



Town Council Meeting  
July 15, 2021



A quorum being duly present, President Matthew Levesque called the July 15, 2021, Town Council meeting to order at 7:03 PM.

An announcement was made by President Levesque regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

**PRESENT:** (On Zoom) Nikolas Atsalis, David Bogan, Kristine Clark, Jennifer Cullum, Debra Dagwan, Jessica Rapp Grasseti, Paul Hebert, Matthew Levesque, Paul Neary, Paula Schnepf, Tracy Shaughnessy, Gordon Starr, Eric Steinhilber.

The Pledge of Allegiance was led by Councilor Neary and followed by a moment of silence. Councilor Clark offered a moment of silence to keep the family of Tim Ferreira in your thoughts and prayers. She noted Tim was a valued member of the Hyannis Main Street Waterfront Historic District Commission on which he served 9 years. President Levesque offered a moment of silence to keep the family of Carol Puckett in your thoughts and prayers. He mentioned Carol worked for the Town's Planning Department for 15 years and was a very helpful and knowledgeable assistant to the Land Acquisition and Preservation Board and the Zoning Board of Appeals.

**PUBLIC COMMENT:**

Whitney McNamara supported the Accessory Dwelling Unit (ADU) by-law change. She urged Council to approve the two ADU items as both were needed as soon as possible. Tina Carey spoke about her concerns regarding the Downtown Main Street barriers. She noted the pedestrian walkway on each side of the street should be unobstructed. She felt the Town Manager was un-responsive to her needs. Amanda Converse supported the ADU by-law as written. She felt this would help address the housing shortage. She thanked Town Staff, Council and the Town Manager for the wonderful changes to Downtown Main Street with the outdoor dining and pedestrian traffic. Felicia Penn supported the ADU new policy regarding moderately priced 12 month rentals. She agreed with rentals being rented one at a time not concurrently. Marty Bruemmel, President and Chief Executive Officer of Greater Hyannis Chamber of Commerce supported the ADU by-law change. He felt there should be 3 month rental leases and both structures could be rented at the same time. Peter Prygocki was opposed to the ADU in Cotuit. He thought the plans should be laid out to overlap for clarity. He added the Comprehensive Wastewater Management Plan (CWMP) roll out should capitalize and prioritize the ADU by-law housing objective. Ed Stanford urged Council to make this work, as the housing crisis had a negative affect and the ADU by-law was the way to address this issue. Ben Baxter supported the 77 Pleasant Street regulatory development agreement. He remarked that this was a beneficial project due to relocating the existing historic residential

dwelling unit and creating additional 81 space gravel parking lot, Bu Chu announced that Cape Cod Regional Transit Authority (CCRTA) bus was free on Fridays for everyone. He added he would be finishing school and thanked everyone for their support.

Claire Reid supported the ADU by-law. She felt there needed to be affordable housing for younger generations.

David Paine Hills supported the ADU proposal as written. He noted the 900 square foot unit was fair. He questioned if a three season porch was included in the square footage of the unit.

Jack and Jean Crooks supported the ADU but felt the flaw in the language was due to renting both units at the same time. He added there would be unattended consequences for absentee owner rentals.

Meaghan Mort was happy with the zoom meetings but worried how people who had younger families would attend the in-house meetings.

Maryann Barboza supported the ADU as written. She felt people on the Cape were struggling to own their homes due to high prices.

### **Response to Public Comment: NONE**

Close Public Comment

It was announced due to the length of the Agenda, Town Manager Mark Ells would not present his Town Manager Communications, however, it would be available online at: [https://www.townofbarnstable.us/Departments/TownManager/Town\\_Manager\\_Communications\\_to\\_Town\\_Council/2021-07-15%20TMReport.pdf](https://www.townofbarnstable.us/Departments/TownManager/Town_Manager_Communications_to_Town_Council/2021-07-15%20TMReport.pdf)

### **ACT ON MINUTES:**

Upon a motion duly made and seconded it was to accept the minutes of July 1, 2021 as presented.

### **VOTE: PASSES 13 YES**

**Roll Call: Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber.**

### **COMMUNICATIONS- from elected officials, boards, committees, and staff commission reports, correspondence and announcements:**

(Bogan) Mentioned the upcoming 47<sup>th</sup> Annual Osterville Village Day – theme is Christmas in July and the event takes place on Saturday July 17, 2021 at 10:00am – 3:00pm.

(Clark) Thanked the Barnstable Police for their help with the Barnstable-West Barnstable July 4<sup>th</sup> parade.

(Hebert) Spoke about the vacancies in the Disability Commission and added all applicants could contact Cynthia Lovell, Town Council Administrative Assistant to get an application.

(Rapp Grasseti) Said there was a vacancy on the Planning Board and strongly urged all board applicants for any of the open seats to interview as applications would be held up to two years.

(Dagwan) Noted: the Greater Hyannis Civic beach party on July 20<sup>th</sup> at Kalmus Beach; Cars Under the Stars Cruise 6 pm on July 24<sup>th</sup> and July 25<sup>th</sup> the Howard lodge presented the car show; League of Women Voter Redistributing Forum on July 27<sup>th</sup> 6:30 pm to 8:00pm on Zoom: Parody Board Thursday July 29<sup>th</sup> 5:30 pm – 6:30 pm on Zoom.

(Murphy) Gave an update on the November 2<sup>nd</sup> election with nomination papers available August 2, 2021 and must be returned to the Town Clerk's office for certification by September 9, 2021.

(Schnepp) Agenda 2022 -005 which is the machine gun range item was moved to the August 2021 meeting; please save the date for the Wequassett Inn.

(Atsalis) Thanked the Public Works Department and the Barnstable Police regarding signs to slow down and the pedestrian crosswalk in Centerville; Thanked the Public Works Department, Barnstable Police and Town Manager for the new signage at Long Beach.

(Levesque) Mentioned the 5<sup>th</sup> Annual Unity Day on the Hyannis Village Green on August 6<sup>th</sup>, 2021 at 4:00pm – 7:00pm

Break (8:05pm – 8:12 pm)

<b>2021-130 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO: 06/17/2021, 07/15/2021</b>
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Councilor Rapp Grassetti read aloud the new appointment applicants.

**Councilor comments or questions:**

(Hebert) He commented that the Appointments Board Committee works very hard and has a very difficult decision regarding filling position on Town boards – wanting to choose the very best candidate, and respecting representation as much as we can from as many different corners. He noted there was confusion for the public with how applicants were appointed and or reappointed. He explained that reappointments are not guaranteed and filling a vacancy is a difficult decision. He noted the issue with this particular round of appointments made it uncomfortable for some people in the community. He said Council was not taking this issue lightly and was sensitive to this issue. He explained his vote on this item was to represent/recognize the public that know we are watching this and the final responsibility comes back to the Council and it is not taken lightly.

(Bogan) He explained he would follow up on Councilor Hebert comments and earlier comments by Councilor Rapp Grassetti. He explained he would vote against this slate and it was not because he had a particular issue with any of the applicants. In fact many of them he endorses whole heartedly. He said the issue was with the process particularly as it relates to the recommended appointment for the Planning Board. He explained that is not with respect to Mr. Micenas as he does not know him and said he was sure he was a fine man. He explained he was a member of Appointment Committee and the process that was undertaken here was unprecedented in his experience. He spoke about the process receiving appointment letters and then having the appointments on the next Council agenda – which did not happen. He felt people can question outcomes, decisions but the process should never be questioned. There should be certainty with our process. He stated he cannot stand behind the process here.

(Rapp Grassetti) Concurred with both previous speakers who spoke on this item, she has served on the Appointments Committee and in leadership agreed the whole process was messed up. She was recommended going forward alerting members when terms of service were coming due to have the member make certain their intentions. She would agree to a hard fast date on February 1<sup>st</sup> for notification. She suggested Councilors could bifurcate the board's applicant approval as to not slight other members to be appointed.

(Hebert) He would not bifurcate the board's applicant as this issue was not against any individuals rather the process. This has put us on notice.

(Steinhilber) He said there had been discussion on improvements and how to move forward. We certainly always want to improve the process. We were presented with an unusual circumstance, majority of Appointment Committee members choose to push pause in response to an outcry from a number of individuals in order to interview a larger and more robust diverse pool of applicants. He explained this was an attempt to be more transparent, and to communicate more clearly. He looked forward working with the

appointments committee.

(Bogan) He questioned how with 4 candidates and only two reappointed how did the other two candidates know. I will abstain from this vote.

(Levesque) He explained the issue with vacancies and what happens when a term of service is up. He said most people go to our website to view board vacancies and vacancies do not show up until a term is done. He noted as of June 30, 2021 if there was a vacancy either due to timeline issues or not wanting to be reappointed then as of July 1, 2021 there would be vacancy. He added reappointments are at the request of the individual He discussed website improvements by Leadership which requested the Information Technology Department and with communication with Cindy Lovell, Town Council Administrative Assistant to create on our web site information regarding the vacancies. This information was not readily available and the process was flawed. Our process needs to change. He apologized and discussed the error regarding the long standing congratulatory letters and their timing. He agreed with Councilor Rapp Grassetti that the process needs to change, with an earlier and better deadline on wanting to be reappointed so that if there is a vacancy it can be advertised properly.

(Dagwan) She stressed the need for Council leadership to be on the Appointments Committee.

Upon a motion duly made and seconded it was

**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; **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;

**VOTE: Roll Call: PASSES 9 YES Atsalis, Cullum, Dagwan, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber, 1 NO Clark, 3 ABSTAIN Bogan, Rapp Grassetti, Hebert**

Jump to Agenda Item 2021-130B

<b>2021-130B APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION INTRO: 06/17/2021, 07/15/2021</b>
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Councilor Steinhilber recused himself from this item and left the zoom meeting.

Upon a motion duly made and seconded it was

**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

**VOTE: Roll Call: PASSES 12 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grassetti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr**

Councilor Steinhilber rejoined the meeting.

Jump to Agenda Item 2021-181

**2021-181 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION: INTRO:  
06/17/2021, 07/15/2021**

(Clark) She discussed an amendment to the Shellfish Committee. She said Jacob Angelo, as a member-at-large to a term expiring 06/2024 and Tyler Hagenstein, as a professional shellfisheries trained member to a term expiring 06/2024 should both be recognized as commercial shell fishermen. She noted the ordinance which empowers the Shellfish Committee states no more than 3 commercial shell fishermen one which should be a grant holder. Both she explained are commercial shell fishermen holders, this was discussed at the last meeting of the Shellfish Committee. The committee felt this change would be a more appropriate designation for their appointment.

(Hebert) Had concerns with how individuals are being reappointed/appointed and noted members of the committees do not understand conflict of Interest. He mentioned there were a few incidents where people were not discussing their conflict of interest with an item. He said there needs to be a clear understanding of what is a conflict of interest and what it means to represent the public. (Bogan) endorses comments by Councilor Hebert (Clark) Felt the conflict-of-interest training should be every two years. She contacted all the boards she is a liaison on and asked all chairs to make sure all members were up to date on their conflict of interest training certificates with Cindy Lovell.

(Cullum) She asked Attorney Nober could reach out to the Boards and Committees on their on the Conflict of interest forms. (Nober) Councilor Clark is referring to the Conflict of Interest online training which is required every two years. Conflict of Interest Summary is given to each new member of a board and or committee. (Hebert) There have been several very public incidents with Conflict of Interest issues.(Cullum) These issues should be addressed by Appointment Committee Chair Councilor Rapp Grasseti. (Rapp Grasseti) This goes to the Planning Board, the two members up for reappointment were never interviewed by the majority of the Appointments Committee and also there are new Council members. She explained reappointment does not mean that one will automatically be reappointed and one can and will be called in for an interview. She felt this process should not be changed. (Cullum) She had concerns when one village is represented more than another village on a board or committee. (Bogan) We need to go back and review and see if the Appointment Committee is complaint with the current rules.

Upon a motion duly made and seconded it was to amend Jacob Angelo, as a member-at-large to a term expiring 06/2024 and Tyler Hagenstein, as a professional shellfisheries trained member to a term expiring 06/2024 should both be recognized as commercial fishermen

**VOTE: Roll Call: PASSES 13 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

Upon a motion duly made and seconded it was as amended

**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 Garreffi, 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 06/30/2024; **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 and Tyler Hagenstein, as a professional shellfisheries trained member to a term expiring 06/2024 should both be recognized as Commercial Shell Fishermen; **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; 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

**VOTE: Roll Call: PASSES 10 YES Atsalis, Clark, Cullum, Dagwan, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Steinhilber 1 NO Starr, 2 ABSTAIN Bogan, Rapp Grasseti**

Jump to Agenda Item 2021-130A

**2021-130A APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION INTRO:  
06/17/2021, 07/15/2021**

President Levesque recused himself from the following agenda items 2021-130A; 2021-181A; 2021-174; and 2021-175 and left the zoom meeting. Vice President Schnepf called for the vote.

Upon a motion duly made and seconded it was

**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

**VOTE: Roll Call: PASSES 12 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

**2021-181A REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION INTRO:  
06/17/2021, 07/15/2021**

Upon a motion duly made and seconded it was

**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;

**VOTE: Roll Call: PASSES 12 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

**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 INTRO: 05/06/21,  
07/15/2021**

Vice President Schnepf mentioned she would like to discuss this agenda item and would pass the gavel to Precinct 1 Councilor Starr who added he wanted to speak on this item and passed Gavel to Precinct 2 Councilor Steinhilber.

Elizabeth Jenkins Planning and Development Director gave the rationale. She explained the two agenda items 2021-174 and 2021-175 were companion items. She discussed ADU by right; year-round rentals and accessory rentals 2 bedroom up to 900 square feet. She noted to have an ADU the household must meet the sewage and wastewater levels and cannot exceed Title 5.

Open Public Hearing

Kate Mullaly supported the ADU and hoped to build them on her properties. She felt there was no need for onsite landlords and the terms of renting should be for 12 consecutive months.

Meaghan Mort supported the ADU ordinances as written. Please allow the ADU in the single-family dwelling units.

Jeanne Morrison supported the ADU by law and hoped these ordinances would support families.

Tina Carey felt the 12-month rental requirement should be reduced. She worried about seasonal housing and zoning. She felt businesses would close without the workers due to lack of housing for workers.

Erin Andrews supported the ADUs as drafted.

Robert Brennan mentioned his Pleasant Street project had over 100 applicants for just 6 units. He hoped that the ADU would be adopted as written.

Karen Nober, Town Attorney explained Amendment E language. She read the amendment:

I move that Item No. 2021-174, Section 4, Subsection B, subparagraph (1) be amended by inserting after the words "at the same time as" the following words: "either an affordable accessory apartment exists on that lot pursuant to Chapter 9, Article II, §§ 9-12 through 9-16 of the General Ordinances of the Code of the Town of Barnstable or"

Tara Vargas Wallace supported ADU by law as written.

Upon a motion duly made and seconded it was to amend agenda item 2021-174 Section 4 Substitute B Subparagraph (1)

**VOTE: Roll Call PASSES 12 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grassetti, Hebert, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

Close public hearing

(Starr) What is the habitual floor area?

(Jenkins) explained it was C4 clarification section explains this term. (Florence)

Said it was C4 Building Code habitual. (Starr) Does it include closets, and bathrooms.?

(Florence) Area not including closets, closest space, etc.

(Clark) How is a 12-month lease year-round lease enforced? (Florence) Lease available? Should be available at time of rental. (Jenkins) Units offered by a 12-month consecutive; terms of lease agreement obligation 12-month lease terms. (Bogan) questioned the 900 square foot space and the ability to have a 3-season porch as habitual space. (Florence) no that is not habitual space. (Starr) questioned Section C3 language, (Jenkins) Address of applicants if they felt aggrieved of design. (Florence) One can appeal a building permit. One has a 30-day appeal upon discovery of construction. (Starr) Had a question for the Department of Public Works is there adequate capacity from sewage? (Ells) We anticipated total number of bedrooms provided it would have to have a system to accept this number. (Jenkins) Certifying adequate wastewater 5-20 units per year. Property and accessory cannot exceed maximum flowage.

(Rapp Grassetti) Regarding Section E amnesty is there a sunset clause? Consideration of a cap to how many per year of ADUs. (Jenkins) Is there consideration of cap for ADUs not due to an increase in rental construction. Amnesty is covered by ordinance and allowing permits. (Rapp Grassetti) What is the current number of ADUs? There are 120 active units with leased terms (Bogan) We can revise the language? (Nober) Yes you can revise the ordinance

Councilor Bogan mentioned Amendment B. He explained the owner must reside in the principal or the accessory dwelling. He read the amendment:

I move that Item No. 2021-174, Section 4, Subsection C be amended by deleting subparagraphs (11) and (12) in their entirety and inserting the following new subparagraphs (11), (12) and (13) in their place:

(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. Either the principal dwelling or ADU, but not both, may be rented at any given time.

(12) No property owner may rent either the principal dwelling or ADU unless such property owner is a resident of the other, and has provided proof of residency at that property to the Town of Barnstable. For purposes of this subsection, a “resident” shall be defined as a “person who maintains a permanent place of abode in the Town of Barnstable and who has resided at that abode 183 days or more of the preceding calendar year.” Such person shall submit an affidavit under the pains and penalties of perjury attesting to their residency, along with documentation that evidences residency. Residency may be established by voter registration, motor vehicle registration, redacted tax returns, driver’s license or other state issued identification or other documentation that indicates residency as may be deemed acceptable by the Director of Inspectional Services or his designee.

(13) Any commercial use, with the exception of permitted home occupations, shall not be allowed on a property on which there is an ADU.

(Bogan) If both residences are rented then there is no principal residence or accessory dwelling. (Rapp Grasseti) What about aging in place for seniors if both units are rented it takes away the intent of this item. I will support Amendment B. (Hebert) Supporting Amendment B. (Schnepp) I have concerns with 183 owner’s occupancy I am hesitant to have both units rented, Will not support this amendment. (Shaughnessy) I cannot support the amendment. (Cullum) Will not support Amendment B. (Atsalis) Do not support this amendment. (Bogan) Said he did not disagree with the discussion but he explained he was more interested in opening the door to the language but cautioned being too broad is not good. (Schnepp) Will you withdraw your Amendment B. (Bogan) Withdrew his amendment Councilor Clark withdrew her second to the amendment.

Councilor Starr explained his Amendment A: He read the amendment:

I move that Item No. 2021-174, Section 4, Subsection C, subparagraph (11) be amended by deleting the last sentence in subparagraph (11) and inserting the following new sentence in its place:

“Either the principal dwelling or ADU, but not both, may be rented at any given time.”

(Hebert) this is a fine compromise. (Atsalis) Had concerns with how this helping the housing crisis? (Cullum) Sunset to look at the language in two years (Cullum) Proposed a friendly amendment to Amendment A – Sunset to look at the language in two years. (Starr) If we sunset than it should be for the ordinance lets just not attach it to the amendment. (Rapp Grasseti) Would support Amendment A but not friendly Amendment.

(MacLaughlin) Legal Department asked for a break.  
Break (10:51 pm – 10:59pm)

Upon a motion duly made and seconded it was to go past 11 o’clock

**VOTE: Roll Call PASSES 11 YES Atsalis, Bogan, Cullum, Dagwan, Rapp Grasseti, Hebert, Neary, Schnepp, Shaughnessy, Starr, Steinhilber 1NO Clark**

(MacLaughlin) Sunsetting cannot go back and take away rights. Sunsetting is not an option. (Nober) Language is more restrictive cannot grandfather in properties. (Cullum) Withdraw the friendly amendment (Schnepp) withdrew second. (Dagwan) would like to go back to revisit. (Connolly) Sunsetting in zoning is rarely done typically done provided by statute.

Upon a motion duly made and seconded it was to amend agenda item 2021-174 Section 4, Subsection C, subparagraph (11) be amended by deleting the last sentence in subparagraph (11) and inserting the following new sentence in its place:  
“Either the principal dwelling or ADU, but not both, may be rented at any given time.”

**VOTE: Roll Call PASSES 8 YES Bogan, Clark, Cullum, Dagwan, Rapp Grassetti, Hebert, Starr, Steinhilber. 4 NO Atsalis, Neary, Schnepp, Shaughnessy**

Upon a motion duly made and seconded it was to amend agenda item 2021-174 as amended

**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 either an affordable accessory apartment exists on that lot pursuant to Chapter 9, Article II, §§ 9-12 through 9-16 of the General Ordinances of the Code of the Town of Barnstable or 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. Either the principal dwelling or ADU, but not both, may be rented at any given time.

- (12) Any commercial use, with the exception of permitted home occupations, shall not be allowed on a property on which there is an ADU.

**VOTE: Roll Call PASSES 10 YES Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Neary, Schnepf, Starr, Steinhilber. 2 NO Atsalis, Shaughnessy,**

**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 INTRO: 05/06/21, 07/15/2021**

Elizabeth Jenkins, Planning and Development Director gave the rationale.

Open Public Hearing:

Tina Carey felt a 900 square foot 2 bedroom and 2-bathroom apartment was too small. She mentioned Provincetown has a regulation of 1200 square feet.

Close Public Hearing

(Bogan) We can revisit if the Zoning Board of Appeals is overrun. (Starr) What about heated space? Is it included in the square feet? (Florence) Habitual space is living, eating and sleeping only.

Upon a motion duly made and seconded it was

**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.

**VOTE: Roll Call PASSES 12 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grassetti, Hebert, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

Council President Levesque returned to the zoom meeting.

<b>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 INTRO: 06/17/2021, 07/15/2021</b>
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Elizabeth Jenkins, Planning and Development Director gave the rationale. She spoke about the 81 parking spaces in the open-air parking lot. (Ford) spoke about the Hyannis Main Street Board’s approval of the open-air parking lot. The applicant will be keeping the historic house as well as getting 81 parking spaces. There will be upgrades to the sidewalk and a flashing beacon.

### Open Public Hearing

Ben Baxter felt Wayne Kurker’s idea for the 77 Pleasant Street property was a good idea. He and business partner and brother Sam felt the project would beautify the area and serve a public need.

Tina Carey questioned the traffic flow and traffic light.

Wayne Kurker the parking lot will be invisible to the public.

Mike Ford explained the changes to Pleasant Street No traffic light needed, 2 new sidewalks on Pleasant Street, traffic study was done, and there will be no secondary access through Pleasant Street.

### Close Public Hearing

(Hebert) Well done this is a great idea and will help clean up the area. (Atsalis) In full support. (Cullum) there were 3 letters sent to the Council but the Town Manager did not receive it. She said she does not ask anyone to speak for her. She explained Mark Ellis is typically neutral on private projects and with public projects Mark Ellis supports all that come to Council. (Shaughnessy) supports the project. (Milne) spoke about the improvements which would generate more in taxes than it does now. (Rapp Grassetti) I will support this item. (Neary) Thrilled to see this as part of Hyannis. I will support it. (Dagwan) Very supportive of this project.

Upon a motion duly made and seconded it was

**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**

**VOTE: Roll Call PASSES 12 YES Atsalis, Clark, Cullum, Dagwan, Rapp Grassetti, Hebert, Levesque, Neary, Schnepp, Shaughnessy, Starr, Steinhilber 1 ABSTAIN Bogan**

**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 INTRO: 07/01/2021, 07/15/2021**

Lindsey Counsell, Chair of the Community Preservation Committee gave the rationale. Richard French gave an overview with a PowerPoint presentation. He noted the they would be fund raising to help defray the costs.

Open Public Hearing seeing no one close Public Hearing

Upon a motion duly made and seconded it was

**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.

**VOTE: Roll Call: PASSES 13 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

**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 INTRO: 07/15/2021**

Mark Milne, Finance Director gave the rationale. He discussed the American Rescue Act and the Coronavirus money given to the state as well as Barnstable,

Upon a motion duly made and seconded it was

**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.

**VOTE: Roll Call: PASSES 13 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

**2022-002 SUPPLEMENTAL APPROPRIATION ORDER IN THE AMOUNT OF \$15,000 FOR THE PURPOSE OF PAYING OUTSIDE COUNSEL EXPENSES OF THE LEGAL DEPARTMENT INTRO: 07/15/2021**

Upon a motion duly made and seconded it was

**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.

**VOTE: Roll Call: PASSES 13 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

**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 INTRO: 07/15/2021**

Upon a motion duly made and seconded it was

**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.

**VOTE: Roll Call: PASSES 13 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

**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 INTRO: 07/15/2021**

Upon a motion duly made and seconded it was

**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.

**VOTE: Roll Call: PASSES 13 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

**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 INTRO: 07/15/2021**

Elizabeth Jenkins, Planning and Development Director gave the rationale.

Upon a motion duly made and seconded it was

**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.

**VOTE: Roll Call: PASSES 13 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp Grasseti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

**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 INTRO: 07/15/2021**

Upon a motion duly made and seconded it was

**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.

**B. 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 feet<sup>1</sup>.
- (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'<sup>2</sup>, 'Senior Living, Nursing Homes'<sup>2</sup>, 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:<sup>3</sup> 35 feet<sup>4</sup>.

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<sup>1</sup> 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).

<sup>2</sup> As such term is defined in Section 240-25(F).

<sup>3</sup> 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.

- (6) Front yard landscape buffer: 45 feet.
- (7) Landscape buffer, rear and side yard: 30 feet.
- (8) Maximum lot coverage: 25%.
- (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.”

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<sup>4</sup> 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).

**VOTE: Roll Call: PASSES 13 YES Atsalis, Bogan, Clark, Cullum, Dagwan, Rapp  
Grassetti, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr, Steinhilber**

Agenda Item 2021-005 the gun machine range has been moved to the August 5<sup>th</sup>, 2021  
Town Council Meeting

**VOTE: ADJOURNMENT:**

Upon a motion duly made and seconded it was

**VOTED TO ADJOURN:**

**Adjourned at 12:47 PM**

Respectfully submitted,

Janet Murphy

Assistant Town Clerk/Town of Barnstable

NEXT MEETING: