SELECTED BY OWNER/ARCHITECT.
 - PLANTS SHALL CONFORM TO MOST RECENT STANDARDS OF THE AMERICAN LANDSCAPE ARCHITECTURE ASSOCIATION.
 - MINIMUM 1" SPACING & FINE SHADE & BIRD ALL AREAS NOT OTHERWISE NOTED.
 - ALL PLANTINGS AT DRIVEWAY ENTRANCES WILL BE MAINTAINED TO A HEIGHT OF 2' OR LESS AS TO NOT OBSCURE TRAFFIC VISIBILITY.

- IRRIGATION NOTES:**
- CONTRACTOR TO BE RESPONSIBLE FOR PROPER COVERAGE OF AREAS TO BE WATERED I.E. ADJUST HEADS WITH INSUFFICIENT COVERAGE DUE TO BLOCKAGE BY EXISTING OR PROPOSED SITE FEATURES.
 - CONTRACTOR TO REFER TO LANDSCAPE PLAN TO KEEP SPRINKLER EQUIPMENT AND ACCESSORY MATERIAL FROM INTERFERING WITH PROPER PLANTING I.E. VERIFY HOOD BALL SIZE FOR PLANTING.
 - HANDHO CONTROL VALVES, COURTESY, SPRINKLER HEADS SERIES 2812 AND 2814 SHALL BE USED. (DO NOT EXCEED THE LOW VOLTAGE WORKING VOLTAGE).
 - MANHOLE AND LATERAL LINE PIPE SHALL BE CLASS 200 PVC OR EQUIVALENT. SCHEDULE 40 PIPE.
 - ALL IRRIGATION PIPING SHALL BE INSTALLED AND SPRINKLER CHECK VALVE COVER SHALL BE SCHEDULE 40 PIPE.

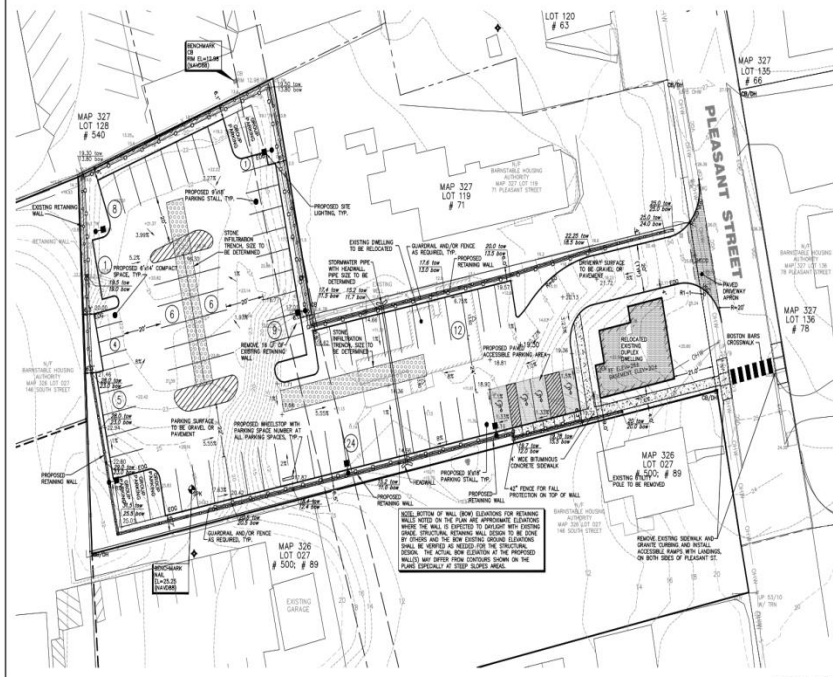
FOR PERMIT ONLY - NOT FOR CONSTRUCTION

ZONING TABLE

ZONING DISTRICT(S): (H0) HARBOR DISTRICT
OVERLAY DISTRICT(S): (O) D12
ALLOWED USE: PER REGULATORY AGREEMENT**

EXIST USE: RESIDENTIAL**	PROPOSED USE: RESIDENTIAL PARKING LOT**	
EXIST TOTAL BUILDING AREA=1,585 SF	NO PROPOSED BUILDINGS	
EXIST BUILDING TO REMAIN		
TOTAL PARCEL AREA: 35,004 ± SF		
REQUIRED/ALLOWED	EXISTING	PROPOSED
LOT AREA	20,000 SF	35,004 SF
FRONTAGE	20 FT	73.50 FT
BUILDING SETBACKS HD ZONE:		
FRONT SETBACK	20 FT	118.8 FT
SIDE SETBACK	10 FT	1.0 FT
REAR SETBACK	10 FT	8.0 FT
LANDSCAPE PARKING SETBACKS HD ZONE:		
FRONT SETBACK	10 FT	147.5 FT
FRONT SETBACK	10 FT	79.8 FT
SIDE SETBACK (PER 201c 240-241.11)	6 FT	N/A
REAR SETBACK (PER 201c 240-241.11)	6 FT	N/A
MAX. BUILD. HEIGHT (EXISTING)	2.5 STORES OR 36 FT	< 35 FT
MAX. LOT COVERAGE (IMPERVIOUS AREA)	70%	22.0% (2,707 SF)
MAX. LOT COVERAGE		76.5% (26,793 SF)**
PARKING TABLE		
PARKING LOT**		70 PARKING SPACES (8'x18')
		1 PARALLEL SPACE (8'x25')
		3 COMPACT SPACES (8'x14')
		5 GROUP SPACES (8'x18')
		81 TOTAL SPACES
LANDSCAPING		
10% INTERIOR LANDSCAPING	10% ± 3,362 SF ± 3,336 SF	N/A
STREET TREES - 1 TREE PER 30 FEET	71.5' / 30 = 2.4 TREES	N/A
PARKING LOT TREES - 1 PER 8 SPACES	81 SF / 8 = 10.1 TREES	N/A
ACCESSIBLE PARKING (TOTAL/VAN)**	4/1* SPACES	4/1* SPACES (8'x18')
BIODIV. VEHICLE		ASBESTO PASSENGER

**ACCESSIBLE PARKING SPACES ARE INCLUDED AS PART OF THE TOTAL PARKING REQUIRED/PROVIDED COUNT.
**REGULATORY AGREEMENT



- NOTES:**
- THE INTENT OF THIS PLAN IS TO SHOW A PRELIMINARY LAYOUT. IF APPROVED, FINAL DESIGN PLANS WILL BE NEEDED.
 - ALL CONSTRUCTION SHALL BE PERFORMED IN ACCORDANCE WITH WHEDS, TOWN ORDINANCES, REQUIREMENTS, AND SPECIFICATIONS.
 - THE CONTRACTOR SHALL CONTACT THE ENGINEER TO SCHEDULE A PRE-CONSTRUCTION MEETING AT LEAST 780 (72) HOURS PRIOR TO COMMENCING CONSTRUCTION.
 - THE CONTRACTOR SHALL MAKE SUBMITTALS TO THE ENGINEER FOR APPROVAL BEFORE ANY FABRICATION OR DELIVERY OF PRODUCTS OR MATERIALS.
 - ALL PROPOSED WALKWAYS WILL BE HANDICAPPED ACCESSIBLE. ALL PROPOSED RUNNING SLOPES ON WALKWAYS SHALL BE LESS THAN OR EQUAL TO CROSS SLOPES < 2%. THESE ARE MAXIMUM SLOPES WITH NO TOLERANCE. ALL WORK WILL BE IN ACCORDANCE WITH THE MOST CURRENT REQUIREMENTS OF THE U.S. ACCESS BOARD, AMERICANS WITH DISABILITIES ACT & COMMONWEALTH OF MASSACHUSETTS, ARCHITECTURAL ACCESS BOARD.
 - DEMOLISH REMOVE ALL EXISTING STRUCTURES, FOUNDATIONS, CONCRETE PADS, FENCES AND APPURTENANCES UNLESS OTHERWISE NOTED TO REMAIN. SALVAGE OR REUSE SALVAGE DURING PAVEMENT IN AREA OF PARKING WHERE ASPHALT IS STRUCTURALLY SOUND, SHOW NO SIGN OF CRACKING, AND MEETS PROPOSED GRADES SHOWN ON GRADING PLAN.
 - EXISTING PAVING EDGES SHALL BE SANITARY TO CREATE A CLEAN EDGE WHERE IT IS TO BE TIED INTO NEW PAVING, OR WHERE ASPHALT IS REMOVED ADJACENT TO ASPHALT WHICH IS TO REMAIN. BROKEN OR UNUSABLE PAVEMENT SHALL BE REMOVED AND SURFACE REDUCED WITH SUITABLE COMPACTED MATERIAL PER PAVEMENT SECTION DETAIL HEREIN. ANY SLOTTED LINES SHOWN ON THE PLAN ARE APPROXIMATE ONLY. THE EXACT EDGE OF SLOTTED SHALL BE DETERMINED BY THE CONTRACTOR IN THE FIELD TO PROPERLY BLEND TO THE SURROUNDING GRADES. PROPOSED ASPHALT SHALL BE PROPERLY BITUMED AND BLENDED TO SURROUNDING ASPHALT WHICH IS TO REMAIN. THE BLENDED TRANSITION BETWEEN PROPOSED AND EXISTING ASPHALT SHALL BE WITH AN APPROXIMATE 1:16 GRADE UNLESS OTHERWISE IDENTIFIED. THE JOINT SHALL NOT BE ABRUPT.
 - DIMENSIONS SHOWN ARE TO OUTSIDE FACE OF FOUNDATION OR TO THE FACE OF CURB/BERM UNLESS OTHERWISE NOTED.
 - THE CONTRACTOR SHALL NOTIFY AND COORDINATE A SITE MEETING WITH THE ENGINEER PRIOR TO PLACING FINAL PAVING COURSE. LAYOUT AND FINAL REQUIRED DIMENSIONS ARE TO BE REVIEWED AT THIS MEETING PRIOR TO PAVING OPERATION. REQUIREMENTS SHALL BE PER MASSDOT STANDARD SPECIFICATIONS.
 - ALL PAVEMENT MARKINGS AND STRIPING SHALL FOLLOW MFCO STANDARDS. TYPICAL LINE WIDTH FOR LANE AND PARKING SHALL STRIPING SHALL BE 4 INCHES UNLESS OTHERWISE NOTED. PARKING STALL COLOR SHALL BE WHITE, TYPICAL, UNLESS OTHERWISE NOTED.
 - BUILDING AND SITE SIGNAGE SHALL MEET REQUIREMENTS OF TOWN ZONING AND/OR SIGN ORDINANCES. SITE SIGN FOR PARKING LOT WILL BE PROVIDED PER TOWN LICENSING REGS.
 - SEE ELECTRICAL DRAWINGS BY OTHERS.

FOR PERMIT ONLY NOT FOR CONSTRUCTION

A. OLD BUSINESS (Public Hearing) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

ITEM# 2021-187
INTRO: 07/01/2021, 07/15/2021

2021-187 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$89,950 IN COMMUNITY PRESERVATION FUNDS TO BARNSTABLE HISTORICAL SOCIETY, INC., FOR RESTORATION WORK TO THE BUILDING LOCATED AT 3087 MAIN STREET/RTE 6A, BARNSTABLE

ORDERED: That, pursuant to the provisions of the Community Preservation Act, G. L. c. 44B, the amount of Eighty- Nine Thousand Nine Hundred Fifty Dollars (**\$89,950**) be appropriated and transferred from the amount set aside for historic resources in the Community Preservation Fund to be used for restoration work on the Barnstable Historical Society’s building at 3087 Main Street/Rte. 6A, Barnstable. The property will have a Preservation Restriction to maintain the property in good condition, with said Restriction to be held by the Town of Barnstable. It is further ordered that the Town Manager is authorized to expend the appropriation subject to oversight by the Community Preservation Committee and to receive, execute, deliver and record any written instruments for the purposes set forth herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
<u>07/01/2021</u>	<u>Refer to Public Hearing 07/15/2021</u>

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM#2021-187
INTRO: 07/01/2021, 07/15/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee on behalf of the Community Preservation Committee
DATE: July 01, 2021
SUBJECT: Appropriation Order in the amount of **\$89,950** in Community Preservation Funds for the restoration work to the Barnstable Historic Society Inc.'s building at 3087 Main Street/Rte. 6A, Barnstable

BACKGROUND: Barnstable Historic Society Inc. is seeking approval from the Town Council through the Town Manager for \$89,950 in Community Preservation Historic Preservation funds. At the February 11, 2021 Community Preservation Committee meeting, the eight members present voted unanimously to recommend to the Town Council through the Town Manager, the request for Historic Preservation funds in the amount of \$89,950 representing a portion of the cost of Phase I, Priority I work in the amount of \$128,500 with \$38,550 contributed by Barnstable Historical Society, Inc. for restoration work to the Historical Society's building, a/k/a the Sylvanus Phinney House ca. 1832. The following proposed work is outlined in Phase I, Priority I of the building analysis prioritized report prepared by CBI and includes the following: cement basement floor, footings and foundation walls, first-floor framing including sistering of floor joists, and new footings, foundation and supports for the west porch.

ANALYSIS: Barnstable Historical Society has taken a leading role in documenting local history through collecting artifacts. The historical collection housed at the subject property dates from the 17th century into the 20th century and consists of antique furniture, textiles, photographs, correspondence and diaries, ships logs and much more. The collection is open to public visitors and tours, and also members of the public who have questions on Barnstable history and access the services and facilities. Also sponsored are lectures and social events. The Barnstable Historical Society intends to engage a professional fund raising consultant to guide and assist in raising the funds necessary to undertake the remaining phases of the of the CBI master plan by way of private and public donations, grants and other sources available for such purposes. The Sylvanus Phinney House is located within the Old King's Highway Regional Historic District the National Register of Historic Places and is listed in the State Register of Historic Places for its architecture, associations and/or archaeology. Most recently, the Commonwealth of Massachusetts Historical Commission qualified the property for a preservation restriction which is a requirement for the granting of Community Preservation Funds. The Barnstable Historical Society obtained the services of CBI to prepare a full building analysis, and received three quotes on the work, which resulted in resulted in a favorably adjusted Priority 1/Phase 1 work Community Preservation Historic Preservation fund request as well as adjustments to the remaining work in the phased budget.

FISCAL IMPACT: This appropriation is provided from the set-aside for historic preservation funds within the Community Preservation Fund which has an available balance of \$334,934. There is no impact on the general fund operating budget.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, upon recommendation of the Community Preservation Committee

VOLUNTEER ASSISTANCE: Lindsey Counsell, Chair, Community Preservation Committee

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-001
INTRO: 7/15/2021**

2022-001 ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$7,692,669 FROM THE U.S. DEPARTMENT OF THE TREASURY FOR THE PURPOSE OF ASSISTING THE TOWN OF BARNSTABLE IN RESPONDING TO THE ECONOMIC AND PUBLIC HEALTH IMPACTS TO THE COMMUNITY FROM COVID-19

RESOLVED: That the Town Council does hereby accept a Coronavirus State and Local Fiscal Recovery Funds grant in the amount of **\$7,692,669** from the U.S. Department of the Treasury for the purpose of assisting the Town of Barnstable in responding to the economic and public health impacts to the community from COVID-19; and that the Town Manager is authorized to contract for and expend the grant funds for the purpose stated herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- Read Item
- Rationale
- Council Discussion
- Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2022-001
INTRO: 07/15/2021

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Mark A. Milne, CPA, Director of Finance
DATE: July 15, 2021
SUBJECT: Acceptance of a State and Local Fiscal Recovery Fund Grant in the amount of **\$7,692,669** from the U.S. Department of the Treasury for the purpose of responding to the economic and public health impacts to the community from COVID-19

SUMMARY: On March 11, 2021, the American Rescue Plan Act was signed into law, and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Funds, which together make up the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) program. This program is intended to provide support to State, territorial, local, and Tribal governments in responding to the economic and public health impacts of COVID-19 and in their efforts to contain impacts on their communities, residents, and businesses. Unlike the CARES Act, which awarded Federal funds to State governments, this act included direct grant awards to local communities thereby requiring the Town Council’s acceptance and authorization to expend the grant in accordance with the U.S. Department of Treasury’s guidelines.

As a recipient of an SLFRF award, the Town has substantial discretion to use the award funds in the ways that best suit the needs of the community – as long as such use fits into one of the following four statutory categories:

1. To respond to the COVID-19 public health emergency or its negative economic impacts;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to such eligible workers of the recipient, or by providing grants to eligible employers that have eligible workers who performed essential work;
3. For the provision of government services, to the extent of the reduction in revenue of such recipient due to the COVID–19 public health emergency, relative to revenues collected in the most recent full fiscal year of the recipient prior to the emergency; and
4. To make necessary investments in water, sewer, or broadband infrastructure.

As to how much of the grant can be used to provide for the provision of government services listed as item 3 above under the 4 eligible categories, a formula was provided to calculate a community’s counterfactual revenue. The calculation of lost revenue is computed by comparing actual revenue to a counterfactual trend representing what could have been expected to occur in the absence of the pandemic. This approach measures losses in revenue relative to the most recent fiscal year (Fiscal Year 2019) prior to the COVID-19 public health emergency by using the most recent pre-pandemic fiscal year as the starting point for estimates of revenue growth absent the pandemic. Revenue generated in the pre-pandemic year is increased by the greater of 4.1% or the community’s average annual revenue growth in the three full fiscal years prior to the pandemic (Fiscal Year 2015 – Fiscal Year 2018).

Applying this formula to the Town of Barnstable’s revenue figures results in the entire grant award being eligible for the provision of government services. However, being a one-time funding source the town proposes to use a majority of the funding for one-time type of expenses and limit the amount of funds for the provision of on-going government services. The categories of proposed uses currently include:

- Outsourcing certain Information Technology services to enhance the town’s protection against cyber-attacks and provide the Information Technology staff with an additional position to support the creation and expansion of a remote workforce;

- Hire a staff person to assist with the compliance and reporting requirements of the grant coordinating this effort with numerous other federal funding awards including FEMA, Elementary and Secondary School Emergency Relief (ESSER) and CARES Act;
- Restore 4 vacant sworn officer positions in the Police Department;
- New software to push the annual development of the capital and operating budgets to a web based platform as well as web based budget documents and budget transparency program;
- Assistance with the Summer Leisure Program as a result of additional costs incurred and class size limitations due to COVID requirements;
- Upgrade meeting room spaces to support hybrid meeting capabilities in the future, and;
- Sewer, Water and Municipal building infrastructure improvements.

The Town, as a recipient of an SLFRF award, may use SLFRF funds to cover eligible costs that are incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, as long as the award funds for the obligations incurred by December 31, 2024 are expended by December 31, 2026. Costs for projects incurred by the Town prior to March 3, 2021 are not eligible.

FISCAL IMPACT: It is estimated that 85% of the funds will be directed towards one-time infrastructure improvements. Costs incurred for operating type expenses will be migrated over to the operating budget over a period of three years to limited the annual impact on the budget. No funding match was required for this grant award. Also, of note is that Barnstable County received \$41.3 million under this grant program and the Commonwealth of Massachusetts received \$5.3 billion. How these funds will be shared with local communities is under consideration by the respective governmental agencies and detailed plans have not yet been released.

STAFF ASSISTANCE: Mark A. Milne, CPA, Director of Finance

B. NEW BUSINESS (Refer to Public Hearing 08/05/2021)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-002
INTRO: 07/15/2021**

**2022-002 SUPPLEMENTAL APPROPRIATION ORDER IN THE AMOUNT OF \$15,000
FOR THE PURPOSE OF PAYING OUTSIDE COUNSEL EXPENSES OF THE
LEGAL DEPARTMENT**

ORDERED:That the amount of **\$15,000** be raised from current year revenue and appropriated for the purpose of paying operating expenses of the Legal Department for the services of the law firm of Anderson & Kreiger, which is serving as outside counsel to the Town with respect to two lawsuits filed against the Town by the Conservation Law Foundation.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2022-002
INTRO: 07/15/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Karen L. Nober, Town Attorney
DATE: July 15, 2021
SUBJECT: Supplemental Appropriation Order in the amount of **\$15,000** for the purpose of paying operating expenses of the Legal Department for the services of the law firm of Anderson & Kreiger which is serving as outside counsel to the Town with respect to two lawsuits filed against the Town by the Conservation Law Foundation

BACKGROUND: In February 2021, the Conservation Law Foundation (“CLF”) filed a lawsuit against the Town of Barnstable alleging violation of the federal Clean Water Act for operating the Town’s wastewater treatment facility without obtaining a National Pollutant Discharge Elimination System permit for discharges from the facility to groundwater. In June 2021, CLF filed a second lawsuit against the Town alleging violations of the Massachusetts Title 5 regulations of septic systems. CLF has not yet served the Town in either lawsuit. The law firm of Anderson & Kreiger has been representing the Town in both of these matters and has been engaged in ongoing discussions with CLF to determine whether the parties can reach a settlement in both lawsuits, ideally before litigation proceeds too far. The requested supplemental appropriation is intended to cover the costs of continued settlement negotiations with CLF. If CLF serves these complaints and the Town is required to defend these matters, then additional funding will be required and another appropriation request will be made as necessary.

FISCAL IMPACT: The relief and penalties sought by CLF in these two complaints would have a substantial financial impact on the Town, and it is therefore critically important that the Town continue to have the benefit of representation by counsel with significant experience and expertise in these types of matters.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends approval of this Supplemental Appropriation Order.

B. NEW BUSINESS (Refer to Public Hearing 08/19/2021)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-003
INTRO: 07/15/2021**

2022-003 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$816,793 FROM COMMUNITY PRESERVATION UNDESIGNATED FUNDS FOR THE RENOVATION OF CENTERVILLE RECREATION PLAYGROUND LOCATED AT 524 MAIN STREET, CENTERVILLE, MA

ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of Eight Hundred Sixteen Thousand Seven Hundred Ninety-Three Dollars (**\$816,793**) be appropriated and transferred from the Undesignated Fund amount within the Community Preservation Fund for the purpose of replacing existing playground equipment with new Americans with Disabilities Act-compliant playground equipment and making renovations to provide ADA-compliant access at the Centerville Recreation Playground located at 524 Main Street, Centerville, MA, Map 207, Parcel 043; and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

SPONSOR: Mark S. Ells, Town Manager, upon recommendation of the Community Preservation Committee

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2022-003
INTRO: 07/15/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee
DATE: July 15, 2021
SUBJECT: Appropriation and Transfer Order in the amount of **\$816,793** from Community Preservation Undesignated Funds for the renovation of Centerville Recreation Playground located at 524 Main Street, Centerville, MA

BACKGROUND: At the March 15, 2021 Community Preservation Committee (CPC) meeting, the eight members present voted unanimously to recommend to the Town Council through the Town Manager, the Department of Public Work's request for \$816,793 in Community Preservation Undesignated Funds for the renovation of Centerville Recreation Playground. The proposal is to replace the existing outdated playground equipment with American with Disability Act (ADA)-compliant equipment as well as provide ADA-compliant playground surfaces; grading for an ADA-compliant pathway from the parking area to the playground; and landscaping. A request to fund this project was included in the Fiscal Year 2022 Capital Improvement Plan.

ANALYSIS: The Department of Public Works and Recreation Commission both identified the Centerville Recreation Playground as the number one priority playground in the Town of Barnstable requiring renovation and is believed to be the most heavily used playground in the Town of Barnstable. This playground is not located on school property so public access is not limited by school hours.

FISCAL IMPACT: This appropriation is provided from undesignated Community Preservation Fund which has an available balance of \$4,498,487. There is no impact on the general fund operating budget; annual maintenance will be covered by the existing operating budget.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, upon recommendation of the Community Preservation Committee

VOLUNTEER ASSISTANCE: Lindsey Counsell, Chair, Community Preservation Committee

B. NEW BUSINESS (Refer to Public Hearing 08/19/2021)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-004
INTRO: 07/15/2021**

2022-004 APPROPRIATION AND TRANSFER ORDER IN THE AMOUNT OF \$125,000 FROM OPEN SPACE/RECREATION COMMUNITY PRESERVATION FUNDS FOR THE RENOVATION OF BARNSTABLE HOLLOW FIELD PLAYGROUND LOCATED AT 0 MILLWAY, BARNSTABLE, MA

ORDERED: That pursuant to the provisions of the Community Preservation Act, G.L. c. 44B, the amount of One Hundred Twenty Five Thousand Dollars (**\$125,000**) be appropriated and transferred from the amount set aside for open space and recreation within the Community Preservation Fund for the purpose of replacing existing playground equipment with new Americans with Disabilities Act-compliant playground equipment and making renovations to provide ADA-compliant access at the Barnstable Hollow Field Playground located at 0 Millway, Barnstable, MA, Map 299, Parcel 039; and that the Town Manager is authorized to contract for and expend the appropriation made available for this purpose, subject to oversight by the Community Preservation Committee.

SPONSOR: Mark S. Ells, Town Manager, upon recommendation of the Community Preservation Committee.

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2022-004
INTRO: 07/15/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Lindsey Counsell, Chair, Community Preservation Committee
DATE: July 15, 2021
SUBJECT: Appropriation and Transfer Order in the amount of **\$125,000** from Open Space/Recreation Community Preservation Funds for the renovation of Barnstable Hollow Field Playground located at 0 Millway, Barnstable, MA

BACKGROUND: At the March 15, 2021 Community Preservation Committee meeting, the eight members present voted unanimously to recommend the Department of Public Work's application for \$125,000 in Community Preservation Open Space/Recreation funds for replacement of existing playground equipment with new equipment at Barnstable Hollow Playground. The proposal is to replace the outdated playground equipment with ADA-compliant equipment as well as to provide ADA-compliant walkways, playground surfaces, and a safer transition between the playground and the field. New seating with shade and a water bottle filling station are also proposed. Recent renovations to the adjacent Barnstable Hollow Field by the Department of Public Works have included new and renovated fieldstone walls, clearing of vegetation, new irrigation system, drainage and installation of new athletic sod.

ANALYSIS: The Department of Public Works has identified this playground as one that receives extensive use. It is considered a priority playground in the Town.

FISCAL IMPACT: This appropriation is provided from the set-aside for open space and recreation funds within the Community Preservation Fund which has an available balance of \$1,067,500. There is no impact on the general fund; annual maintenance will be covered by the existing operating budget.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, upon recommendation of the Community Preservation Committee.

VOLUNTEER ASSISTANCE: Lindsey Counsell, Chair, Community Preservation Committee

B. NEW BUSINESS (May be acted upon) (Roll Call Majority)

BARNSTABLE TOWN COUNCIL

**ITEM# 2022-006
INTRO: 07/15/2021**

2022-006 ACCEPTANCE OF TRANSFORMATIVE DEVELOPMENT INITIATIVE (TDI) CHALLENGE GRANT IN THE AMOUNT OF \$45,000 FROM THE MASSACHUSETTS DEVELOPMENT FINANCE AGENCY’S TDI CHALLENGE GRANTS PROGRAM FOR SUPPORT FOR TEMPORARY “POP UP” RETAIL AND FOOD SERVICE

RESOLVED: That the Town Council does hereby accept a grant in the amount of **\$45,000** from the Massachusetts Development Finance Agency’s Transformative Development Initiative Challenge Grants Program for the purpose of encouraging local policy or process updates and the flexible use of indoor and outdoor space. Funds will support regulatory review and recommended updates, infrastructure, and also be used for direct support to so-called “pop up” retail and food service businesses. The Town Manager is authorized to contract for and expend the grant funds for the purpose stated herein.

SPONSOR: Mark S. Ells, Town Manager

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Rationale
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2022-006
INTRO: 07/15/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth S. Jenkins, AICP, Director, Planning & Development
DATE: July 15, 2021
SUBJECT: Acceptance of a Transformative Development Initiative (TDI) Challenge Grant in the amount of **\$45,000** from the Massachusetts Development Finance Agency's TDI Challenge Grants Program for support for temporary "Pop Up" Retail and Food Service

RATIONALE: The Town of Barnstable, through its Planning & Development Department, has been awarded a \$45,000 grant in support of our Transformative Development Initiative (TDI) District from MassDevelopment's TDI Challenge Grant program.

The Town of Barnstable participates in MassDevelopment's TDI program, the purpose of which is to support activities to promote redevelopment and economic development within focused districts. The TDI Challenge Grant Program is designed to bring focus to needed municipal policy changes in the TDI district by providing grant funds for programming to be paired with local municipal regulatory or policy updates that encourage flexible use of indoor and outdoor space.

Grant funds will support review and recommendations to clarify and streamline our regulatory process for pop up food vendors in order to support economic development by making it easier for new entrepreneurs to enter into the Barnstable economy in the food and retail sectors.

Grant funds will also support implementation by providing (1) financial support through direct mini-grants to new entrepreneurs, and (2) support infrastructure for their fledgling businesses at the Harbor Overlook through the planning, design, and construction of a dedicated, shared space for them to operate.

Small scale, temporary businesses such as pop-up retail, pop-up restaurants, and push-carts, which are often used as a stepping stone that leads a larger and more permanent business presence. The recent upgrades to the Harbor Overlook in 2018, including additional artist shanties, a paved gathering/performance space, special events rental space, and a community lawn area has set the stage for additional small-scale economic development opportunities in this key downtown location between Main Street and the Harbor.

This project will also provide spin-off benefits that include adding to the urban vibrancy of downtown, creating a destination that promotes connectivity between Hyannis Main Street and Hyannis Harbor, supporting town investment in the Harbor Overlook and the Artist Shanty program, and developing a regulatory process for the TDI district that can be applied to all the villages of Barnstable.

FISCAL IMPACT: No funding match is required for this grant award. No general funds will be expended on this program.

STAFF ASSISTANCE: Gloria McPherson, Planning & Economic Development Coordinator; Melissa Chartrand, Arts & Culture Coordinator

B. NEW BUSINESS (First Reading) (Refer to Planning Board)

BARNSTABLE TOWN COUNCIL

ITEM# 2022-007

INTRO: 07/15/21

**2022-007 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I
GENERAL ORDINANCES, CHAPTER 240 ZONING BY ADDING A MIXED-
USE SUB ZONE OF THE MEDICAL SERVICES OVERLAY DISTRICT**

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

SECTION 1

By amending the Zoning Map of Barnstable, Mass. Dated September 1, 1998, as previously amended, as referenced in Article II, Section 240-6, to add a Mixed-Use Sub Zone of the Medical Services Overlay District, as shown on maps dated July 7, 2021, prepared by the Town of Barnstable Geographical Information System Unit, and entitled:

- Proposed Amendment to the Town Zoning Map Creating the Mixed-Use Sub Zone of the Medical Services Overlay District
- Proposed Amendment to the Hyannis Zoning Map Creating the Mixed-Use Sub Zone of the Medical Services Overlay District
- Proposed Amendment to the Barnstable Zoning Map Creating the Mixed-Use Sub Zone of the Medical Services Overlay District

SECTION 2

By amending Article II, Section 240-5, Establishment of districts, by inserting the term “Mixed-Use Sub Zone of the Medical Services Overlay District” immediately below the term “Medical Services Overlay District” as it appears under the heading “Overlay Districts”.

SECTION 3

By inserting in Article III, the following new Section 240-38.1:

“§ 240-38.1 Mixed-Use Sub Zone of the Medical Services Overlay District

A. Purpose

- (1) The purpose of this section is to permit the development and relocation of medical and healthcare services, together with commercial, retail and residential uses, on a site with convenient regional access. The Mixed-Use Sub Zone is established as a special district of the Medical Services Overlay District which overlays in majority part the Industrial Zoning District, and, in part, the Groundwater Protection and Wellhead Protection Overlay Districts.
- (2) Provisions of this section are designed to ensure that all development activities associated with the Mixed-Use Sub Zone will be carried out so as to provide for and maintain protection of neighboring properties, convenient and safe access for vehicular and pedestrian movement, fire-fighting and emergency rescue vehicles, satisfactory methods of stormwater management, groundwater recharge and handling and disposal of sewage and waste and adequate off-street parking. To the extent anything contained in this Section 240-38.1 conflicts with any other provisions of this zoning ordinance, this Section 240-38.1 shall govern.

- B. District established.** A "Mixed-Use Sub Zone of the Medical Services Overlay District" is hereby established and shall be considered superimposed over any other districts established by this chapter and is shown as an overlay on the Official Zoning Map established pursuant to §240-6, Zoning Map, herein.

C. Principal permitted uses. The principal permitted uses allowed in the Mixed-Use Sub Zone shall include all uses permitted in the Medical Services Overlay District, which include all uses permitted in the underlying IND District (including, without limitation, any use permitted in the B and S&D Districts). Additionally, multifamily dwellings (apartments) on a lot within 1,000 feet of Kidd's Hill Road within the Mixed-Use Sub Zone shall be permitted subject to the following provisions in lieu of the requirements set forth in Sections 240-21.A(9)(a)-(i) or 240.38(F), or any other provisions as may be set forth in this Zoning Ordinance:

- (1) The minimum lot area ratio shall be 1,500 square feet of lot area per each apartment unit for new multifamily structures.
- (2) The maximum lot coverage shall be 25%.
- (3) The maximum height shall not exceed 35 feet¹.
- (4) The minimum front yard setback shall be 60 feet.
- (5) The minimum side and rear yard setbacks shall be 30 feet.
- (6) The maximum floor area ratio shall be 0.75.
- (7) A perimeter green space of not less than 20 feet in width shall be provided, such space to be planted and maintained as green area and to be broken only in a front yard by a driveway.
- (8) No living units shall be constructed or used below the ground level.

D. Accessory uses. Within the Mixed-Use Sub Zone, accessory uses or accessory buildings are permitted, including, without limitation, parking garages, pools, parking areas and offices, provided that any such use or building is customarily incidental to, subordinate to and on the same lot as the principal use it serves.

E. Conditional uses. The conditional uses allowed in the Mixed-Use Sub Zone shall include all conditional uses permitted in the Medical Services Overlay District, the IND District, the S&D District, and the B District.

F. Special Permit uses. The special permit uses allowed in the Mixed-Use Sub Zone shall include all special permit uses permitted in the Medical Services Overlay District, the IND District and the B District, 'Senior Living, Assisted Living'², 'Senior Living, Nursing Homes'², independent living facilities, memory care facilities, and long-term care facilities. Additionally, multifamily dwellings (apartments) on a lot, any portion of which is set back greater than 1,000 feet from Kidd's Hill Road within the Mixed-Use Sub Zone, shall be allowed by special permit, subject to the provisions of Section 240-38.1(C) above in lieu of the requirements set forth in Sections 240-21(A) (9) (a)-(i) or 240.38(F), or any other provisions as may be set forth in this Zoning Ordinance.

G. Bulk regulations (dimensional requirements) for all uses other than multifamily dwellings (apartments):

- (1) Minimum lot area: 90,000 square feet.
- (2) Minimum lot frontage: 200 feet.
- (3) Minimum setback, front: 60 feet.
- (4) Side/rear yard: 30 feet minimum.
- (5) Building height:³ 35 feet⁴.
- (6) Front yard landscape buffer: 45 feet.
- (7) Landscape buffer, rear and side yard: 30 feet.
- (8) Maximum lot coverage: 25%.

¹ Except that for multifamily structures on a lot not less than 10 acres, the maximum building height shall be not more than 4 stories which shall not be more than 55 feet in height measured to the highest point on the roof (not including antennas or similar roof structures).

² As such term is defined in Section 240-25(F).

³ Skylights, mechanical penthouses and architectural features not designed for human occupancy shall be excluded in determining the height of any building in the Mixed-Use Sub Zone.

⁴ Except that for structures containing 'Senior Living, Assisted Living', 'Senior Living, Nursing Homes', independent living facilities, memory care facilities and/or long-term care facilities, on a lot not less than 10 acres, the maximum building height shall not be more than 4 stories which shall not be more than 55 feet measured to the highest point on the roof (not including antennas or similar roof structures).

(9) Maximum floor area ratio: 0.40.

H. Parking Regulations.

- (1) For multifamily dwellings, off-street parking shall be provided at a ratio of 1.3 spaces per dwelling unit, and 1 guest space per 10 dwelling unit spaces
- (2) For retail uses, off-street parking shall be provided at a ratio of 1 space per 250 retail sf.
- (3) For medical uses, off-street parking shall be provided at a ratio of 1 space per 250 sf.

I. Design and Screening Standards. Notwithstanding anything contained in Section 240-52, or any other provisions as may be set forth in this Zoning Ordinance, each off-street parking space in the Mixed-Use Sub Zone shall have minimum dimensions of 9 feet by 18 feet excluding the driveway to such space.

J. Incidental Storage of Hazardous Materials and Impervious Coverage. Hazardous Materials may be stored and offered for sale in connection with retail use or incidental to multifamily use in the Mixed-Use Sub Zone, except as prohibited by the WP Wellhead Protection Overlay District. In the Mixed-Use Sub Zone, compliance with the lot coverage requirements set forth in Sections 240-35(F)(3) and 240-35(G)(3) may be determined across multiple lots located within the district if the owners of such lots agree to do so in a written agreement provided to the building department. Additionally, for purposes of Sections 240-35(F) (3) and 240-35(G) (3), porous pavement shall not be considered paved surface.

K. Signage. Notwithstanding the provisions of Sections 240-64, 65 and 66 herein, (i) on lots with not less than 10 acres in the Mixed-Use Sub Zone, an aggregate sign area of up to 400 square feet shall be allowed, provided that the sign area of any single sign does not exceed 200 square feet, and (ii) one free-standing sign of up to 200 square feet shall be allowed in the Mixed-Use Sub Zone, provided that such free-standing sign identifies at least two commercial, retail and/or medical uses within the Mixed-Use Sub Zone.”

L. Exemption. The uses described in this Section 240-38.1 shall be exempt from the residential building permitting limitations established by Article XI, Sections 240-110 through 240-122.”

SPONSOR: President Matthew Levesque, Councilor Precinct 10

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2022-007
INTRO: 07/15/2021

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Elizabeth Jenkins, AICP, Director, Planning & Development
DATE: July 15, 2021
SUBJECT: Amending Article III to add Chapter 240 Section 38.1 Mixed-Use Sub Zone of the Medical Services Overlay District

BACKGROUND: Cape Cod Hospital is the current owner of approximately 40 acres of land located at 35 & 0 Wilkens Lane in Hyannis, Massachusetts (the “Property”). The Property is primarily zoned IND Industrial District, MSOD Medical Services Overlay District, and is within the GP Groundwater Protection and WP Wellhead Protection Overlay Districts. The Property is subject to the terms of a Development Agreement between Cape Cod Healthcare, Inc., (the “Hospital”) and the Cape Cod Commission, dated March 20, 2003. Under the terms of the Development Agreement, the Commission approved the development of an approximately 263,000 SF outpatient medical complex at the Property, to be constructed in phases.

The Hospital has constructed a portion of the approved development, which the Hospital operates as the Wilkens Outpatient Medical Complex. While the Hospital remains committed to expanding its medical facilities and services in Hyannis, such expansion will largely be focused on the Hospital’s main Park Street campus in Hyannis, in light of regulatory and other considerations. Notwithstanding its focus on the main campus, the Hospital plans to construct an additional phase of the approved development, similar in size to the portion that has been constructed, on the Property. In that this additional phase of the approved development will only occupy a portion of the Property, the Hospital decided that the best course was to divide the Property into multiple parcels to allow for additional complementary uses on the Property and provide critical funding for the Hospital. Accordingly, the Hospital has entered into an agreement with New England Development (“NED”), whereby NED would acquire and develop, in phases, the remaining approximately 32-acre area of land located at the Property with residential and commercial uses. The Hospital will retain ownership and operation of the contiguous portion of land which contains the existing Wilkens Outpatient Medical Complex as well as sufficient acreage to accommodate future expansion. This arrangement will allow the Hospital to expand its existing facility at the Property and provide capital necessary to support its other expansion plans and ongoing operations. NED intends to develop the 32 acres in phases with the first phase being multi-family residential rental housing (including affordable housing), with two outparcels reserved for future development.

RATIONALE: The proposed zoning amendment would add a new zoning overlay district, Chapter 240, Section 38.1 Mixed-Use Sub Zone of the Medical Services Overlay District. The proposed overlay district provides flexibility within the Sub-Zone to permit development and relocation of medical and healthcare services together with complementary commercial, retail and residential uses, on the previously developed and/or disturbed site with convenient regional access.

Multifamily residential development is a use permitted in the IND Industrial District. The proposed zoning overlay modifies the bulk and dimensional standards applicable to this use to allow housing development at a greater density than currently permitted. Maximum allowable building height is increased to four stories, not to exceed 55 feet. Parking requirements are reduced for multifamily, retail

and medical uses. Uses not already permitted in the IND or MSOD, or additional multifamily development not currently contemplated (beyond 1000' of Kidd's Hill Road) will require a Special Permit.

Development within the Mixed-Use Sub Zone will also require Cape Cod Commission approval by way of an amendment to the existing Development Agreement between the Hospital and the Cape Cod Commission. Further, the adoption of the amendment will permit the Hospital to proceed with its agreement with NED which will result in 32 acres of the Mixed-Use Sub Zone to be returned to the property tax rolls while providing the opportunity to create much needed multifamily housing including affordable housing.

FISCAL IMPACT: A fiscal impact analysis was prepared by Fougere Planning & Development, Inc. for New England Development & Cape Cod Healthcare which concluded the following:

Immediately following the transfer of the property from a tax-exempt not-for-profit entity to a non-exempt for-profit entity, the Project Site will become subject to property taxation. According to the project proponent, the estimated value of the property will be \$121,000 per acre and the proposed development project will result in a net annual positive fiscal impact of \$469,316. The initial phase of the proposed project would create the 4th largest taxpayer in the community with an additional twenty one acres of land available for future development. One time building permit fees will generate approximately \$630,000 in revenue. Twenty-seven affordable housing units will be created, addressing a critical need in the community, and there will be intangible positive economic benefits of creating market rate housing.

TOWN MANAGER RECOMMENDATION: Mark S. Ells, Town Manager, recommends the proposed zoning amendment.

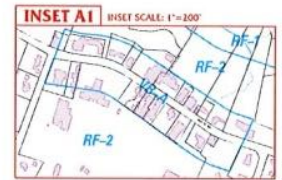
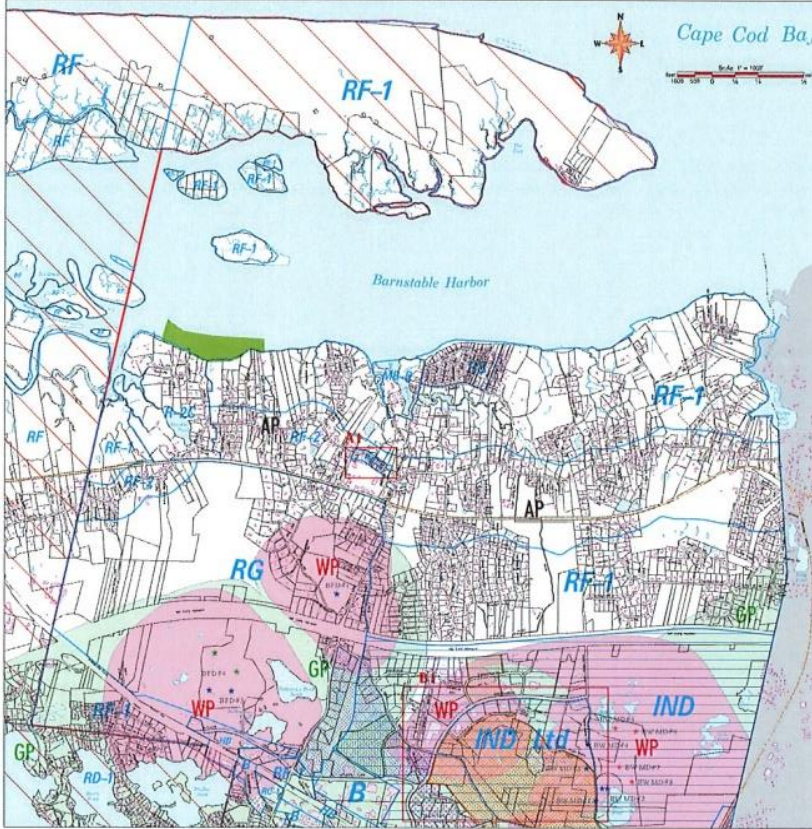
STAFF SUPPORT: Elizabeth Jenkins, AICP, Director, Planning & Development; Kate Maldonado, Assistant Director, Planning & Development



PROPOSED AMENDMENT to the BARNSTABLE ZONING MAP
Creating the Mixed-Use Sub Zone of the Medical Services Overlay District

JULY 7, 2021

BARNSTABLE - SHEET 1 OF 7



Map Legend

	Zoning Districts		Wetland Protection Overlay Districts
			Groundwater Protection Overlay Districts
			Aquifer Protection Overlay Districts
			Adult Use Overlay Districts
			Dock and Pier Overlay Districts
			Former Grade 5 School Planned Unit Development Overlay Districts
			Medical Services Overlay Districts
			Medical Marijuana Overlay Districts
			Craigville Village Neighborhood Overlay
			Long / Short Beach Neighborhood Overlay
			Craigville Beach Neighborhood Overlay
			Connetquot River North Bank Neighborhood Overlay
			Existing Public Well Site
			Proposed Future Public Well Site
			Proposed Future Public Well Site
			Fuel Oil Lines
			Buildings
			Railroad Tracks
			Town Boundary Line
			Marsh Area
			Streams / Edge of Water
			Crabtree Bog

SEE LIST OF ZONING ORDINANCES FOR COMPLETE REGULATIONS ON ALL ZONING DISTRICTS.

When a zoning district boundary is located along the edge of a wetland, the line is applied to the land side except as otherwise noted with the plan and otherwise all boundary operations are the same as the zoning district boundary.

When zoning district boundaries are located along the edge of a roadway, the line is shown on the land side of the roadway except as otherwise noted with the plan and otherwise all boundary operations are the same as the zoning district boundary. The vertical location of road lines shall be determined by the town and the horizontal location shall be determined by the plan.

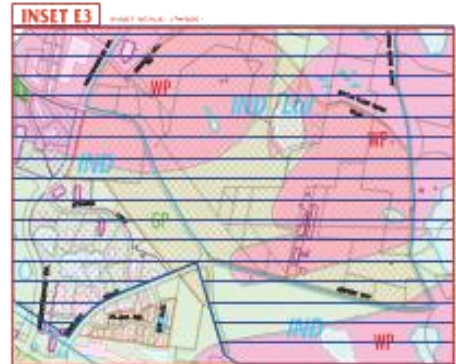
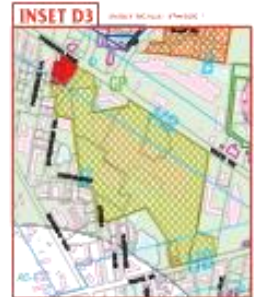
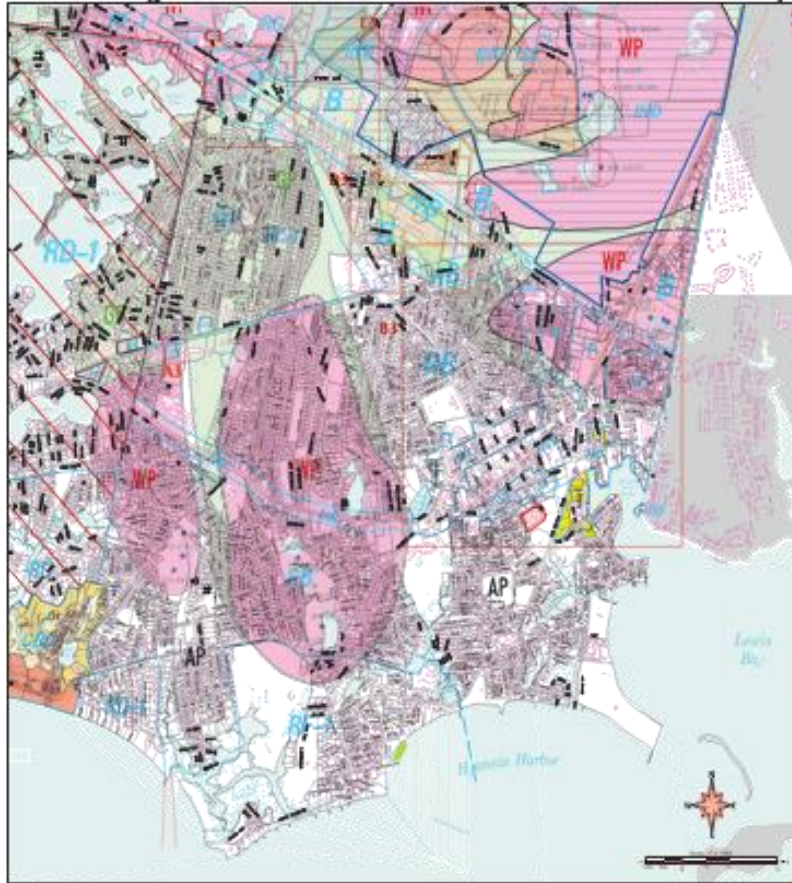
TOWN OF BARNSTABLE GIS UNIT File: Barnstable_zoning_map_amendment_2021_07_07.dwg (TAB 7.3.2021)



PROPOSED AMENDMENT to the HYANNIS ZONING MAP
Creating the Mixed-Use Sub Zone of the Medical Services Overlay District

PART 1, 2021

HYANNIS - SHEET 3 OF 7



Map Legend

	Boundary District		Woodside Beach Neighborhood Overlay District
	Woodside Beach Neighborhood Overlay District		Carrollville West North End Neighborhood Overlay
	Greenwich Protection Overlay District		Hyannis Public Overlay District
	Hyannis Protection Overlay District		Existing Public Use Site
	Mud-Flats Overlay District		Proposed Public Public Use Site
	Beach and Pier Overlay District		Proposed Public Public Use Site
	Center-City & School Planned Unit Development Overlay District		Proposed Public Public Use Site
	Medical Services Overlay District		Proposed Public Public Use Site
	Mixed-Use Sub-Zone of the Medical Services Overlay District		Proposed Public Public Use Site
	Resource Protection Overlay District		Proposed Public Public Use Site
	Shopping Center Redevelopment Overlay District		Proposed Public Public Use Site
	State Through Arterial Sub-Zone of the Shopping Center Redevelopment Overlay District		Proposed Public Public Use Site
	Senior Care/Long-Term Care Reuse Overlay District		Proposed Public Public Use Site
	Community - NCD/CD-2000-1		Proposed Public Public Use Site
	Recreational/Amateur Boat and Yacht Repair Shop & Pier Overlay District		Proposed Public Public Use Site
	Central Hyannis Sub-Proposed Overlay District		Proposed Public Public Use Site
	Medical Services Overlay District		Proposed Public Public Use Site
	Capeable Village Neighborhood Overlay		Proposed Public Public Use Site
	Long-Beach Neighborhood Overlay		Proposed Public Public Use Site



