



# Town of Mashpee

## Planning Board

16 Great Neck Road North  
Mashpee, Massachusetts 02649

### Meeting of the Mashpee Planning Board

Wednesday, January 18, 2023

Waquoit Meeting Room

Mashpee Town Hall

16 Great Neck Road North

Mashpee, MA 02649

7:00 PM

\*Broadcast Live on Local Channel 18\*

\*Streamed Live on the Town of Mashpee Website: <https://www.mashpeema.gov/channel-18>\*

#### Call Meeting to Order

- Pledge of Allegiance

#### Approval of Minutes

- Review of Meeting Minutes from December 21, 2022

#### Public Hearings

##### **7:10 PM (Continued from 12/21/2022)**

**Applicant:** Pleasantwood Homes LLC

**Location:** 20 Tudor Terrace (Map 29, Block 198)

**Request:** The applicant requests approval of a modification to Spring Hill West Definitive Subdivision Plan of land that would modify the lot lines of Lots 40, 41 and 42 to give adequate frontage for three new building lots proposed for incorporation into the subdivision. The three proposed lots to be created and incorporated into the cluster subdivision are on a parcel of land totaling 6.024 acres. This proposal will continue the cluster configuration of the existing subdivision and will add 2.49 acres of open space consistent with the requirements of the Mashpee Zoning Bylaw at the time of cluster subdivision's approval in 1989.

##### **7:15 PM (Continued from 12/21/2022)**

**Applicant:** Pleasantwood Homes LLC

**Location:** 20 Tudor Terrace (Map 29, Block 198)

**Request:** The applicant requests approval of a modification to a special permit approved October 6, 1989 that approved the creation of 45 single-family building lots in cluster configuration on 23.738 acres of land and preserved 17.153 acres of open space. The applicant seeks to modify the special permit decision to incorporate the additional three building lots proposed

#### New Business

- Execute Tripartite Agreement with Willowbend for the purposes of securing completion of roadway and utility construction at the subdivision referred to as Willow Circle. Covenant released 12/09/2022.
- Zoning Bylaw Amendments Proposed for May 2023 Town Meeting
  - Correspondence from Town Manager's Office
  - Review and discuss current zoning regulations pertaining to Solar Energy Systems, recently submitted amendments to the zoning bylaw for Solar Energy, and contemplate amendment pathways that are consistent with MGL Chapter 40A Section 3 in consideration of Tracer Lane II Realty, LLC v. City of Waltham case.



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## **Old Business**

- Local Comprehensive Plan Updates with Weston and Sampson
  - Special Meeting January 25, 2023 6PM
  - Survey Update
  - Workshops and Focus Groups
  - Updating the Vision Statement
  - Workshop on proposed actions
- Affordable and Workforce Housing
  - ADU Workshop
  - HPP
  - Regional Housing Strategy
- Clean Water Initiative
  - Update on community engagement and education strategy*
  - Floodplain Development Zoning
  - Tree Protection bylaw
  - Fertilizer Restrictions and other Wetlands Protection Regulations

## **Board Engineer Report**

- Project Reviews and Inspections

## **Chariman's Report**

## **Town Planner Report**

- Local preference request for LeClair Village-DHCD response
- Affordable Housing Project- 209 Old Barnstable Road
- Ockway Highlands Tripartite Agreement Update
- New Seabury Cottages Phase III
- Request for Withdrawal from Cape Cod Commission Review of Falmoth Road Market (CCC File No. 21015)

## **Board Member Committee Reports**

- Cape Cod Commission, Community Preservation Committee, Design Review, Plan Review, Environmental Oversight Committee, Historic District Commission

## **Public Comment**

## **Correspondence**

- Town of Falmouth Notices
- Town of Sandwich Notices
- Massachusetts Open Space Conference Webinar Series Flyer
- November 2022 Discharge Monitoring Report for South Cape Village – N = 5.5
- October 2022 Discharge Monitoring Report for South Cape Village – N = 2.9

## **Additional Topics (not reasonably anticipated by Chair)**

## **Adjournment**

MASHPEE TOWN CLERK  
JAN 13 '23 PM2:16



# *Town of Mashpee* *Planning Board*

*16 Great Neck Road North  
Mashpee, Massachusetts 02649*

**Mashpee Planning Board  
Minutes of Meeting  
Friday, December 21, 2022 at 7:00PM  
Mashpee Town Hall - Waquoit Meeting Room  
16 Great Neck Road North  
Mashpee, Ma 02649**

**Broadcast Live on Local Channel 18  
Call-in Conference Number: (508)-539-1400 x 8585  
Streamed Live on the Town of Mashpee website  
<https://www.mashpeema.gov/channel -18>**

**Present:** Chair Mary Waygan, Dennis Balzarini, Karen Faulkner, Mike Richardson, John Fulone, Robert (Rob) Hansen

**Also Present:** Evan Lehrer – Town Planner, Christopher Kirrane – Attorney representing Forestdale Road, LLC & Pleasantwood Homes LLC, Mark Dibb- Cape and Islands Engineering, Dan Marsters – Pleasantwood Homes LLC

**Virtually Present:** Ed Pesce – Consulting Engineer

## **CALL TO ORDER**

Chairwoman Waygan called the meeting of the Planning Board to order at 7:00P.M. The Pledge of Allegiance was recited.

## **APPROVAL OF MEETING MINUTES – December 09, 2022**

No comments were made regarding the meeting minutes for December 09, 2022.

## **MOTION:**

**Mr. Balzarini made a motion to accept the meeting minutes for December 09, 2022 as written. Seconded by Ms. Faulkner. All in favor. Mr. Fulone abstained.**

## **PUBLIC HEARING**

**7:10P.M. (Continued from 10/19/22)**

**Applicant:** Marcello Mallegni, Forestdale Road, LLC  
**Location:** 532 Main Street (Map 26, Block 6)  
**Request:** The applicant requests consideration for approval of a 9 lot definitive subdivision plan of land consisting of approximately 18.05 acres located on Main Street (Route 130) between Nicoletta's Way and Echo Road.



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Mr. Kirrane is present on behalf of the applicant Forestdale Road, LLC. He is here to discuss two matters. Under Section 174-40, in dealing with the 200 ft. requirement, he looked into the exception that states if the lot was created before 1996, you don't need to meet that 200ft., but you would need to meet the maximum feet feasible. This lot was created well before 1996, therefore would fall under that exception. He read into the record a document given to him by Chair Waygan. The plan of land that was recorded at the county Registry of Deeds in plan book 272 page 49, states the lot was signed off by the surveyor in January 1973. The second matter he would like to discuss is the traffic study. Last meeting Mr. Lehrer provided the Board with a few proposals from various traffic studies and the Board approved the study to be performed. His reading of the subdivision rules and regulations would require the Board to select the specific engineer for said study. His applicant is asking if the Board would entertain having his own consultant perform the traffic study.

Mr. Lehrer stated the Board authorized his office to award the RFQ to lowest price and most qualified firm. They received 6 or 7 responses, he will have to refer to his records. The lowest bid was \$13,000 from Vanasse & Associates, Inc. It would be his department's recommendation that the Board conduct their own traffic assessment for peer review, but the project proponent is welcome to contract his own in addition. He would still recommend the Board proceed with hiring its own consultant for this specific purpose.

Ms. Waygan reiterated the recommendation that the Board continue that authorization through his office, and to choose the consultant based on procurement rules. That consultant conducts the traffic study and the applicant can conduct their own or peer review the Boards. The Board will continue on with previous authorization, and the Planning Department will procure and choose a consultant for the study.

Mr. Kirrane commented that his client does want to move this forward and he will confirm with Mr. Lehrer the chosen traffic engineer for the study. He would ask for a continuance for the second meeting in February as 60 days should be more than enough time.

Mr. Lehrer noted the scope of work will be 4-6 weeks, but they will need time to enter into an agreement for the contract execution period, 60 days may not be enough time. He confirmed the most advantageous price and qualified firm was submitted for Vanasse & Associates. They notified the other consultants they were not best price.

Mr. Kirrane asked for a continuance for the second meeting in March. That would be March 15, 2023 at 7:10p.m.

Ms. Waygan opened up the floor for Public Comment. Ms. Waygan authorized the Town Planner to go to the next bidder if there was an issue with timely procurement.





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### **MOTION:**

**Mr. Fulone made a motion to award this traffic study scope to Vanasse & Associates, Inc. Seconded by Mr. Balzarini. All in favor.**

### **MOTION:**

**Mr. Balzarini made a motion to authorize the Town Planner to move on to the next qualified bid if Vanasse & Associates, Inc cannot perform this task in the prescribed time frame. Seconded by Mr. Fulone. All in favor.**

### **PUBLIC COMMENT**

**Robert Maffei, Peter Briggs, and Lance Lambros** are present tonight on behalf of the Nicoletta's Way Association. Last time they were here discussing the possibility for Nicoletta's Way to provide access to Mr. Mallegni. This was a very back and forth deal. The costs came down to about 10% of what a new road would cost. They specifically promised, if they could, they would make this a safer issue, and their proposal was very reasonable. The last communication was the red writing from the lawyers and then communication ceased. Mr. Lambros found out about this hearing and they wanted to come and make everyone aware of what transpired. The Board asked them to consider this proposal and everyone in the community knows they listen to neighbors. They went to the applicant and the impression they got was it came down to money. In total, \$35,000 per curb cut comes out to roughly \$300,000. Road costs for a new road is somewhere in the ballpark of \$3,000,000. When they purchased the road it was designed in this exact fashion to protect assets. They are all Cape Cod people, the area is kept nice, and if anyone has the opportunity to drive down, it is nicely paved with plantings and it is kept free of litter. They plow, sand, and when that side was up for development they expected that side to keep up their part. They are here tonight to let the Board and neighbors know their due diligence was done and it was a fantastic offer. They too have safety concerns, if another road is added there will be problems. They understand the proponent can't be forced into taking the deal, but they wanted a chance to come and say they heard the requests by the neighbors. They want to do what is best for the town and to allow the applicant another chance, as there is still an open contract. There is high speed traffic with many trucks entering and exiting, F350s and F550s with trailers. They thought a nice solution was created and they were unaware of the outcome, as the Board can see from the correspondence provided by the Nicoletta's Way Association this evening.

Mr. Balzarini reminded everyone a price cannot be placed on a life. He urged the project proponent to discuss this deal further. In addition, he thinks there should be signs on Rt. 130 warning about trucks entering ahead and to slow speeds.

Nicoletta's Way Association was under the impression the deal was going to be signed off on and it just stopped. There was one issue regarding authority and who has the authority to do



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what. There was a request to widen the road so it was safer and the road had been approved at that time. If the proponent went for more permits later in his proposal, if he went for 2 more lots, he could go for widening at that time. They didn't want to do that, but based on the Town Planners explanation, that would be appropriate. Regarding a traffic study, if one is performed in the dead of winter, the volume changes during spring and summer. It will not be accurate if performed in January. The amount of landscaping in summer is tripled compared to winter.

Ms. Waygan would like the amount of trucks, number of employees, and types of businesses for added data to the traffic study.

Mr. Lehrer wanted to provide two points of clarity. When he and Mr. Lambros spoke, relative to including the proposed agreement with the trustees, Mr. Mallegni wanted to make sure language was considerate of the fact they couldn't compel him to widen the road, without coming before the Planning Board for a modification with the Boards approval. The reason it was suggested to have a different filing and not be a part of this Public Hearing process, it is well outside the scope of this Public Hearing process, so it would have to be a new application. Relative to the traffic study, the scope of the study will be considerate of Cape Cod winter traffic. It is industry best practice to allow for seasonal adjustments. The Town Planner also noted as an association, they could request to widen the road, and perhaps they could come back in the future to widen.

Nicoletta's Way Association's number one concern is safety. It's the safest way to develop, the cost is reasonable and fair, and also what's best for neighbors. It should be a win.

**Sam Geoffrion-** She is a property owner on Echo Road. As an owner on the left hand side, she would also like to see them use Nicoletta's Way. This road is going to expose all of their backyards to travel. Construction companies back yards aren't the most attractive, but it also opens up to vandalism and theft. She agrees about the traffic study, if it is not performed when all the earth working companies are in full swing, but Echo Road is also full of those companies that aren't working a lot in January and February. Echo Road is already busy with Stonewood on the corner and how they get their deliveries, now with Cape Cod Coffee one more street over, another road is the last thing this section of Rt. 130 needs.

Ed Pesce, Consulting Engineer, wanted to point out that traffic engineers commonly do studies outside of the peak time of year. There are recognized methodologies to adjust what gets calculated for peak periods. They don't just take conditions today and adjust them for growth, there are built in systems to do so. He agrees with getting data from abutters, like amount of employees, size and types of businesses, etc. Vanasse & Associates are very good at what they do.



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**Arden Russell-** She lives on Sturgis Lane, across from the proposed project, she just wanted to reiterate and confirm the intensity of use for that area. She inquired about the status of the 4 acre transfer to be used for open space for that development.

Mr. Kirrane has no update regarding the open space, but the Board is requiring them before any approval for it to be done. It is also a requirement of the Cape Cod Commission. He will ensure the applicant puts that on the front burner.

Ms. Waygan commented there was one Board member who commented regarding the use of Nicoletta's Way. She would appreciate if the Attorney would reiterate all the aforementioned concerns to the project proponent ASAP, before the traffic study is performed. This is his opportunity to go in a way that the Board and the community would like him to go. The Board is willing to make an extension if they would like to hire a mediator. She is now aware of the willingness to make a deal.

Mr. Kirrane will impress upon the applicant everything the Board stated this evening.

### **MOTION:**

**Mr. Balzarini made a motion to continue the Public Hearing to March 15, 2022 at 7:10P.M. Seconded by Mr. Richardson. All in favor.**

### **7:20P.M. (Continued from 11/02/2022)**

**Applicant:** Pleasantwood Homes LLC  
**Location:** 20 Tudor Terrace (Map 29, Block 198)  
**Request:** The applicant requests approval of a modification to Spring Hill West Definitive Subdivision Plan of land that would modify the lot lines of Lots 40, 41, and 42, to give adequate frontage for three new building lots proposed for incorporation into the subdivision. The three proposed lots to be created and incorporated into the cluster subdivision are on a parcel of land totaling 6.024 acres. This proposal will continue the cluster configuration of the existing subdivision and will add 2.49 acres to open space consistent with the requirements of the Mashpee Zoning Bylaw at the time of cluster subdivision's approval in 1989.

### **7:25P.M. (Continued from 11/02/2022)**

**Request:** Pleasantwood Homes LLC  
**Location:** 20 Tudor Terrace (Map 29, Block 198)



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**Request: The applicant requests approval of a modification to a special permit approved October 6, 2022 that approved the creation of 45 single-family building lots in cluster configuration on 23.738 acres of land and preserved 17.153 acres of open space. The applicant seeks to modify the special permit decision to incorporate the additional three building lots proposed.**

### **MOTION:**

**After this Public Hearing was opened, Mr. Balzarini made a motion to continue this Public Hearing to 7:40P.M. to allow for the completion of Public Comment from the Forestdale Road, LLC Public Hearing. Seconded by Mr. Richardson. All in favor.**

Ms. Waygan recognized the project proponent.

Christopher Kirrane is representing the applicant Dan Marsters, and is present tonight with Mark Dibb from Cape and Island Engineering. They are before the Board to address a number of items from the continuance. There are revised plans as well as a letter to address questions about the ancient way and what bylaw the provisions will go under. Based on the neighbor's questions and concerns about proximity to their property, and how much clearing would be done, they provided an overlay. The biggest items were engineering related and Mr. Dibb and Mr. Pesce can speak to that. The well monitoring was part of the initial special permit, and was to be done by the homeowner's association while it still existed in 1990. The established restrictive covenants had no provisions to extend and they expired in September 2020 as the law states they only have a 30 year period. There is no monitoring that these lots would require, but these lots are 40,000 s.f., larger than any lots in the subdivision, and would not create any overload of nitrogen. He would ask the Board to not require any monitoring and nobody seemed to enforce it in the last 30 years. There was a condition regarding the 1,000 s.f. lawns, and in their review of the development, all the lawns are greater than 1,000 s.f. What they are proposing remains consistent with the neighborhood. They have two mitigation tactics. The applicant provided funds for a shellfish stock in lieu of allowing greater sized lawns. They are also proposing conditions for conservations regarding lawns and how they are installed. They are happy to have the Board enforce those in lieu of waiving the lawn size condition. With the bylaw back in 1988, the Board had discretion, if it was in the public's best interest, to have smaller lots and less frontage or less setbacks under the cluster subdivision. These lots are undersized for requirements back then, and zoning today is 80,000s.f. minimums, they are proposing less, with 100 ft. of frontage. For curbs, that figure is based on the setback line. In this case, the setback line is 100 ft., they would request the Board to set the standard minimum of 25,000 s.f.



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Ms. Waygan asked about the percentage of lot coverage.

Mr. Kirrane stated lot coverage is 20% in the R5. The minimum would be based on today's zoning of 20%. Minimum frontage would be 65ft and 70ft along curbs.

Mr. Dibb commented the majority of items provided were informational questions on existing conditions, exhibit of building envelopes, and an overlay of both the subdivision plan with typography and utilities in the street, resolution from comments, and Mr. Pesce's comments that resulted in minor changes. They submitted new plans a couple weeks ago and today they submitted reduced sets. He noted three changes between the two sets of plans, the first page they added the existing nitrogen loading credit land notes. The second item was on the third sheet, they provided a cross section detail regarding how drainage would work and requiring all driveways to drain away from the street or have drainage included, not allowing the entire house and driveway to flow onto the cul-de-sac. Lastly, they included roof drainage. When the Chair inquired about roof drainage, he noted typical to any plan going through conservation, there will be a series of gutters going to down spouts into dry well roof drains.

Mr. Kirrane highlighted that the open space was brought up to 50%.

Ms. Faulkner noted from the 1989 cluster it was 2.49 acres, and now it will be 3.012.

Ms. Waygan wanted to acknowledge Ed Pesce and asked him to elaborate more on the nitrogen credit.

Mr. Pesce commented that he and Mr. Dibb held a working session that resulted in the revised plans the Board has now. He noted two sheets were provided this evening, but they will still be submitting a four sheet set. Mr. Dibb elaborated no changes were made to the other two sheets. The changes Mr. Pesce proposed at the last meeting were to protect the drainage to the circle on Tudor Terrace. One was to provide roof drain dry wells for infiltration and the second was to control runoff from the driveways. Mr. Dibb provided new cross section detail for the driveway with appropriate notes of what needed to be done. Mr. Pesce asked him to provide a 5 foot paved apron from the edge of the existing pavement on Tudor Terrace going to the interior of driveway. There would be a transition from pavement to whatever material the driveway would become. He wanted the transition on private land. He also showed the roof drain dry well to be connected and the Board has enforcement power when houses get constructed. The last item was to have the catch basins pumped and inspected, and to have a condition as well as a letter provided to the Board describing and summarizing that inspection. He is unsure exactly how many catch basins are involved, there is one in the circle area, and he doesn't recall if there is another pair upstream. From the cul-de-sac, upstream is towards Windsor Way, but in the least, the catch basins in the cul-de-sac and the first set towards





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Windsor be inspected and pumped, at a minimum. If there is anything in failure, they are required to repair and provide documentation of that repair or upgrade.

Mr. Lehrer wanted to reiterate that Tudor Terrace is a town layout so he would request that be coordinated with the Mashpee DPW. Mr. Kirrane asked if they fail, can his client do anything because they are town owned.

Mr. Pesce noted if they fail, he can't imagine the DPW will reject repairs on a public way for catch basins that do not function adequately. They just need to be pumped out and maintained.

Ms. Waygan asked who owns the drain system on cul-de-sac.

Mr. Pesce reiterated it is part of the public way. He delved into the nitrogen loading summary. He went over that extensively, Mr. Dibb has not provided some of the documentation he gave Mr. Pesce to explain some of that. It's the obligation of the applicant to provide that clarification. He thinks it's important for the Board to have in the record, those plans marked in red, and the number of bedrooms, lots, and total area with a cover letter explaining that. His interpretation of the easement document submitted before is correct with the total limit of bedrooms being 31. The grant and Title V easement restriction document clarified 31 and demonstrated where it came from. His next question was about the new lots being created with nitrogen credit land. Mr. Dibb explained every new lot, 48, 49, and 50 are the new lots in previously undeveloped parcels. There are three new lots even though portions of two other lots exist, they are not additional. What he showed was that each lot exceeds 40,000 s.f. and each one complies with the DEP nitrogen loading requirement restriction for nitrogen sensitive areas by having 40,000 s.f. for a four bedroom home. They will be restricted to no more than 4 bedrooms for 48, 49, and 50. He recommend that be a condition. Lots 41a and 42 had additional notes added talking about nitrogen loading credit land that was provided already to those parcels to get the 40,000s.f. He is satisfied that the nitrogen sensitive land use restriction by Title V has been addressed with current design.

Ms. Waygan echoed that lot 41A and 42 are shy of 40,000 s.f., so there is other land set aside for the s.f difference where the nitrogen credit exists.

Mr. Pesce requested another plan showing the credit land from each lot that explains it better.

Mr. Dibb stated he took the recorded plan of land that showed the nitrogen credit land and each lot on that plan he put the bedroom amounts identified. He wrote the bedrooms and counted them to total 31, just as a way to show a different visual. He would be happy to provide that document to the Board.





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Mr. Pesce spoke about the two conditions that were referenced earlier. The 1,000 s.f. of lawn on a previous decision and a water quality sampling. He was going to recommend as a mitigation to require full water quality sampling. The original decision from 1989 required an extensive monitoring program. He doesn't understand why it never happen, it was in the error of Otis and JBCC that was just discovering contamination migrating off base. From 1991-1998 he was involved with that and is very familiar. He knows there are not significant pollutants, and the ones that had were addressed federally, but he doesn't think there is a public health threat here. It would be an awful lot of work to burden the homeowner with the sampling.

Ms. Waygan checked and this area is in Phase 3 of sewer and would rather the homeowners save their money for the sewer.

Mr. Pesce recommends individual homeowners with private wells need to prove water quality is drinkable. The second thing he would like to mention would be mitigation for the greater than 1,000 s.f. of lawn. The requirement is to use organic slow release fertilizer only, not commercial chemical fertilizer.

Mr. Kirrane noted the Board of Health will need a copy proving the water quality so a copy can be provided to the Planning Board as well.

Mr. Fulone asked how the slow release organic fertilizer was enforced.

Mr. Kirrane stated obviously some of these conditions have not been enforced. The best the applicant can do is put prospective homeowners on notice and he suggested language to be included on deeds. This one about fertilizers, if the Board wants to add the language about organic for enforcement, the Building Commissioner would have to enforce.

Mr. Balzarini brought up Title V systems, but they are doing away with those systems. In 10-20 years the homeowner will need to put a new system in. Are they thinking about alternative systems?

Mr. Dibb commented his engineering firm is always taking calls and questions where clients are asking about nitrogen reducing systems, if they should transition to them now or in 5-10 years. Each town will create a water shed management permit which will extend over 5 years to 20 years. As this development is under potential Phase 3 of sewer, that could also be another 10-20 years. Their response as an engineering company is to consider it, but they are hesitant to condition it.

Ms. Waygan asked if the owner would accept a condition for homes to be designed for easy hook up to sewer. What she is hearing about homes that were not designed for easy hookup, it



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is zig zagged through the lawn and it is ruining landscaping. It will be an unenforceable condition, but as a reminder, so their architect can lay the pipes accordingly.

Mr. Marsters will definitely keep that in mind, regarding the design of the septic and sewer hookup.

Mr. Hansen asked in regards to the 1,000 s.f. lawn area, and the topographical presentation, it looks ideal for natural growth. Is that what is expected or can a homeowner extend 1,000 feet to all lawn area.

Mr. Kirrane stated most homeowners have done that, and this developer is looking for more, but the edge of clearing leaves a lot of natural woods left. All they can do is suggest homeowners to do what they can, obviously they cannot control 10-30 years down the road, but in proposing the development they are leaving lots natural.

Mr. Dibb commented regarding the two lots above lot 41, you can see the intention of the builder. There is a 15 ft. strip of green lawn around the house and that's how these houses are going to be built. Again, once they are sold it is up to the homeowner. Mr. Kirrane noted people like to keep a degree of privacy.

Ms. Faulkner stated last time some of the abutters were complaining about the lack of trees and their privacy being disturbed. This areal looks like plenty of trees, where would that disturbance be?

Mr. Dibb referenced the plan pointing at Saxony Drive on the bottom right. Some abutters were those 4 houses, he believes. There is 50ft of open space land comprised of trees that they don't even own and they aren't touching at all. Their open space of 3 acres, which is untouchable on top of the 15-20ft lawn around the homes, they anticipate a 350ft natural vegetative buffer between houses.

Ms. Waygan asked about houses on Tudor Terrace, lot 42a, that edge of clearance looks like it will go right to the lot line. She asked what the setback would be. She also asked if there was any requirement for a vegetative buffer.

Mr. Dibb stated it's a side lot line. The setback to the structure is 15ft and it doesn't have to be vegetative, with no requirement for a vegetative buffer. That lot exists today as 42.

Mr. Marsters noted existing lots are smaller, therefore tighter to the lot lines. The larger lots will have more space to leave a buffer in between the lots. That is part of the intent of the lot



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sizes, so there can be more of a vegetative buffer. Generally speaking, they like to do 15ft from the house, the intent will be to leave as many trees as possible with buffer on the larger lots.

Mr. Kirrane stated lots 41 and 42, if they weren't planning anything they could be developed, but with the three additional lots, they are trying to give as much buffer as possible. Over 300ft allows more than enough privacy. Mr. Marsters alluded to some of the intent of the special permit being to create more open space.

Ms. Waygan stated they are already clustering it, not cutting down as many trees, but we are in a water crisis so she is trying to think up a condition to save as many trees as possible, and she would rather it come from them. It's safe to say they will continue this hearing so there is time for them to think of what kind of condition would need to be put in here to save as many trees as possible. For a commercial property, the conversation would be about vegetative buffers, but this is a cluster subdivision so it's odd.

Mr. Balzarini thinks he is leaving a lot of buffer already, and Mr. Fulone was also in agreement to that statement.

Ms. Waygan stated she is looking at lot 42a, say you get this permitted and then you sell it. What is to prevent the next developer from clear cutting the lots?

Mr. Dibb commented of the 40,000, nothing is preventing that. If he could also extend existing Tudor Terrace into this property and create 2 lots per normal zoning, then you can clear cut everything plus everything in open space.

Ms. Waygan knows they don't want to clear cut, but she wants it codified in the decision. She likes this plan, but she isn't sure that line edge of clearing is legally binding.

Mr. Kirrane commented if you put it as a condition of the special permit it would have to be enforceable by the Building Commissioner.

Mr. Marsters stated generally speaking, they like to do 15-20ft and in the back 25-30ft from the house.

Ms. Waygan wants clarity about that edge of clearing. She wants to make sure it is correctly reflecting what he just said, so it can be put in the decision. Mr. Fulone noted it could be a condition of the special permit.



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Mr. Lehrer suggested that an adequate dimension be established, maybe 30ft or 35ft, but a limit of clearing from the rear of any structure to be cited. They could say no clearing beyond 30ft beyond the rear of any structure to be cited.

Mr. Marsters would prefer to consider from lot line, if they start doing from the structure, another 50ft from the rear lot line as an extra buffer.

Ms. Waygan commented that will not suffice regarding lots 48, 49, and 50. That is a lot of trees that could still be cut down.

Mr. Marsters stated that is a sizeable buffer, if the intent is to save trees, which still leaves a considerable amount of trees being left alone.

Mr. Fulone reiterated he is not saying he will be going out to the 50ft, it would just be an added buffer.

Mr. Dibb stated they could push the houses 100ft further back. Those are proposed and not written in stone, sometimes conditions make them push it back too, and with some septic systems they may need more space. If it is done from the rear lot line that acts as an established point to work off.

Mr. Lehrer commented that does make sense in terms of a condition. He stated the Chair does not believe 50ft is adequate, is there a dimension beyond 50ft that would be amenable to the project proponent?

Mr. Fulone inquired about the rest of the Board being okay with 50ft.

Ms. Waygan would like to see something engineered.

Mr. Lehrer wanted to make one more comment relative to lot 42a and the houses along Windsor Way where the edge of clearing is limited. The Board, in relatively recent subdivisions, with new proposed subdivision lots, recognizing 42a is not a new building lot, in response to neighbors having a level of discomfort with a new development to the rear of their properties. The Board has conditioned a special permit on the installation of a residential style stockade fence along the portion of that property line. If the applicant were amenable to such condition, the Board could consider that for the benefit of those particular property owners, along with whatever landscaping the developer would want to install.

Mr. Marsters asked if the intent was for screening purposes or water quality. Ms. Waygan is talking about water quality. He continued with what they are doing in all other aspects of the



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project, such as roof runoff, steps that require more than a lot of existing homes. They are taking that into consideration. He thinks if they need to take down more trees on those lots, it will not affect the water quality in comparison to what all current homes are practicing. They are going far beyond, and he would like the Board to take all that into consideration when discussing any other limitation to the clearing.

Ms. Faulkner has always been interested in wastewater. There are individual wells and septic systems. She would like to know the distance between those two. She was informed the legal distance is 100ft. She asked the project proponent why he did not want to have town water. Well water is a bit scary to her. She then asked if he sought approval.

Mr. Marsters stated that is not up to him but to the neighbors to bring it in. He wouldn't be able to do it himself. He did not seek approval for town water. Mr. Lehrer clarified it would have to be by petition of the neighborhood.

Mr. Richardson commented he thinks their proposal is very reasonable.

Ms. Waygan thanked them for their December 20<sup>th</sup> correspondence about the Spring Hill West subdivision. This correspondence does not fully dispel her concerns regarding the current projects compliance with zoning. She is forming the opinion that the proposed subdivision is new and thus needs a new and separate cluster subdivision special permit and approved plan, per the current Town of Mashpee Zoning Bylaw Section 174-47. This zoning issue, this is new land, if you have 5+ acres in town and you want to subdivide it, you have to use the cluster subdivision Section 174-47. It has to be a new special permit and new cluster subdivision, it can't be added to an old special permit or old cluster subdivision. She likes this plan but needs them to think of a way that she can approve this. She doesn't see in the zoning document a zoning opinion saying how they can add this parcel into this existing subdivision and permit it via modification to a special permit. She needs a completely new special permit and a completely new cluster subdivision. She will ask the proponents counsel, there might be case law or other examples in town that this has happened, or other examples on Cape Cod or Massachusetts. There might be something in Chapter 40a or some state statute that allows this, but she hasn't found it. She is going to leave it up to the proponent to prove to the Board they can do this. That would be rolling this new 6 acres into existing, and if the zoning bylaw doesn't allow for this, what would they do to the zoning bylaw to allow it. Even though they might all like this plan, it sets a dangerous precedent and opens them up to legal liability. If it's not defensible in court, it will not help them. It's worth spending the time to give the Board an opinion on the zoning, and why this new lot can be permitted via Mashpee zoning in this way, she cannot see it.

Mr. Balzarini asked why the existing special permit cannot be used.



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Ms. Waygan doesn't see in the bylaw, where it says you can add new land to an existing cluster subdivision.

Mr. Balzarini inquired as to why it is considered new land and why it is not preexistent to the original cluster subdivision old plan.

Mr. Lehrer would like to think about this from a practical standpoint. Nothing proposed today in the plans that the Board received this evening is inconsistent with today's zoning bylaw.

Ms. Waygan asked where it says you can add outside land by modifying the subdivision and special permit.

Mr. Lehrer commented it does not explicitly say, but his practical response then you approve this as a new subdivision. You still need to modify the definitive from Spring Hill West.

Ms. Waygan agreed, but if it's not explicitly allowed, it's not allowed. If you do it as a new subdivision you are going to have incredibly different lot design.

Mr. Lehrer disagrees with that. The current subdivision standards grant far more flexibility to establish the dimensional criteria of the subdivision. What is proposed, if the Board is amenable to specific criteria of this plan, is perfectly adequate under today's zoning.

Ms. Waygan disagrees. She asked for a legal opinion last time, being a month ago, and what she got was far from what she expected.

Mr. Kirrane was never asked at the last meeting to give an opinion as to why they went through the process the way in which they did. It was his understanding that he was asked to determine if it was current zoning criteria or existing criteria, so that is what he addressed. He is happy to address this question, but that was not what was raised the last time. Part of the reason why they did the modification is because two of these lots are part of the existing subdivision.

Ms. Waygan is contending that the approach being used cannot be done. She needs to know where in zoning this is allowed. If the zoning doesn't allow that, what do they do to change the zoning bylaw to allow it?

Mr. Balzarini would like to take a vote on this. He noted the Chair is one person and she is demanding they do something.





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Ms. Waygan is asking for a zoning opinion, her intention is to send it to Town Counsel because she is not convinced that zoning allows for this. Members of the Board protested that it still requires a vote. She acknowledged the Public Hearing is not closing. If the project proponent wants her vote, she needs this done, but it is up to them. At this point she keeps reading the bylaw and she cannot see the avenue they are going is allowed by zoning. She is giving them the chance to give her something to hang her hat on.

Mr. Fulone inquired if they voted after the Public Hearing.

Ms. Waygan noted they have to close the Public Hearing prior to a vote. If they choose to provide a zoning opinion that goes to Town Counsel, the Public Hearing needs to remain open until they get a response.

Mr. Balzarini inquired what they are going to ask Town Counsel.

Ms. Waygan is asking a zoning opinion, to see if their proposed subdivision, the way it is, complies with zoning. She doesn't want the town to waste their money researching that, she wants the proponent to do that. Usually zoning opinions are long and technical.

Mr. Kirrane stated the subdivision approval only requires three votes. If he doesn't have the votes he doesn't want to proceed. Ms. Waygan clarified that a special permit requires four votes. She is always consciences about that because she doesn't want to surprise anyone. At this time Ms. Waygan is opening up Public Comment.

**Catherine Haskell-** She lives on Saxony Drive. A few things came up tonight that she had not been thinking about. She has lived here for 36 years and she finds it ironic they run out of time for an association but they can develop off an old permit. She doesn't understand the square footage of the lawns. Every time she takes a walk during the drought the lawns are being watered in excess. The Planning Board doesn't seem to know what the test wells are for. There was a dump back there, as she was told by the prior land owner. When she was buying her land she was told the land was landlocked. Then she called the town years ago and was told it was not getting built on. Her well is right at the lot line of the starting 50ft of original open space. The developer has cut down every single tree on Tudor Terrace and the first house has already cleared back into open space and you can see into the next lot. A couple years ago they had the road taken over by the town and they paid betterments at 5% interest, totaling to \$7/8,000 apiece. Of course she is expecting the builder to pay per home, adding 3 more homes should add into the betterment that the people are already paying. The cost is figured by dividing how many homes were in that neighborhood, each person got assessed, and you could pay up front or over a loan. She would like to see these new homes pay towards the betterment. She referenced the Town of Mashpee being sued by the group in Osterville. She



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does not understand it all, but she doesn't think large projects should be done when we look at areas in town like Santuit. Setbacks are not clear and people could install pools. She also isn't seeing any historical or archaeological site work being performed, which might be good to do.

**Ken Haskell**- He is an original owner in the neighborhood. Water is his biggest concern, this was originally a private development, it went through tough times in the 90's and the association did fall apart. There are three different builders that built in there. The town put town water on Cotuit Road which was a private development with no association. It was turned over to the town and they did a beautiful job. They did not receive the water plan, like the builder mentioned, it is up to the town. He doesn't know how it works, there is no association and when they moved here, there weren't any houses on this side of town. Private drinking water is a concern, especially if you build more. He is glad to see the nitrogen was looked at. Overall, he is concerned about water.

Ms. Waygan inquired about the preliminary plan being submitted to the Board of Health and she inquired if there were any comments.

Mr. Lehrer stated the BOH lacked a quorum for the definitive but the scope of the BOH is septic and drinking water.

**Stephen Ferreira** – Him and his wife bought their home four years ago, one major deciding factor was the woods, with fears it would be developed. Some preservations were made but there are no guarantees, and the new owners decided to cut trees down. Once trees come down there is no remediation, it would take 40 years for one tree to grow. He didn't measure but he looked at the circle at Tudor Terrace, visually it is smaller than Saxony Drive, and there are only three houses. Now there is proposition to add more houses, it doesn't seem to meet the current neighborhood layout. He thinks they should be preserving woods.

Ms. Waygan asked Mr. Dibb to show the distance to Saxony Drive. Mr. Dibb provided existing 50ft and proposed existing three acres of open space resulting in 360ft. Ms. Waygan noted there is more open space behind him than some other parcels. She clarified that open space is deed restricted conservation.

**Mike Hannan** – He came to hear about the Old Barnstable Road project. He lives in a Pleasantwood home in Quashnet Valley Estates. In front of his house, after rainfall there is a flood that goes up half the length of a car door. At the time he called on the DPW and they did respond, they told him they would need to dig up the yard. He observed the runoff flooding from Quashnet Valley Golf Course and the construction of his house diverted water from the course to the street. They have two catch basins. He begged, it is clearly coming from the golf course, and they placed sand bags along the road. The flooding stopped or slowed



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significantly. He constantly goes out with his rake to free the basins, and he understands there can be real world impacts, this time it's his property to deal with. At some point there was a grading plan that was approved and at the end of the day, he is not trying to complain, it is his issue and his flooding. It is also his hope and dream that someday they will figure it out. Down the line this stuff will fall onto the homeowner, just something to keep in mind.

**Tom Fudala** – He introduced himself as the previous Town Planner for 33 years, and was the Planner who wrote the special permit for Spring Hill. He also wrote the current cluster zoning bylaw, and you cannot expand on a 1988 cluster subdivision by adding additional land that was owned by a totally different person, at the time the subdivision was originally created. There is no process for that in the town zoning. This is a brand new subdivision that needs to conform to the current cluster subdivision rules and regulations and the town bylaw. The bylaw requires any subdivision over 5 acres is a mandatory cluster subdivision requiring a special permit from the Planning Board, its own special permit, not tag on to a 1988 special permit. The process is not good. This is not a modification it has to be a brand new special permit under current zoning. There are specific procedures in the current cluster bylaw that should've been followed. He is not commenting on the content of the plan, it is the process. This hearing is illegitimate, the applicant will need to be asked to withdraw and start over again with a brand new cluster subdivision under the current zoning bylaws, and not zoning that was eliminated by Town Meeting in 2006. You can ask for an opinion from the lawyer, and he can come up with something, but he doubts it will be legitimate. There is no statute or case law that says you can add anything to an existing old special permit property. Since streets have been taken over by the town, they have a right to access in Spring Hill and Spring Hill West, but beyond that there is no connection to the two properties. There was one special permit in town that has been able to be modified and that is the Willowbend special permit. The original special permit allowed for a certain number of housing units and the bylaw provides for expanding that subdivision onto whatever number of units they want do on the 5 acre property, until they hit the max number of units, but no other special permit in town. He got an impression they might be expanding on lots, there are three buildable lots, which would be based on total s.f. of the new property, and divide that by 80,000, which is current minimum lot size, which would tell you how many building lots you can have. There is no reason you can't take little pieces of land that are not building lots and label it a not building lot and then have language to transfer to another owner, he is not clear. You can label some unbuildable lots to be transferred to the adjacent lot at some point. As for the water quality reporting, in 1980 before the water district and Sewer Commission, this was done through Board of Health. They were asking for these monitoring wells to be in place for nitrogen, it had nothing to do with the base. They were concerned about drinking water before a public water system was even in place. The unfortunate thing about the 1,000s.f. lawns, which also applied to the previous subdivision, the intent was minimizing fertilizer, and that has been violated all over town. The only enforcement officer in town is the Building Commissioner and there were other subdivisions that had water



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quality monitoring, who hired their own consultants to report to the Planning Board, and eventually they came to ask for modifications to relieve of that requirement. Ashers Heights was relieved of the reporting requirement but they had to leave the monitoring wells in place. They were used as ground water models for the sewer plant. The applicant really has to start all over again with a new application. The Planning Board can't just vote to approve this, it has to go through Town Meeting, because that's who decides on zoning.

**Patrick Swanson-** He has lived here about 20 years and always knew development would happen on Tudor Terrace. This particular proposal is maybe biting off more than should be chewed on. Perhaps reducing some lot sizes or combining into one might be more in tune with current lot sizes. He thinks five lots around that cul-de-sac would be a lot of driveways. He is opposed to this the way it is, but he is not opposed to building houses.

Mr. Kirrane asked for a continuance for the second meeting in January.

### **MOTION:**

**Mr. Balzarini made a motion to continue the Public Hearing to January 18, 2023 at 7:10pm. Seconded by Ms. Faulkner. All in favor.**

### **NEW BUSINESS**

**Discussion and possible vote for Meeting Calendar: 2023**

### **MOTION:**

**Mr. Richardson made a motion to accept the meeting calendar as presented for 2023. Seconded by Ms. Faulkner. All in favor.**

### **OLD BUSINESS**

**Discussion regarding applications submitted to the Community Preservation Committee for funding in May 2023**

Ms. Waygan was looking for guidance from Board members regarding the purchase of 9 Santuit Lane, as she is the CPC representative. They have heard from the property owner and members of the CPC, and they have an offer on the property that has been accepted and is contingent on some due diligence.

Ms. Faulkner went to the property and there is conservation owned by the town, it sounds like a good idea for trails, and it sits on Santuit Pond. She has several issues, one being the house has to be torn down, as it is in really bad condition. She talked to Selectwoman Colombo, who told her that cyanobacteria is not airborne. She would like to know if there has ever been a study. Also, why would someone want to walk through trails with airborne bacteria? The road leading to the property is a dirt road. It is not conducive to parking. Without a doubt, she does



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not think this parcel is worthy of acquiring for the town. However, she would like to know if there was a way to test the air quality.

Mr. Hansen observed the property and he is also not in favor of town ownership as it does not serve the towns purpose.

Ms. Waygan referenced 751 Main St., which was an application submitted by the Planning Board who wrote a recommendation letter, went into executive session. She was just updating there was no vote yet. Ms. Waygan acknowledged Lynne Barbee for comment.

**Lynne Barbee-** She sits on the CPC and also drove past 9 Santuit Lane. She does not know how the town could use it, but the idea that someone would buy it and try to put a septic tank there is horrifying. There is the issue of the private road, although public conservation land, it is on a private road. The land is not big so they may not get anyone to buy it. There are many problems with the lot. If the town were to have preserved open space there it would have to serve a certain value to the town. She does not know how much the cost would be, if they don't sell and the town doesn't acquire it, someone else may and it will be a mess. It's a thin strip of land with houses all around. She would hate to see someone try and build a house and put in a septic as it's located right on the water. She asked if it were possible to have a piece of land that is just open space, not designed to be trails, or if that creates a whole other problem. She concurs this is a dilemma. The question remains if it is beneficial to preserve open space that is contiguous to one of our most polluted ponds.

### **Local Comprehensive Plan Updates with Weston and Sampson Survey Update**

Mr. Lehrer noted the survey is rolling, he has gotten adequate responses, around 400. He will keep working and is hoping to secure 700. The schools have been helpful in facilitating with flyers in backpacks and facebook posts. It is steady progress with the peak response day being 60 responses, then leveled out to about 10 – 20 a day. He is urging members to push neighbors. The average response time is 25 minutes.

### **Workshops and Focus Groups**

The last workshop will be held Saturday, January 7, 2023. This will be set up as an event with Weston & Sampson taking the lead. The changes are due to technical issues he continues to experience once he has launched.

### **Updating the Vision Statement**

Mr. Lehrer would like Weston & Sampson present for the draft proposal for takeaways and existing conditions. The January 18<sup>th</sup> meeting would be adequate as it is after the survey.





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### **Workshop on proposed actions**

Mr. Lehrer would like to present the proposed action items in an implementable table to allow for review. Ms. Waygan is requesting red line changes to existing conditions. She's been asking for these for so long. This will be included in one package to digest all at once. Mr. Lehrer remains unclear about the feasibility of the redline draft.

### **Affordable and Workforce Housing HPP**

This is being finalized, and Mr. Lehrer received feedback that the AHC wants to pursue this in a phased approach. Phase one will produce a plan that establishes minimum number of units per the DHCD. Once that calculation has been identified, they will pursue a phase two that looks at the town's pipeline. Once the plan is finalized the Planning Board will be provided an update.

### **Regional Housing Strategy**

The Cape Cod Commission has started a regional effort to develop a housing strategy. The Commission reached out to the Town Manager to identify representatives to attend. He was asked, Ms. Waygan, the Chair of the Affordable Housing Committee, Selectwoman Colombo, along with one other individual. Ms. Waygan stated there are draft forms to review and she would like Mr. Lehrer to reach out to the Town Manager to read the original email and share the PDFs that were attached. The Commission wants to meet the first week in January.

### **Clean Water Initiative**

The Select Board has water quality issues as a standing agenda item. There is a Chapter 40B being proposed in Sandwich on the banks of Peters Pond for 350+ units, meaning nitrogen will be coming our way. This week they were going to prepare a draft letter to the Town of Sandwich that mirrors comments the Town of Sandwich included in their response to the DHCD.

Mr. Balzarini always wondered why sewers would not align grouped by towns like Sandwich and Barnstable. He is angry the state gave millions of dollars allotted for immigrant housing, food stipends, and schooling, yet there is no money for people who reside here, like veterans. It is backwards.

Ms. Waygan commented that there is also a proposed 800 unit in Falmouth on Sandwich Road. She noted the housing bill is up for discussion this year.

### **TOWN PLANNER REPORT**

#### **Affordable Housing Project – 209 Old Barnstable Road**





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Mr. Lehrer's office submitted notice to every abutter of the condos off of Quashnet about the Affordable Housing Trust procuring a developer for affordable housing. His letter indicated he is intending on leading a community engagement process after meeting with a representative from the neighborhood. The association has nominated some of their members to be direct contacts for the RFP review. He would like to hold a series of workshops like the LCP, to identify site design, types of housing, traffic concerns, and issues we can understand to mitigate impacts. He wanted to update the Board that he formally noticed the neighborhood of the process, and it is still evolving as he is waiting to establish direct points of contact. Dates, times, and scopes of engagement will involve the Board's participation. He plans to launch in spring 2023, most likely March.

**Mike Hannan** – He has incomplete information but as he understands, the plan for low income housing was originally for Commercial Street over by Marshalls. There were title issues and the pivot to Old Barnstable is of concern to him. To name a few items of concern, property values and traffic studies, but the pivot remains his biggest issue. There's available property on Commercial Street, as well as behind Town Hall, but there remains a sewer issue. The town really hasn't looked into doing anything with affordable housing in 7 years, so it seems odd to him. He understands title issues will take time to work out, but it seems odd from a resident standpoint to bypass two viable properties in the sense of the need for affordable housing in Mashpee when it has been 7 years. Couldn't title issues be foreseen by Town Counsel and dealt with ahead of time?

Ms. Waygan noted this lot is further along towards development than the other two. The original barrier was neighborhood resistance. The Town Planner will be holding meetings to see if that can get resolved. The Affordable Housing Trust owns the land and it has already been through Town Meeting. The Commercial Street property will be in Land Court for a long time.

Mr. Hannan asked what would happen if the overwhelming response from the community was not for resolution of this property. His takeaway is to rally his neighbors and community to not support this movement.

Mr. Lehrer would like to address some points of clarification. The pivot was logical for 209 Old Barnstable Road because it already has a completed feasibility study. The data could then be provided to a developer to express the town's interest to develop it and provide valuable data to adequately respond to the RFP. No other site in the pipeline has a completed feasibility study performed. Additionally, this land was already transferred to the Affordable Housing Trust and approved by Town Meeting for this particular use. It is well positioned for development. Commercial Street came about when we were going to proceed with the feasibility study. We did not even get to complete that analysis. He went on to say participation



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in welcomed, even from the opposing position. They cannot answer if the Trust would proceed due to overwhelming opposition, as the Trust is a 9 member entity.

### **Ockway Highlands Tripartite Agreement Update**

Mr. Lehrer wanted to report on this for one reason. The Willow Circle subdivision that the Board recently approved, is considering using a Tripartite Agreement as a method of security for that subdivision. They asked him for a copy to use as a template to provide to Town Counsel. He took an opportunity to review the Ockway Highlands agreement. It had some clear timelines that he wanted to note. The subdivision was supposed to be completed by April of last year. The developer would like to make annual or biannual reports, so Mr. Lehrer would like to invite the developer to come and give a status report. The agreement may need to be reconsidered since the dates have lapsed.

### **New Seabury Cottages Phase III**

Mr. Lehrer reported that Mike Milbury, President of the Homeowners Association at New Seabury, said they are in a position to take control on maintenance of the roadway systems in the cottages. They contacted a number of homes who have experienced flooding and they hired a third party consultant to evaluate. Before they were to assume liability of the roadway, they wanted to ensure construction of the roadway was done in accordance to plans. The report is included in the packet this evening. It indicates issues with the foundations. Mr. Lehrer suggested we authorize Mr. Pesce to review existing conditions of the site and determine what construction issues or grading issues relating to stormwater. Just to note, the former Consulting Engineer did inspect, but we also have the funds. We want to confirm infrastructure remains consistent with the original approval. He has some suspicions about grading issues which is building code related. It is his recommendation with an abundance of caution that the Board authorize Mr. Pesce to investigate. The Board is holding security of \$175,000 for various improvements pertaining to landscaping, but that is his recommendation at this time. He has not been in contact with the developer but it would be prudent if Mr. Pesce is involved.

Mr. Balzaniri was going to bring this up last meeting. The area is not draining right and some areas have no catch basins which are leading into people's homes.

Ms. Waygan would like to send Mr. Pesce out, and she asked who would pay for the bill. Mr. Lehrer noted the town would. Ms. Waygan asked if there was a proposed budget for this work. Mr. Lehrer stated a transfer of funds could cover costs for the Consulting Engineer. Ms. Waygan would like to identify a rough cost right now.

Mr. Pesce stated this is the first he is hearing of this but he would be happy to do the inspection. This is Phase III, he is currently inspecting Phase IV, he has never set foot on Phase III. He would look at the site, look at the plans, make a recommendation, and have the



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developer come to a meeting. He thinks \$3,000 is enough to start. This includes the scope of work, inspection, meeting, work session for developer, and a recommendation later to attend Public Hearing.

### **MOTION:**

**Mr. Balzarini made a motion to request a budget of \$3,000 from the Town Manager's office to cover expenses for the Planning Board Consulting Engineer to examine issues at New Seabury Cottages Phase III, and authorize both the Engineer and Town Planner to find solutions. Seconded by Mr. Fulone. All in favor.**

Ms. Faulkner looked at these pictures and in doing so has identified some serious grading problems. Some lawns and pavements will require some digging, is that what Mr. Pesce will be doing?

Mr. Lehrer stated he will need to focus on the road and infrastructure that the Board approved, if that is not contributing to the flooding issues, and it's a building code issue, then this would be referred to the Building Commissioner.

### **COMMITTEE REPORTS**

#### **Cape Cod Commission –**

#### **Community Preservation Committee-**

#### **Regional Housing Strategy**

Meeting the first Thursday in January and hopefully they will know more about 751 Main St. and finalize the vote on 9 Santuit Lane. J.Jill is going in across from Panera at the Commons. They are crazy about signage, window signs, blade sign, and corner signs, this store will not be mistaken. They have a sunbrella awning, a fairly big store just under 9,000s.f. and they expect to open March/April.

#### **Design Review-**

No Meeting

#### **Plan Review-**

No Meeting

#### **Environmental Oversight Committee-**

No Meeting

#### **Historic District Commission-**

### **CORRESPONDENCE**

Ms. Waygan briefly mentioned the invitation to consult Beacon Wind Project. Ms. Faulkner noted this was a windfarm going down toward Montauk Point. Mr. Hansen stated all power will be going to NYC. The map shows a line running to Queens, NY.



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### **ADJROUNMENT**

**Mr. Fulone made a motion to adjourn the meeting of the Planning Board at 9:51p.m.  
Seconded Mr. Balzarini. All in favor.**

**Next Meeting:** ~~Wednesday, January 4, 2023 @ 7:00PM~~  
Wednesday, January 18, 2023 & 7:00PM

Respectfully Submitted,

Christine M. MacDonald  
Board Secretary

### **LIST OF DOCUMENTS**

*Additional documents may located in the Planning Department.*

- Mike Milbury email Cottages Phase III and Report
- Invitation to consult on the Beacon Wind Project and notification of using the Nation Environmental Policy Act (NEPA) process to fulfill Section 106 obligations.
- Town of Falmouth Notices
- Town of Barnstable Notices
- Town of Sandwich Notices
- October 2022 Discharge Monitoring Report for South Cape Village – N= 2.9
- September 2022 Discharge Monitoring Report for South Cape Village – N= 2.9
- August 2022 Discharge Monitoring Report for South Cape Village – N= 3.4



Brian F. Garner  
Christopher J. Kirrane  
Jessica C. Sommer

Nicole B. Norkevicius  
Christopher A. Veara

*Of Counsel*

Kevin M. Kirrane  
Michael A. Dunning

Patricia McGauley  
Elizabeth A. McNichols

January 17, 2023

Ms. Mary Waygan, Chairwoman  
Mashpee Planning Department  
16 Great Neck Road  
Mashpee, MA 02649  
Re: Tudor Place

Dear Chairwoman Waygan:

Following up on my e-mail of Friday, January 13, 2023 to Town Planner, it is hereby requested that the hearing scheduled for Wednesday, January 18, 2023, be extended to the next available date of February 1, 2023.

As indicated in my e-mail, Town Counsel sent a request for information to my attention last week regarding the application. I was out of the office last week and could not respond. In order to properly and timely respond to Town Counsel and allow him to provide his opinion, I am requesting the continuance.

Should you have any questions in this regard, please do not hesitate to contact me.

Thank you for your consideration to this request.

Very truly yours,



Christopher J. Kirrane

CJK:amb



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## **Mashpee Planning Board Public Hearing Notice**

Pursuant to Massachusetts General Laws, Chapter 41 Section 81T and the Mashpee Rules and Regulations Governing the Subdivision of Land, the Mashpee Planning Board will hold a public hearing on Wednesday, November 2, 2022 at 7:10 p.m. in the Event Room, at the Mashpee Public Library, at 64 Steeple Street, Mashpee, MA 02649, to consider an application made by Pleasantwood Homes, LLC for approval of a modification to Spring Hill West Definitive Subdivision Plan of land that would modify the lot lines of Lots 40, 41 and 42 to give adequate frontage for three new building lots proposed for incorporation into the subdivision. The three proposed lots to be created and incorporated into the cluster subdivision are on a parcel of land totaling 6.024 acres and is addressed as 20 Tudor Terrace (Assessor's Map 29 Block 198). This proposal will continue the cluster configuration of the existing subdivision and will add 2.49 acres of open space consistent with the requirements of the Mashpee Zoning Bylaw at the time of cluster subdivision's approval in 1989.

Plans may be reviewed in the offices of the Town Clerk or Town Planner at Mashpee Town Hall.

Submitted by

Mary E. Waygan, Chair  
Mashpee Planning Board

Publication dates:

Wednesday, October 19, 2022

Wednesday, October 26, 2022

MASHPEE TOWN CLERK  
OCT 14 '22 PM1:37





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Mashpee, Massachusetts 02649*

## **Mashpee Planning Board Public Hearing Notice**

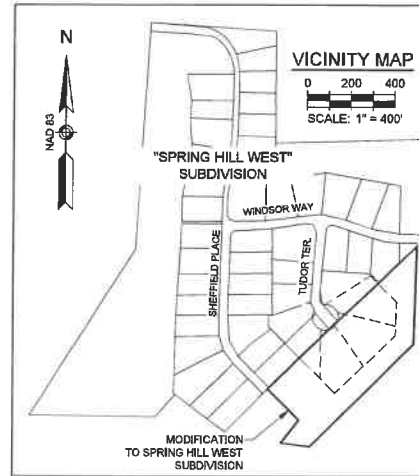
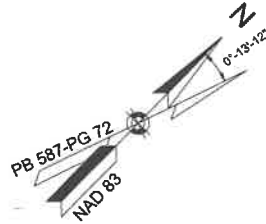
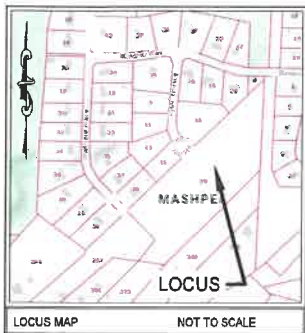
Pursuant to Massachusetts General Laws, Chapter 40A, Section 9, the Mashpee Planning Board will hold a public hearing on Wednesday, November 2, 2022 at 7:15 PM in the Event Room, at the Mashpee Public Library, at 64 Steeple Street, Mashpee, MA 02649 to consider an application made by Pleasantwood Homes, LLC to modify a special permit approved October 6, 1989 that approved the creation of 45 single-family building lots in cluster configuration on 23.738 acres of land and preserved 17.153 acres of open space. The applicant seeks to modify the special permit decision to incorporate the additional three building lots proposed and further to recognize the modified layouts of lots 40, 41, and 42 as shown on the Spring Hill West Definitive Subdivision Plan

Submitted by  
Mary E. Waygan, Chair

### **Publication Dates**

Wednesday, October 19, 2022  
Wednesday, October 26, 2022

MASHPEE TOWN CLERK  
OCT 14 '22 PM1:37



#### FOR REGISTRY USE ONLY

I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.

MATTHEW C. COSTA P.L.S. DATE

I CERTIFY THAT THIS PLAN AND SURVEY CONFORMS TO THE ETHICAL, PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

MATTHEW C. COSTA P.L.S. DATE

I HEREBY CERTIFY THAT THIS PLAN WAS MADE IN ACCORDANCE WITH THE MASHPEE SUBDIVISION REGULATIONS, WITH LAND COURT STANDARDS OF ACCURACY AND THAT THE PERMANENT POINTS SHOWN ON THE PLAN ARE IN EXISTENCE ON THE GROUND.

MATTHEW C. COSTA P.L.S. DATE

#### GENERAL NOTES

LOCATIONS ARE BASED ON AN "ON THE GROUND" INSTRUMENT SURVEY AND ELEVATIONS BASED ON THE NAVD 1988 DATUM. COORDINATE SYSTEM USED IS THE MA-MAINLAND COORDINATE SYSTEM, DATUM: NAD 83, UNITS: U.S. SURVEY FEET.

ZONING DISTRICT: R-6

PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE DESIGNATION OF MINIMAL FLOOD HAZARD ZONE X BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), ON FLOOD INSURANCE RATE MAP NO. 25001C00A, WITH A MAP EFFECTIVE DATE OF JULY 16, 2014.

THIS LOT IS LOCATED WITHIN A DEP APPROVED ZONE II WELLHEAD PROTECTION AREA.

THIS LOT IS NOT MAPPED WITHIN A MESA NATURAL HERITAGE AND ENDANGERED SPECIES AREA.

DEED REFERENCE: BOOK 34368 PAGE 213

PLAN REFERENCE: BOOK 507 PAGE 72  
BOOK 487 PAGE 88  
BOOK 668 PAGE 38

OWNER: DANIEL E. MARSTERS  
PLEASANTWOOD HOMES, LLC  
10 PLEASANTWOOD DRIVE  
FORESTDALE, MA 02644

SCALE: 1" = 40'

NOTICE: THE PLAN MAY NOT BE ADDED TO, DELETED FROM, OR ALTERED IN ANY WAY BY ANYONE OTHER THAN CAPE & ISLANDS ENGINEERING, INC.

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12/21/2022	ADD PREVIOUS EXISTING NITROGEN CREDIT AREAS.	MD	MC
11/21/2022	REMOVE MAP 29 PARCEL 157 FROM MODIFICATION & REVISE LOT #5	JVB	MC
11/22/2022	REVISE LOT SIZES	JVB	MC
DATE	DESCRIPTION	BY	CHK

PREPARED FOR: DANIEL E. MARSTERS  
PLEASANTWOOD HOMES, LLC  
10 PLEASANTWOOD DRIVE  
FORESTDALE, MA 02644

PROJECT: 20 TUDOR TERRACE  
MASHPEE, MASSACHUSETTS

SHEET NO.: 1 OF 1 DATE: AUGUST 31, 2022

DRAWN BY: JVB CHECKED BY: MC

PREPARED BY:

**CAPE & ISLANDS**  
ENGINEERING

SUMMERFIELD PARK  
800 FALMOUTH ROAD SUITE 301C  
MASHPEE, MA 02649  
508.477.7272 PHONE  
508.477.9072 FAX  
www.CapeEng.com

DRAWING TITLE: DEFINITIVE SUBDIVISION PLAN  
TUDOR TERRACE

#### LEGEND

- CB ----- CONCRETE BOUND FOUND
- ----- CONCRETE BOUND TO BE SET
- SB ----- STONE BOUND
- RC ----- ROD CAP
- IP ----- IRON PIPE
- (XXX) ----- DISTANCE TO SETBACK

#### CLUSTER FORMULA

	1988 APPROVED	2022 ADDITIONAL	2022 TOTAL
TOTAL AREA =	44.357 AC.	6.024 AC.	50.381 AC.
NO WETLANDS			
TOT. AREA OF ROADS =	3.274 AC.	0.000 AC.	3.274 AC.
USEABLE LAND =	41.073 A.	6.024 AC.	47.107 A.
TOTAL LOTS SHOWN	44		47
TOTAL AREA OF LOTS	23.738 AC.	3.012 A.C.	26.750 AC.
TOTAL OPEN SPACE	17.153 AC.	3.012 A.C.	20.165 AC.
PERCENTAGE OPEN =	39%		40%

THIS PLAN IS SUBJECT TO COVENANT DATED \_\_\_\_\_ AND ATTACHED HERETO.

#### CLERK'S CERTIFICATION

THIS IS TO CERTIFY THAT TWENTY (20) DAYS HAS ELAPSED SINCE THE NOTICE OF APPROVAL FROM THE PLANNING WAS RECEIVED AND RECORDED AND THAT NO NOTICE OF APPEAL HAS BEEN FILED IN THIS OFFICE.

MASHPEE TOWN CLERK

DATE

#### PLAN PURPOSE

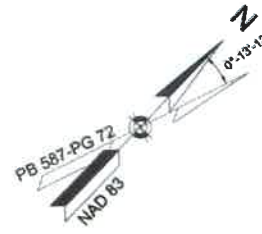
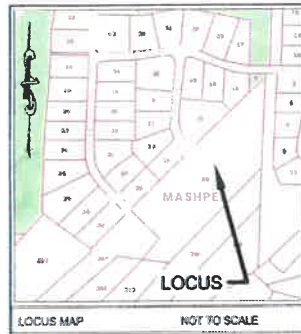
THE PURPOSE OF THIS PLAN IS TO MODIFY A PREVIOUSLY APPROVED DEFINITIVE SUBDIVISION PLAN ENTITLED "SPRING HILL WEST", APPROVED BY THE MASHPEE PLANNING BOARD ON OCTOBER 4, 1988 AND RECORDED IN THE BARNSTABLE COUNTY REGISTRY DEEDS IN PLAN BOOK 467 PAGE 88.

APPROVED IN ACCORDANCE WITH THE SUBDIVISION CONTROL LAW.

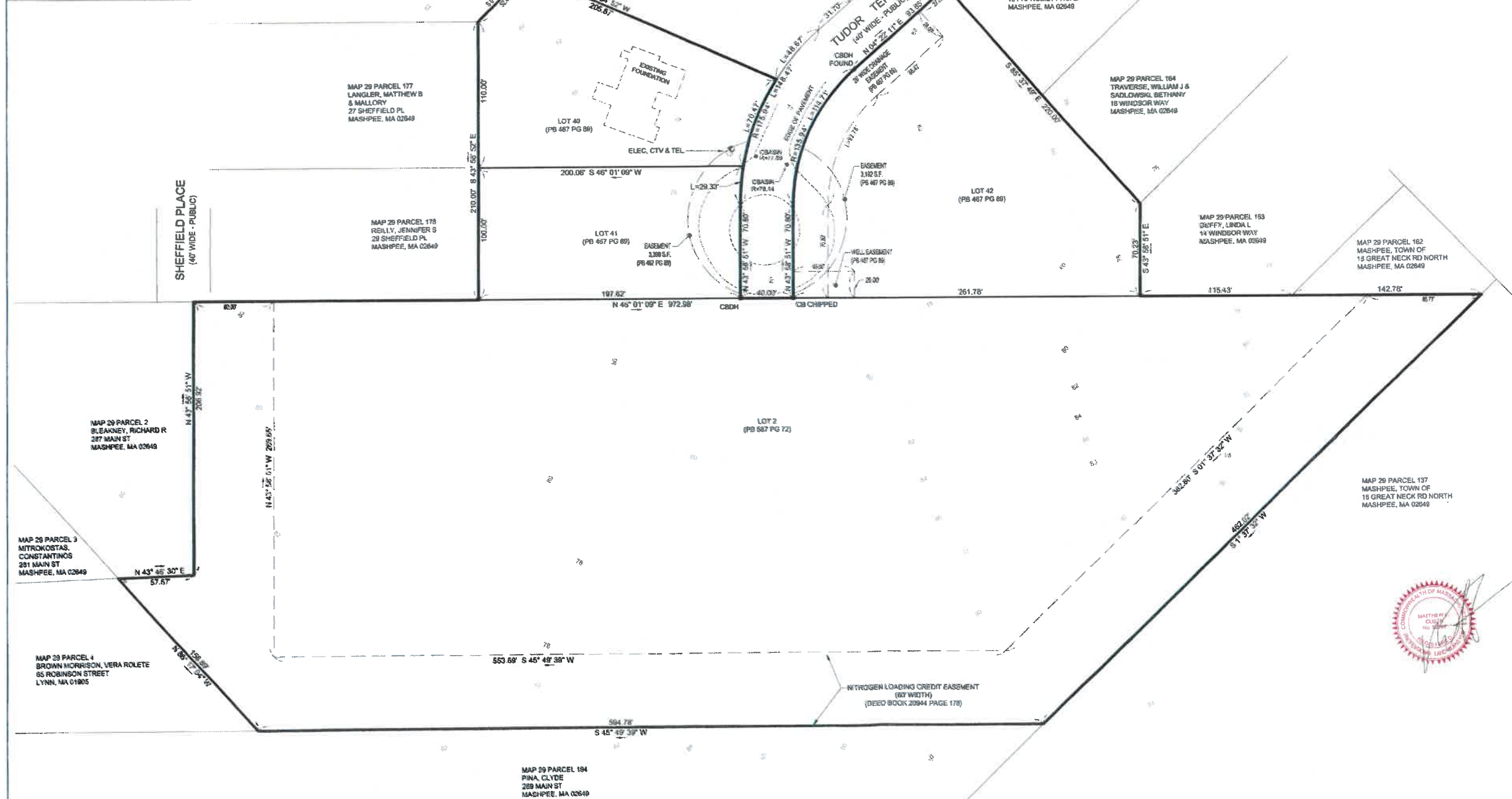
MASHPEE PLANNING BOARD

DATE APPROVED: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_



LOCUS MAP  
NOT TO SCALE



- LEGEND**
- CB CONCRETE BOUND FOUND
  - CS CONCRETE BOUND TO BE SET
  - SR STONE BOUND
  - RC ROD CAP
  - IP IRON PIPE

**GENERAL NOTES**  
LOCATIONS ARE BASED ON AN "ON THE GROUND" INSTRUMENT SURVEY AND ELEVATIONS BASED ON THE NAVD 1983 DATUM. COORDINATE SYSTEM USED IS THE MA-MANLAND COORDINATE SYSTEM, DATUM: NAD 83, UNITS: U.S. SURVEY FEET.

ZONING DISTRICT: R-5  
PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE DESIGNATION OF MINIMAL FLOOD HAZARD ZONE X BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), ON FLOOD INSURANCE RATE MAP NO. 25001C0591, WITH A MAP EFFECTIVE DATE OF JULY 16, 2014.

THIS LOT IS LOCATED WITHIN A DEP APPROVED ZONE II WELLHEAD PROTECTION AREA.  
THIS LOT IS NOT MAPPED WITHIN A MESA NATURAL HERITAGE AND ENDANGERED SPECIES AREA.

DEED REFERENCE: BOOK 34389 PAGE 215  
PLAN REFERENCE: BOOK 587 PAGE 72  
OWNER: DANIEL E. MARSTERS  
PLEASANTWOOD HOMES, LLC  
10 PLEASANTWOOD DRIVE  
FORESTDALE, MA 02644



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DATE	DESCRIPTION	BY	CHK
PREPARED FOR:			
DANIEL E. MARSTERS PLEASANTWOOD HOMES, LLC 10 PLEASANTWOOD DRIVE FORESTDALE, MA 02644			
PROJECT:			
20 TUDOR TERRACE MASHPEE, MASSACHUSETTS			
SHEET NO.: 1 OF 1		DATE: MAY 23, 2022	
DRAWN BY: JVB		CHECKED BY: MC	
PREPARED BY:			
 <b>CAPE &amp; ISLANDS</b> ENGINEERING			
SUMMITFIELD PARK 800 FALMOUTH ROAD SUITE 301C MASHPEE, MA 02649		508.477.7272 PHONE 508.477.9072 FAX www.CapeEng.com	
DRAWING TITLE:			
EXISTING CONDITIONS PLAN TUDOR TERRACE			





A SYSTEM OF GUTTERS, DOWNSPOUTS AND DRY WELLS SHALL BE USED ADD EACH HOUSE TO RECHARGE STORMWATER RUNOFF. PICTURES OF DRY WELL SHOULD BE TAKEN DURING INSTALLATION AND SUPPLIED TO CONSERVATION COMMISSION AS PART OF THE CERTIFICATE OF COMPLIANCE REQUEST.

**NIDS PRO FLOW-WELL**

**PLAN VIEW**

Labels for Plan View: 4" PVC INLET, 3/4" x 1/2" DOUBLE WASHED STONE, 4" HOPE DRAIN PIPE, S=1.0%, INLET, OVERFLOW PIPE, SPLASH PLATE, FINISH GRADE, VARIES, 8" MIN. LOAM COVER, 2'-0", 6" MINIMUM BEDDING STONE.

**SECTION VIEW**

Labels for Section View: 4" HOPE DRAIN PIPE, S=1.0%, INLET, OVERFLOW PIPE, SPLASH PLATE, FINISH GRADE, VARIES, 8" MIN. LOAM COVER, 2'-0", 6" MINIMUM BEDDING STONE.

**DRY WELL DETAIL**

**-NOT TO SCALE-**

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**ZONING DISTRICT: R-5**

PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE DESIGNATION OF MINIMAL FLOOD HAZARD ZONE X BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), ON FLOOD INSURANCE RATE MAP NO. 25001C058J, WITH A MAP EFFECTIVE DATE OF JULY 16, 2014.

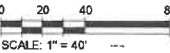
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DEED REFERENCE: BOOK 34366 PAGE 213

PLAN REFERENCE: BOOK 587 PAGE 72

OWNER: DANIEL E. MARSTERS  
PLEASANTWOOD HOMES, L  
10 PLEASANTWOOD DRIVE  
FORESTDALE, MA 02644



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**SCALE: 1" = 40'**

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12-21-2022	ADD CROSS-SECTION AND ROOF DRAIN DETAIL	MD	MD
11-2-2022	REVISE LOT SIZES	JVB	MC
DATE	DESCRIPTION	BY	CHK

PREPARED FOR:

DANIEL E. MARSTERS  
ASANTWOOD HOMES, LLC  
0 PLEASANTWOOD DRIVE  
FORESTDALE, MA 02644

## PROJECT:

20 TUDOR TERRACE  
SHEPPEE, MASSACHUSETTS

SHEET NO.: 1 OF 1      DATE: MAY 23, 2022

DRAWN BY: JVB

PREPARED BY:

**CAPE & ISLANDS**  
ENGINEERING

SUMMERFIELD PARK  
800 FALMOUTH ROAD SUITE 301C  
MASH-PEE, MA 02849

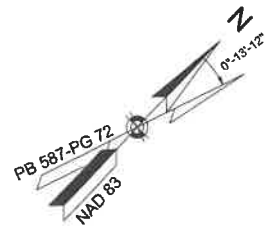
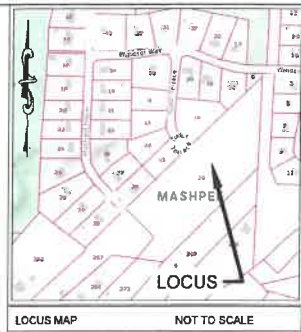
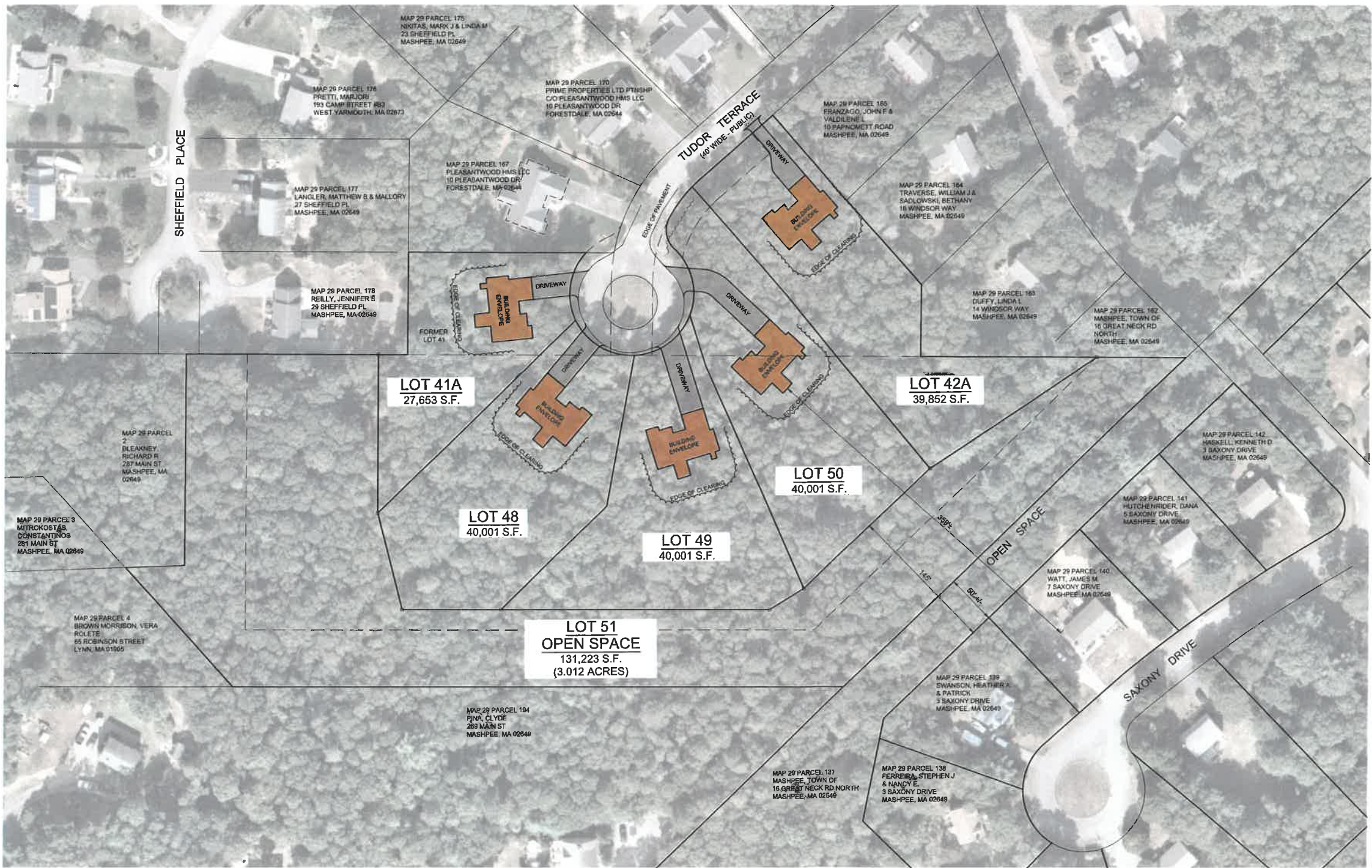
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DRAWING TITLE:

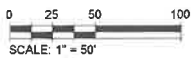
TOPOGRAPHIC PLAN  
TUDOR TERRACE





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DATE	DESCRIPTION	BY	CHK
PREPARED FOR: DANIEL E. MARSTERS PLEASANTWOOD HOMES, LLC 10 PLEASANTWOOD DRIVE FORESTDALE, MA 02644			
PROJECT: 20 TUDOR TERRACE MASHPEE, MASSACHUSETTS			
SHEET NO. 1 OF 1		DATE: NOVEMBER 28, 2022	
DRAWN BY: WNH		CHECKED BY: MD	
PREPARED BY:			
			
SUMMERFIELD PARK 800 FALMOUTH ROAD SUITE 301C MASHPEE, MA 02649		508.477.7272 PHONE 508.477.5072 FAX www.CapeEng.com	
DRAWING TITLE: BUILDING ENVELOPE AND AERIAL EXHIBIT			
ASSESSORS INFORMATION: MAP 29 PARCEL 198			



## Fw: Review of the Revised Tudor Terrace

Evan Lehrer <ELehrer@mashpeema.gov>

Wed 12/21/2022 9:11 AM

To: Jennifer M. Thomas <jmthomas@mashpeema.gov>

 2 attachments (1,012 KB)

TUDORTERRACE\_20\_MARSTERS\_DEFIN 50%-12-21-22 (3).pdf; TUDORTERRACE\_20\_MARSTERS\_DEFIN 50%-12-21-22.pdf;

### Evan Lehrer, MPA

*Town Planner*

Town of Mashpee

16 Great Neck Road North

Mashpee, MA 02649

elehrer@mashpeema.gov

(508) 539-1400 x 8521

---

**From:** Mark Dibb <mdibb@capeeng.com>

**Sent:** Wednesday, December 21, 2022 9:04 AM

**To:** Edward Pesce <ed@pesceeng.com>

**Cc:** Evan Lehrer <ELehrer@mashpeema.gov>; Christopher Kirrane <ckirrane@dunningkirkane.com>

**Subject:** Re: Review of the Revised Tudor Terrace

**WARNING! EXTERNAL EMAIL:** : This message originated outside the Town of Mashpee mail system and could be **harmful** ☹️. PLEASE DO NOT CLICK ON LINKS OR ATTACHMENTS unless you are absolutely certain the content is safe.

Morning All,

Ed and I reviewed the project on a zoom call yesterday.

The discussions resulted in 3 minor additions to the plan. Attached are the two plans with the changes.

Definitive plan - added the 3 nitrogen loading SF numbers. Lot 41A, Lot 42A, and the parcel itself, all with the original deed reference. No change to the nitrogen loading document.

Topographic plan - added the Cross section showing the driveways pitching away from Tudor (and the note requiring drainage if it cannot be pitched away), added a roof drain detail and requirement note.

One additional condition for the permit - Applicant to Conduct a stormwater Inspection of the existing system in Tudor Terrace cul-de-sac, pump-out all Catch Basins, and provide a letter stating that this



was performed.

Mark

\*\*\*\*\*

Mark Dibb, P.E.

*Senior Project Engineer*

**CAPE & ISLANDS ENGINEERING, INC.**

800 Falmouth Road, Suite 301C

Mashpee, MA 02649

508.477.7272 (phone) 508.477.9072 (fax)

[www.CapeEng.com](http://www.CapeEng.com)

\*\*\*\*\*

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Thank you.

On Mon, Dec 19, 2022 at 5:29 PM Edward Pesce <[ed@pesceeng.com](mailto:ed@pesceeng.com)> wrote:

Hi Mark,

Do you have time for a quick Zoom call tomorrow to go over Tudor Terrace? From my review of your latest plans, I still have the following comments:

1. I mentioned during the last hearing that I recommended a couple items to allow for the protection of the existing drainage system in Tudor Terrace:
  - a. Conduct a stormwater inspection of the existing system in the Tudor Terr. cul-de-sac, pump-out all Catch Basins, and provide a letter stating that this was performed.
  - b. Provide a roof drain detail, and or, a note requiring all roofs be provided with gutters & downspouts, and be connected to subsurface drywells/leaching systems
  - c. Provide proposed grading plan showing that the proposed runoff from Driveways will not flow to, or contribute to the Tudor Terr. system (all runoff flow from new driveways to be contained on each lot)
2. An explanation of the Nitrogen Loading Credit Easement Area, and how it corresponds to the area shown in Lot 51:
  - a. I previously read the "Grant of Title 5 Nitrogen Loading Restriction and Easement" and mentioned that it referred to a maximum of 28 bedrooms on page 1, and 31 bedrooms on page 3? Has the total number of bedrooms that were built been confirmed?
  - b. It seems clear that the attached N2 Aggregation Plan explains which lots benefit from the 77,019 SF Nitrogen Loading Credit Land Provided – OK good, but what about new lots created

Additional Comments:

- Add the Nitrogen Loading Credit Area amount (SF) to Lot 51 (to be consistent with the attached Sep. 2004 N2 Agg. Plan)
- Recommend adding a driveway detail showing the design cross-section, and showing a minimum 5' pavement length from the edge of pavement at Tudor Terr. (to allow for a proper transition from the pavement, if materials other than pavement are used for the driveway (gravel, cobblestone, pavers, etc.)

Let me know if you are free in the monring (10-12?)

Thanks mark,

ED

---

***Edward L. Pesce, P.E., LEED<sup>®</sup> AP***

***Pesce Engineering & Associates, Inc.***

43 Porter Lane

West Dennis, MA 02670

*(A Veteran Owned Small Business)*

Cell: 508-333-7630

[Ed@PesceEng.com](mailto:Ed@PesceEng.com)



Robert E. Gorman  
Christopher J. Gorman  
Joseph A. Sullivan  
Shane E. Scott  
Christopher A. Scott

Planning & Survey, LLC  
1000 Main Street, Suite 200  
P.O. Box 1000  
Mashpee, MA 02649

December 20, 2022

Ms. Mary Waygan, Chairwoman  
Mashpee Planning Board  
16 Great Neck Road North  
Mashpee, MA 02649

Re: Spring Hill West Subdivision Modification (Tudor Terrace)

Dear Chairwoman Waygan:

Please allow this letter to address several questions the Planning Board had regarding the project and the history of the existing Subdivision. Specifically, I have addressed the conditions of the existing Special Permit, the status of the existing Way shown on the original subdivision plan, and compared the zoning provisions applicable to the original permit versus today's requirements.

### **SPECIAL PERMIT CONDITIONS**

Per the Board's request, I have reviewed the Special Permit conditions for the Spring Hill West Subdivision, a Cluster Subdivision approved by the Planning Board in 1989. It must be noted that this applicant was not the original developer and has only recently developed a small number of the lots in this subdivision. With that caveat and to the extent I can determine compliance, based on my review, I have found the following:

#### **Condition No. 1:**

Condition No. 1 required the developer to convey open space parcels and access easements to the Town of Mashpee.

The applicant cannot affirm whether this condition has been complied with, but given that building permits and covenant releases were issued the applicant assumes the original developer complied with this condition.

Page 2  
Spring Hill West Subdivision  
December 20, 2022

Condition No. 2:

Condition No. 2 required cooperation between the applicant and the Town on improvements to David's Way.

The developer cannot affirm whether this condition was complied with, but given that building permits and covenant releases were issued, the applicant assumes the original developer complied with this condition.

Condition No. 3:

Condition No. 3 prohibits alteration or relocation of drainage easements or facilities.

This applicant is not proposing any alteration or relocation of drainage easements or facilities.

Condition No. 4:

Condition No. 4 prohibits construction activities between 5 pm and 8 am on weekdays; before 8 am and after noon on Saturday, Sundays, and holidays.

The applicant agrees to the hour restrictions for construction activities.

Condition No. 5:

Condition No. 5 required a Homeowner's Association to conduct periodic water quality sampling.

The applicant has no actual knowledge as to whether sampling has occurred. That being said, it is the applicant's understanding the Town has no record of any sampling being performed. Furthermore, the applicant is unaware of an existing homeowner's association whose responsibility per the Special Permit it is to conduct such samplings.

The applicant requests that no additional future testing be required because the original homeowner's association is defunct and the proposed new lots will be providing a minimum of 10,000 s.f. of lot area per bedroom as required by Title 5 for nitrogen sensitive areas. The lots as proposed will meet the very strict requirements of Zone II and nitrogen loading and should not have any significant adverse effect on groundwater.

Condition No. 6:

Condition No. 6 required the establishment of a homeowner's association.

A homeowner's association was established in 1990, however, it provided no mechanism for the extension of the restrictive covenants and by law have lapsed. Unfortunately, the applicant has no ability to revive the homeowner's association and a renewed homeowner's association could only be established by the homeowner's within the subdivision.

Condition No. 7:

Condition No. 7 requires all surface debris, waste or discarded materials be removed from site prior to construction.

All surface debris, waste or discarded materials will be removed from the site prior to construction.

Condition No. 8:

Condition No. 8 required the project to be developed over five (5) years.

To the best of applicant's knowledge, the majority of the project was developed over five (5) years. The applicant's development is outside that five (5) year time frame and would ask the Board to waive Condition No. 8.

Condition No. 9:

Condition No. 9 requires all necessary permits be obtained before commencing work.

Applicant states that to the extent they may be required, all permits will be obtained prior to commencing work.

Condition No. 10:

Condition No. 10 prohibits development of the lots in any way other than for single family homes and accessory structures.

The applicant is only proposing single family homes

Condition No. 11:

Condition No. 11 requires all construction personnel to be familiar with M.G.L. c 38, Section 6B regarding the discovery of human remains.

The applicant is familiar with M.G.L. C. 38, Section 6B.

Condition No. 12:

Condition No. 12 requires that the boundaries of the open space be marked prior to construction and with stone or concrete boundary monuments.

The applicant intends to install concrete boundary monuments to mark the boundary of the open space. Said markers are shown on the revised plan.

Condition No. 13:

Condition No. 13 requires the proper disposal of stumps, construction debris, hazardous materials and water waste and report back to the Board of Health.

The applicant cannot affirm whether this condition has been complied with over the history of the development. As to the lots that the applicant is proposing to develop the applicant will properly dispose of all stumps, construction debris, hazardous materials and water waste.

Condition No. 14:

Condition No. 14 prohibits the disposal of household waste into individual septic systems.



Page 5  
Spring Hill West Subdivision  
December 20, 2022

The applicant cannot affirm whether this condition has been complied as the applicant has no control over individual homeowner activity. As to the properties the applicant has proposed to develop, the applicant can advise prospective purchasers of this condition. The applicant could add the following language to the deeds out:

Subject to the terms and provisions of the Special Permit dated October 4, 1989 and recorded in Barnstable County Registry of Deeds in Book 8701, Page 212, as modified, which Special Permit specifically prohibits the dumping of household hazardous waste into septic systems, and requires that any fertilizers and pesticides used shall be of a type approved by the Town of Mashpee Board of Health.

Condition No. 15:

Condition No. 15 prohibits the use of de-icing chemicals other than sand or a sand-calcium chloride mixture on driveways and roads.

The applicant cannot affirm whether this condition has been complied with as the applicant has no control over individual homeowner activity. As to the properties the applicant proposes to develop, the applicant can advise prospective purchasers of this condition.

Condition No. 16:

Condition No. 16 required oil/gas separators in all catch basins and annual cleaning.

The applicant's engineers found oil/gas separators in each catch basin. The town is responsible for catch basin maintenance.

Condition No. 17:

Condition No. 17 required that all fertilizers and pesticides used are of a type approved by the Board of Health.

The applicant will make prospective purchasers aware of this condition. The applicant could add the following language to the deeds out:

Subject to the terms and provisions of the Special Permit dated October 4, 1989 and recorded in Barnstable County Registry of Deeds in Book 8701, Page 212, as modified, which Special Permit specifically prohibits the dumping of household hazardous waste into septic systems, and requires that any fertilizers and pesticides used shall be of a type approved by the Town of Mashpee Board of Health.

Condition No. 18:

Condition No. 18 requires deed restrictions limiting the size of lawns to be no more than 1,000 sq. ft.

A review of conditions on the ground indicate that most, if not all, homes have lawns at greater than 10,000 sq. ft. The applicant is proposing lawns greater than 1,000 sq. ft. and would request that the Board waive this condition in consideration of the purchase shellfish stock and/or additional conditions as follows:

Lawn specifications shall comply with the following standards:

- A. Depth of loam for a new lawn shall be a minimum of 6 inches. This will reduce the potential for nutrients to leach through the soil.

All application of nitrogen and/or phosphorus to turf shall comply with the following standards:

A. The application of nitrogen is prohibited between October 30<sup>th</sup> and April 14<sup>th</sup>. The application of phosphorous or Phosphorus Containing Fertilizer, with or without nitrogen, is prohibited in all circumstances between December 1<sup>st</sup> and March 1<sup>st</sup>.

B. No person shall cause nitrogen and/or phosphorus from any fertilizer application to apply to, or otherwise be deposited on any impervious surface including parking lot, driveway, roadway, sidewalk, frozen soil or ice. Any fertilizer applied, spilled, and/or deposited on any impervious surface, either intentionally or accidentally, must be immediately and completely removed and contained and either legally applied to turf or any other legal site or returned to an appropriate container.

C. No person shall apply nitrogen and/or phosphorus twenty four (24) hours before or during a heavy rain event or apply nitrogen and/or phosphorus onto saturated ground. An application of nitrogen and/or phosphorus should be watered in with not more than one quarter (0.25") inch of irrigation or natural rain within the next twenty four (24) hour period.

D. No person may purchase and apply, or authorize any person, by way of service contract or other arrangement, to apply any phosphorus containing fertilizer on lawn or nonagricultural turf, except when:

- 1) a soil test taken not more than three (3) years before the application indicates that additional phosphorus is needed for growth of that lawn or non-agricultural turf; or

2) the phosphorus containing fertilizer is used to establish new lawn or non-agricultural turf on bare ground or as part of renovation of a lawn or non-agricultural turf area. The use of phosphorus for the purposes of establishing a new lawn or nonagricultural turf area, or for renovating an existing lawn or non-agricultural turf is limited to the first (1<sup>st</sup>) growing season.

3) If the soil test indicates that additional phosphorus is needed for growth of a lawn or non-agricultural turf, application of additional phosphorus shall not exceed the UMass Guidelines.

4) Any person who applies phosphorus containing fertilizer, shall maintain records for three (3) years of each application made. The following information shall be recorded, when applicable:

- (a) Name of applicator;
- (b) Date of application;
- (c) Address or location description of the application site;
- (d) Soil test results for management units;
- (e) Type and amount of phosphorus containing fertilizer applied.

E. Calibrate fertilizer spreader prior to each use to improve accuracy of desired application rate.

F. Minimize storage of fertilizers outdoors. Storage of fertilizers outdoors is currently prohibited in the Groundwater Protection District.

Page 9  
Spring Hill West Subdivision  
December 20, 2022

G. A subdivision plan shall comply with loading rates from lawn fertilizers as specified in the Zoning Bylaws (§174-27).

Condition No. 19:

Condition No. 19 prohibits the installation of underground storage tanks:

This applicant cannot speak to compliance as to all lots in the subdivision but states that as to the lots they have developed and propose to be developed, no underground storage tanks have been installed or are being proposed.

**WOODS ROAD**

The Board requested that the applicant determine the status of Woods Road which is shown on the approved Subdivision Plan. Per the subdivision Plan and the Town's Assessor's Map, this Way begins in what is currently open space and is shown intersecting 13 Sheffield Place, 20 Sheffield Place, 43 Windsor Way and 37 Windsor Way, all lots which have been developed with single family homes. The Way is shown passing over open space and terminates at the boundary line of 6 Sheffield Place. There appears to be no access to the Way from a public or private road and simply terminates within the existing subdivision.

**1988 ZONING v. PRESENT DAY ZONING**

Finally, the Board requested an overview of the relevant zoning applicable to this project. When the project was approved, it was subject to the 1988 Zoning By-Law. Section 9.4 of the 1988 Zoning By-Law set forth the provisions for Cluster Developments. Section 9.4 required a minimum 75 feet of frontage and minimum lot width of one (100) hundred feet. For lots on a curve the minimum lot frontage was 60 feet. Moreover, the Planning Board

Page 10  
Spring Hill West Subdivision  
December 20, 2022

could grant a Special Permit in which some or all of the lots did not meet lot area, frontage, setback or yard requirements provided there was a finding that the public good would be served. The proposed lots meet the frontage requirements as they were set forth in the 1988 Zoning By-Law.

Pursuant to today's Zoning By-Law minimum lot frontage is 150 ft. and minimum lot coverage is 80,000 sq. ft. For lots on a curve such as the ones proposed pursuant to the application frontage is measured from the side yards at the minimum setback line (40ft.) These lots do not meet the minimum frontage requirements. Pursuant to Section 174-47 (B)(5) the Board may, in its sole discretion, set the schedule of lot area, frontage, setback and dimensional regulations. To that end, the applicant would ask the Board to set a minimum lot area of 25,000 sq. ft. and minimum lot frontage of 65 ft.

Again, thank you for consideration of this application and I look forward to seeing everyone at Wednesday's hearing.

Very truly yours,



Christopher J. Kirrane

CJK:amb





January 10, 2023

Ms. Mary Waygan, Chairwoman  
Mashpee Planning Board  
16 Great Neck Road North  
Mashpee, MA 02649

**RE: Spring Hill West Subdivision Modification  
Existing Nitrogen Aggregation Plan Summary**

Dear Chairwoman Waygan:

Please allow this letter to serve as an informational summary of the Nitrogen Aggregation Plan that is currently in place for the above referenced Spring Hill West Subdivision.

Attached (as Attachment A) please find the "Grant of Title 5 Nitrogen Loading Restriction and Easement" document as recorded in Deed Book 20944, Page 178. This document outlines the location of the Facility Land and the Credit Land. The Facility Lands are those parcels that will benefit from the Restriction and Easement which is put on the Credit Land in order to meet the land requirements for a certain amount of bedrooms per lot.

The Facility Land consists of existing lots within the Spring Hill West Subdivision Plan. Attachment B which is the "Plan of Nitrogen Loading Credit Land" prepared by Cape and Islands Engineering shows those parcels that benefit from this document. The lots included are 13, 16, 18, 8, 7, 38, 39, 40, 41 and 42 which are lots on both Sheffield Place and Tudor Terrace. The purpose of this document is to set aside land that will not be a producer of nitrogen for the benefit of these parcels. Please note the Red text on the attached document is NOT original text, this text has been added for the benefit of providing information. The red text identifies the total number of bedrooms that each parcel is allowed to have when considering the existing lot area and the amount of nitrogen loading credit land that is being allocated to that parcel. The total of these two areas meets the lot area requirement for the number of bedrooms identified in Red.

The Credit Land is a portion of the existing land area on 20 Tudor Terrace which also identified as Lot 2 in the Plan of Nitrogen Loading Credit Land (attachment B). This plan shows the shaded area location and size (77,019 SF) that is used to the benefit of the Facility Land parcels.

For Example, Lot 42 has an existing lot area of 39,544 Square Feet (SF) and it receives the benefit of 456 SF which combined totals to an area of 40,000 SF. For nitrogen sensitive lots per the State Environmental Code, Title 5, 1 bedroom is allowed per 10,000 SF so a 40,000 SF area is allowed 4 bedrooms. The Attachment B with the Red annotation text outlines how the Credit Land is divided up into each lot and how many bedrooms are achieved for each lot.

As identified at the hearing and discussed with Mr. Ed Pesce, a couple typos were noted in the nitrogen aggregation document.

- As noted in paragraph 4, on page 1, the wastewater discharge design flow is 28 bedrooms however on page three, section 1, the document notes the land should be restricted to 31 bedrooms. Based on the Red annotation text on the map, it appears the appropriate number is 31 bedrooms. Ed. Pesce agrees with this assessment.
- As noted in paragraph 5, page 1, the Credit Land is identified as parcel 2A on the plan entitled "Plan of Land located in Mashpee, Massachusetts, Prepared for Rudolf E. Deas, Scale 1"=60ft..." recorded at the Barnstable County Registry of Deeds in Plan Book 587, Page 72. After review of this reference plan it is clear that the Credit Land should be identified as parcel or Lot 2. This is also confirmed on the Credit Land plan in Attachment A showing this parcel as Lot 2. Ed Pesce also agrees with this clarification.



The current proposed amendment does not change or modify the conditions or terms of the existing recorded Nitrogen Aggregation Plan. The existing lots will continue to get the same amount of credit that was previously proposed. The modified lots 41A and 42A will continue to receive the same amount of nitrogen credit and will be limited to the same amount of bedrooms. The three new lots are all created with land area in excess of 40,000 SF and are proposed to have a maximum of four (4) bedrooms for each lot. These lots are sized appropriately to meet the current requirements of Title 5 for lots with both a septic system and a private water supply well for nitrogen sensitive areas.

Please let us know if you have any questions or need any additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mark Dibb', is positioned above the typed name.

Mark Dibb, PE  
*Senior Project Engineer*

Encl.: Site plan



**Attachment A**  
**Grant of Title 5 Nitrogen Loading Restriction and Easement**  
**DB 20955 Pg 178**

**GRANT OF TITLE 5 NITROGEN LOADING RESTRICTION AND EASEMENT**

(Grantor owns and restricts both the facility land and the credit land)

310 CMR 15.216

This GRANT OF TITLE 5 Nitrogen Loading Restriction AND EASEMENT made as of this 13<sup>th</sup> day of January, 2005, by Kenneth Marsters, Trustee of Prime Properties Realty Trust of Mashpee, Barnstable County, Massachusetts ("Grantor").

**WITNESSETH**

WHEREAS, Grantor being the owner in fee simple of the certain parcel of vacant land located in Mashpee, Barnstable County, Massachusetts, pursuant to a deed from Cape bank to Grantor, dated 2/7/1990, and recorded with Barnstable County Registry of Deeds in Book 8296, Page 73 of the Barnstable County Registry District, said parcel of land being more particularly bounded and described in Exhibit A, attached hereto and made a part hereof, and being shown on a plan entitled, "Spring Hill West", dated 10/4/89, prepared by Baxter & Nye recorded with Barnstable County Registry of Deeds in Plan Book 467, Plan No. 88; and

WHEREAS, Grantor being the owner in fee simple of the certain parcel of vacant land located in Mashpee, Barnstable County Massachusetts pursuant to a deed from Rudolf E. Deas to Grantor, dated 12/23/2003, and recorded with Barnstable County Registry of Deeds in Book 18066, Page 214 of the Barnstable County Registry District, said parcel of land being more particularly bounded and described as Lot 2 on a plan entitled, "Plan of land located in Mashpee" dated 12/1/2003, prepared by Ferriera Associates, recorded with Barnstable County Registry of Deeds in Plan Book 587, Plan 72; and

WHEREAS, Grantor desires to restrict the number of bedrooms as defined pursuant to 310 CMR 15.002 and/or the wastewater discharge design flow in any improvements located to 28 bedrooms the Facility Land through the use of this Nitrogen Loading Restriction and Easement; and

WHEREAS, the Facility Land has the benefit, granted hereby, of the Restriction and Easement on the Credit Land consisting of 77,019 square feet of land being shown as parcel 2A on plan entitled "Plan of Land located in Mashpee, Massachusetts, Prepared for Rudolf E. Deas Scale 1" = 60 ft. Date: December 1, 2003 by Ferriera Associates, 161A Worcester Court, Falmouth, Mass. 02540" recorded with Barnstable County Registry of Deeds in Plan Book 587, Page 72 bounded and described as follows:

Beginning at the northwesterly corner of the premises on Sheffield Place

Thence North 40° 02' 52" East, 60.00 feet;  
Thence South 43° 57' 09" West, 269.61 feet;  
Thence North 45° 51' 21" East, 553.70 feet;  
Thence North 4 ° 02' 52" East, 85.78'feet;

6



Thence South 01° 39' 41" West, 462.02 feet;  
 Thence South 45° 51' 21" West, 594.78 feet;  
 Thence North 86° 15' 22" West, 156.89' feet;  
 Thence North 43° 48' 12" East, 57.57' feet and  
 Thence North 43° 57' 09" West, 206.88 to the point of beginning.

Being a portion of the premises conveyed to Kenneth E. Marsters, Trustee of Prime Properties Realty Trust by deed of Rudolf E. Deas dated December 23, 2003, recorded with Barnstable County Registry of Deeds in Book 18066, Page 214 ("CREDIT LAND").

WHEREAS, the Nitrogen Loading Facility Aggregation Plan has been approved by the Mashpee Board of Health and the Department of Environmental Protection ("DEP" or "Department") in accordance with the Department's "Guidelines for Title 5 Aggregation of Plans and Nitrogen Loading;" said approval being based upon the agreement by Grantor to incur certain obligations regarding the number of bedrooms, as defined in 310 CMR 15.002, and/or the wastewater discharge design flow in any improvements located on the Facility Land and maintenance of the Restriction and Easement to ensure protection the nitrogen loading limitation of 440 gpd/acre discharge standard pursuant to 310 CMR 15.214 in nitrogen-sensitive areas or in areas serving new construction where the residential use of both on-site systems and drinking water supply wells are proposed; and to grant to the Local Approving Authority a perpetual easement to ensure maintenance of the Facility Land and the Credit Land including, but not limited to, removal of any prohibited uses and in connection herewith a perpetual easement to pass and repass over the Facility Land and the Credit Land for purposes of inspection of the Facility Land and Credit Land to ensure compliance with and fulfillment of the terms of this Restriction/Easement as hereafter set forth:

NOW, THEREFORE, pursuant to the provisions of 310 CMR 15.216, Grantor does hereby GRANT to the Town of Mashpee, a Massachusetts municipal corporation situated in Barnstable County, having an address at Mashpee, Massachusetts, acting by and through its Board of Health ("B/Health") ("Local Approving Authority") for nominal, non-monetary consideration, with QUITCLAIM COVENANTS, TITLE 5 NITROGEN LOADING RESTRICTION AND EASEMENT ("Restriction/Easement") in, on, upon, through, over and under the Facility Land and the Credit Land, the terms and conditions of which are as follows:

#### PURPOSE:

The purpose of this restriction is to protect and preserve the quality and quantity of ground water resources in the area of the public and private wells in the Town of Mashpee, Massachusetts in order to ensure a safe and healthy public and private water supply for the present and future inhabitants of the area. It shall also be for the specific purpose of limiting the introduction of nitrogen and other pollutants into, and maintaining the natural uptake of pollutants and the recharge of the ground water which takes place on the Facility Land and the Credit Land for the said water supply.

DR 20571 Pg 100 720001

## OBLIGATIONS AND EASEMENT:

1. **Prohibitions.** Grantor agrees to restrict the number of bedrooms, as defined pursuant to 310 CMR 15.002, in any improvements on the Facility Land to 31. Grantor further agrees to maintain the Credit Land as nitrogen credit land by prohibiting activities which have a detrimental effect on nitrogen loading on the Credit Land, including but not limited to wastewater discharges, the use of nitrogen fertilizer, the introduction of artificial impervious surfaces, the raising, breeding or keeping of animals, livestock or poultry for commercial purposes, and the creation or introduction of land under water. A change in the condition of the Credit Land which results in the Credit Land or a portion thereof being within a Velocity Zone or Regulatory Floodway will render the Credit Land or said portion thereof ineligible for nitrogen credit pursuant to 310 CMR 15.216.
2. **Easements.** In creating this Restriction and Easement, Grantor hereby grants to the Local Approving Authority its agents, contractors, sub-contractors and employees a perpetual EASEMENT to enter upon and the right to bring equipment onto the Facility Land and Credit Land to do any and all acts deemed necessary to maintain the Facility Land and Credit Land in a manner which ensures protection of the nitrogen loading limitation of 440 gpd/acre discharge standard pursuant to 310 CMR 15.214 together with a right to pass and repass by foot and by vehicle over the Facility Land and Credit Land for said purposes, and for purposes of inspecting the Facility Land and Credit Land to ensure compliance with and fulfillment of the terms of this Restriction/Easement.
3. **Severability.** If any court or other tribunal determines that any provision of this instrument is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect.
4. **Enforcement.** Grantor expressly acknowledges that a violation of the terms of this instrument could result in the following:
  - (i) upon determination by a court of competent jurisdiction, in the issuance of criminal and civil penalties, and/or equitable remedies, including, but not limited to, injunctive relief, such injunctive relief could include the issuance of an order to modify or remove any improvements constructed upon the Facility Land or Credit Land in violation of the terms of this Restriction/Easement; and



- (ii) in the assessment of penalties and enforcement action by the Local Approving Authority or a DEP to enforce the terms of this Restriction/Easement, pursuant to Title 5; M.G.L. c. 111, §§ 17, 31, 122, 124, 125, 125A, 127A through 127O, and 129; and M.G.L. c. 83 § 11.

5. **Provisions to Run with the Land.** This Restriction/Easement sets forth the rights, liabilities, agreements and obligations upon and subject to which the Facility Land and Credit Land or any portion thereof, shall be left unimproved or according to which said Facility Land and Credit Land may be improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. The rights, liabilities, agreements and obligations herein set forth shall run with the Facility Land and Credit Land, as applicable thereto, and any portion thereof and shall inure to the benefit of and be binding upon Grantor and all parties claiming by, through or under the Local Approving Authority or Grantor. The rights hereby granted to the Local Approving Authority to enforce this Restriction/Easement and Grantor hereby covenants for himself/herself/itself and his/her/its executors, administrators, heirs, successors and assigns, to stand seized and hold title to the Facility Land and Credit Land, as applicable thereto, and any portion thereof, subject to this Restriction/Easement, provided, however, that a violation of this Restriction/Easement shall not result in a forfeiture or reversion of Grantor's title to the Facility Land or Credit Land, as applicable thereto.
6. **Concurrence Presumed.** It being agreed that Grantor and all parties claiming by, through or under Grantor shall be deemed to be in accord with the provisions herein set forth and to agree for and among themselves and any party claiming by, through or under them, and their respective agents, contractors, sub-contractors and employees, that the Restriction/Easement herein established shall be adhered to and not violated and that their respective interests in the Facility Land and the Credit Land and the Restriction/Easement, as applicable thereto, shall be subject to the provisions herein set forth.
7. **Incorporation into Deeds, Mortgages, leases and Instruments of Transfer.** Grantor hereby agrees to incorporate this Restriction/Easement, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the Facility Land or Credit Land, or any portion thereof, is conveyed.
8. **Recordation.** Grantor shall record and/or register this Restriction/Easement with the appropriate Registry of Deeds and/or Land Registration Office within 30 days of the latter of: receipt from the Local Approving Authority of the approved Restriction/Easement or the expiration of the 60-day DEP constructive approval period pursuant to 310 CMR 15.216. Grantor shall file with the Local Approving Authority and the DEP a certified Registry copy of this Restriction/Easement as recorded and/or registered within 30 days of its date of recordation and/or registration

- DR 20771 49 102 12007
9. Amendment and Release. This Restriction/Easement may be amended or released only upon approval by the Local Approving Authority. Release of this Restriction/Easement shall be granted by the Local Approving Authority in the event the Facility Land is connected to a municipal sewer system and the septic system serving the Facility Land is abandoned in accordance with 310 CMR 15.354 or the Facility Land is no longer located within a nitrogen sensitive area pursuant to 310 CMR 15.215. Any such amendment or release shall be recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office and a certified Registry copy of said amendment or release shall be filed with the Local Approving Authority and the DEP within 30 days of its date of recordation and/or registration.
  10. Term. This Restriction/Easement shall run in perpetuity and is intended to conform to M.G.L. c. 184, §26, as amended.
  11. Rights Reserved. This Restriction/Easement is granted to the Local Approving Authority in connection with the approval of a Nitrogen Loading Facility Aggregation Plan pursuant to 310 CMR 15.216 and the Department's "Guidelines for Title 5 Aggregation of Flows and Nitrogen Loading." It is expressly agreed that acceptance of the Restriction/Easement by the Local Approving Authority or constructive approval of the Nitrogen Loading Facility Aggregation Plan by DEP shall not operate to bar, diminish, or in any way affect any legal or equitable right of the Local Approving Authority or DEP to issue any future order with respect to the Facility Land or Credit Land or in any way affect any other claim, action, suit, cause of action, or demand which the Local Approving Authority or DEP may have with respect thereto. Nor shall acceptance of the Restriction/Easement serve to impose any obligations, liabilities, or any other duties upon the Local Approving Authority.
  12. Effective Date. This Restriction/Easement shall become effective upon its recordation and/or registration with the appropriate Registry of Deeds and/or Land Registration Office.



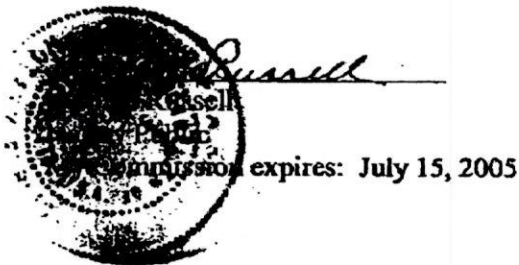
BR 20511 29 100 #2005.  
WITNESS the execution hereof under seal this 13<sup>th</sup> day of January, 2005.

  
Kenneth E. Marsters, Grantor

COMMONWEALTH OF MASSACHUSETTS

County of Barnstable

On this 13<sup>th</sup> day of January, 2005, before me, the undersigned notary public, personally appeared KENNETH E. MARSTERS, proved to me through satisfactory evidence of identification, which was a Massachusetts drivers license to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



The Mashpee Board of Health hereby approved and accepts this Grant of Title 5 Nitrogen Loading Restriction and Easement.

  
Mashpee Board of Health

Date: Jan 13, 2005

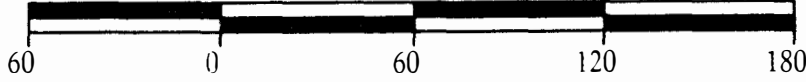
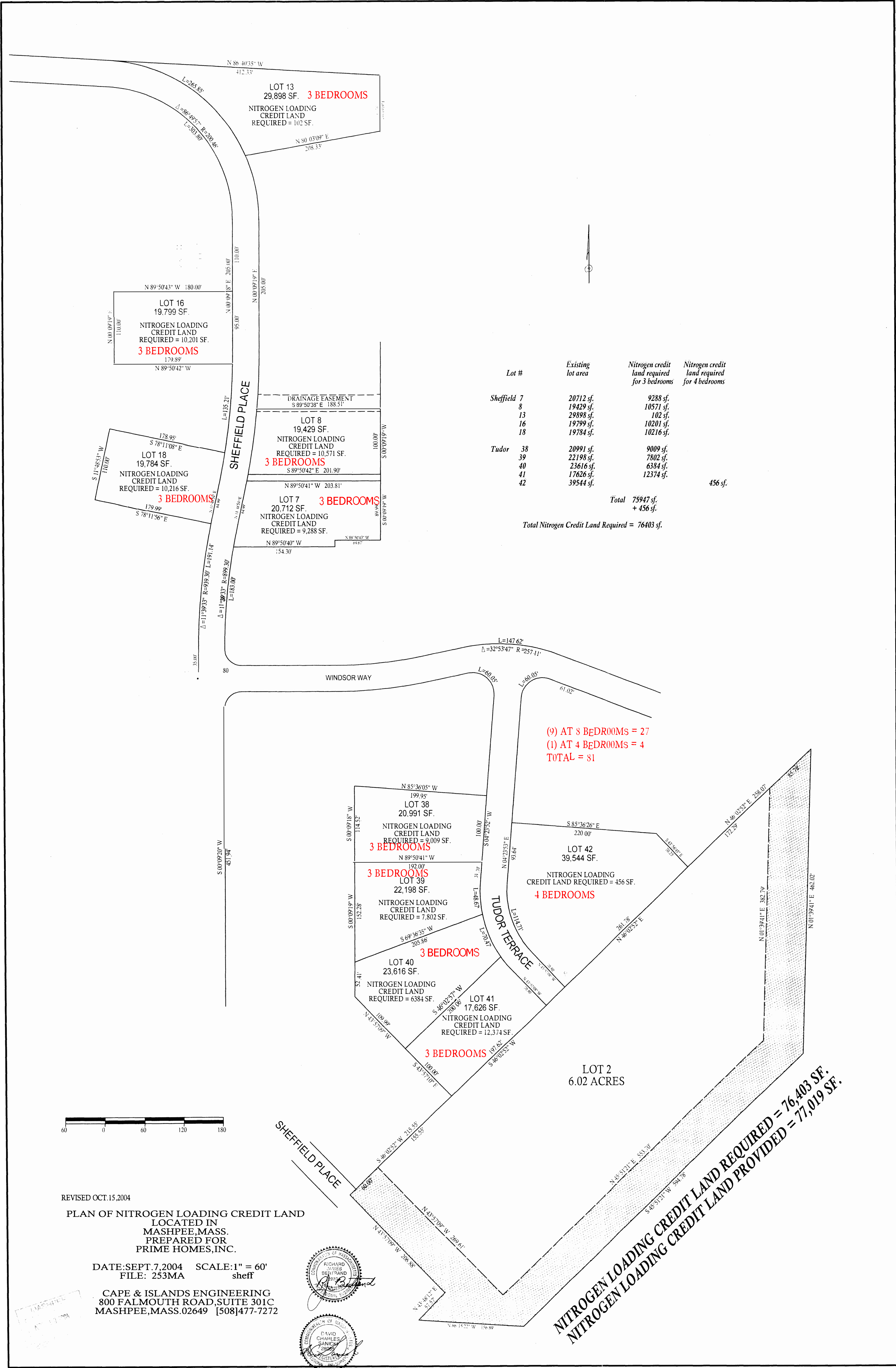
BARNSTABLE REGISTRY OF DEEDS



## Attachment B

### Annotated Plan of Nitrogen Loading Credit Land (Red text has been added for information purposes)





REVISED OCT.15,2004

PLAN OF NITROGEN LOADING CREDIT LAND  
LOCATED IN  
MASHPEE,MASS.  
PREPARED FOR  
PRIME HOMES,INC.

DATE:SEPT.7,2004 SCALE:1" = 60'  
FILE: 253MA sheff

CAPE & ISLANDS ENGINEERING  
800 FALMOUTH ROAD,SUITE 301C  
MASHPEE,MASS.02649 [508]477-7272





**PESCE ENGINEERING & ASSOCIATES, INC.**

**43 Porter Lane  
West Dennis, MA 02670**  
Phone: 508-333-7630  
[epesce@comcast.net](mailto:epesce@comcast.net)

January 17, 2023

Mashpee Planning Board  
Attn: Mr. Evan Lehrer, Town Planner  
Mashpee Town Hall  
16 Great Neck Road North  
Mashpee, MA 02649

RE: Engineering Review of the **Proposed Tudor Terrace** Subdivision Modification  
Sprig Hill West Definitive Subdivision, Mashpee, MA

Dear Mr. Lehrer & Members of the Planning Board:

Pesce Engineering & Associates, Inc. is pleased to provide you this engineering review of the application package for the proposed modification of the Spring Hill West Definitive Subdivision, located at Tudor Terrace, Mashpee, MA. We have evaluated the plans for consistency with the Town's Zoning Bylaw, and the Subdivision Rules & Regulations.

In addition to a site visit on November 1<sup>st</sup>, and attendance at the Planning Board hearings on November 2, 2022 & December 21, 2022, we have reviewed the following new information to prepare this letter report:

- Site Plans for the proposed subdivision modification, 20 Tudor Terrace, prepared by Cape & Islands Engineering, 4 Sheets (revised set), dated August 31, 2022, and revised November 2, 21 & 28, 2022, and revised Topographic Plan, dated December 21, 2022.
- Plan entitled "Plan of Nitrogen Loading Credit Land," prepared by Cape & Islands Engineering, 1 Sheet, as revised October 15, 2004.
- Spring Hill West Plan of Land, prepared by Baxter & Nye, Inc., 1 sheet, as revised October 19, 1989 and recorded at the Barnstable County Registry of Deeds, in Plan Book 467, Page 88.
- "Grant of Title 5 Nitrogen Loading Restriction and Easement," dated January 13, 2005, and recorded at the Barnstable County Registry of Deeds, in Book, 20944, Page 25097.

During the Planning Board hearings, it was explained by the applicant's team that the main purpose of the applications before the Planning Board (for both modification of the Definitive Subdivision plans & Special Permit), was to allow the subdivision of the an existing 6 acre parcel of land to allow for the creation of 3 new buildable lots (Lots 48, 49 & 50), while also modifying 2 existing lots (41 & 42 to become 41A & 42A). There are no proposed changes to the existing drainage system, since there will be no changes to the existing paved cul-de-sac of Tudor Terrace.



The following are our review comments (previously provided via e-mail and public testimony), regarding the site plans, layout, nitrogen analysis and drainage:

1. I mentioned during the November 2, 2022, public hearing that I recommended a couple items to allow for the protection of the existing drainage system in Tudor Terrace. There were as follows:
  - a. Conduct a stormwater inspection of the existing system in the Tudor Terrace cul-de-sac, pump-out all existing catch basins, and provide a letter (signed by a Professional Engineer) stating that this was performed.
  - b. Provide a roof drain detail, and or, a note requiring all roofs be provided with gutters & downspouts, and be connected to subsurface drywells/leaching systems.
  - c. Provide proposed grading plan showing that the proposed runoff from Driveways will not flow to, or contribute to the existing Tudor Terrace system (all runoff flow from the new driveways is to be contained on each lot)
2. I recommended an explanation of the Nitrogen Loading Credit Easement Area, and how it corresponds to the area shown in Lot 51:
  - a. I previously read the "Grant of Title 5 Nitrogen Loading Restriction and Easement" and mentioned that it referred to a maximum of 28 bedrooms on page 1, and 31 bedrooms on page 3? Has the total number of bedrooms that were built been confirmed?
  - b. It seems clear that the attached Nitrogen Aggregation Plan explains which lots benefit from the 77,019 SF Nitrogen Loading Credit Land Provided. This seems reasonable and good, but what about nitrogen credit requirements for the new lots created?
4. I recommend adding a note regarding the provided Nitrogen Loading Credit Area (77,019 SF) to Lot 51 on the final plan (to be consistent with the Sep. 2004 Nitrogen Loading Credit Land Plan).
5. I recommend adding a driveway detail showing the design cross-section, and showing a minimum 5' pavement length from the edge of pavement at Tudor Terr. (to allow for a proper transition from the pavement, if materials other than pavement are used for the driveway (gravel, cobblestone, pavers, etc.).
6. I recommend that consideration be given for a Condition involving the use of slow-release (nitrogen) organic fertilizer (rather than allow the use of common chemical fertilizer, which can dissolve quickly and potentially impact groundwater quality).

NOTE: During a technical review meeting held between myself and Mr. Mark Dobb of Cape & Island Engineering on December 20, 2022, we reviewed the above comments, and discussed the details of the nitrogen loading credit easement. All my nitrogen loading credit land and plan



revision comments were resolved, and Mr. Dibb agreed to make the necessary edits to the final plans.

Thank you for this opportunity to assist the Planning Board in their review of this project, and as always, please call or e-mail me if you have any questions or comments.

Sincerely,

PESCE ENGINEERING & ASSOCIATES, INC.



Edward L. Pesce., P.E., LEED ® AP  
Principal

cc: Mark Dibb, Cape & Islands Engineering

Dear Town Planning Committee Of Mashpee, Massachusetts

January 18, 2023

Re: Variant Requested for 20 Tudor Terrace

As residents of 11 Saxony Drive we would like the committee to vote against the variance requested for 20 Tudor Terrace for the following reasons.

- Our neighborhood, known as Spring Hill, was created as a 45 lot subdivision in 1989. The lot requires a 150' frontage. On the cul-de-sac Tudor Terrace there were no houses until recently. The 1989 plan included plans for six lots on Tudor Terrace, the first three on the right side of Tudor Terrace have already been built and two have sold in 2022. The remaining lots, under the 1989 plan, would allow for the building of three more homes.
- We would like the original 45 lot homes to be enforced. The original Spring Hill plan set aside open space. We would like the original open space requirement to be enforced.
- The lot frontage required a minimum 150' frontage. We would like this to be enforced as well.
- We enjoy the woods behind our home and we do not want to look out at the back of another house. It was one of the primary reasons we purchased our home.
- Most of our wells are at the back of our property and now we will be competing with six additional houses for the water supply. Not including the three houses that were recently built.
- Our cul-de-sac on Saxony Drive has three houses around the circle. All the cul-de-sac in Spring Hill have the two or three houses around the circle. This proposal will have six houses around the circle on Tudor Terrace.
- Increase light and sound pollution from the six proposed houses.
- Potential overload of the storm drain, dormant since 1989.
- Increase of nitrogen pollution from the septic tanks of the nine new house on Tudor Terrace. This places an additional strain on Santuit Pond where the water will run off to. Santuit Pond is a pond that is already low quality pond contaminated with high levels of nitrogen.
- Increase traffic for the new residents on Tudor Terrace and anyone using Windsor Way.
- The new lot sizes proposed will be larger than any lot size from the original 1989 Spring Hill subdivision layout. For equity, we request that any new lot conform with existing lot sizes.

- Once the open space is developed it can never be restored. This land has much wildlife, deer, turkeys, etc. Many neighbors would walk their dogs around the circle enjoying the peaceful woods.

Sincerely,  
Stephen and Nancy Ferreira  
11 Saxony Drive  
Mashpee, MA 02649

*Stephen Ferreira*  
*Nancy E. Ferreira*

## TRIPARTITE AGREEMENT

Agreement made this \_\_\_\_ day of January, 2023 by SILVA DEVELOPMENT LLC (the "Applicant"), a Massachusetts limited liability company with an address of 65 Cape Road, Mendon, MA 01756 and NORWOOD BANK, a Massachusetts banking corporation with an address of 11 Central Street, Norwood, MA 02062 (the "Lender"), with the PLANNING BOARD of the TOWN OF MASHPEE (the "Board").

The Applicant is the owner of a subdivision of land known as Willow Circle, as shown on a plan entitled: modification to Willow Circle Definitive Subdivision Plan, prepared for Southworth Mashpee Properties LLC, prepared by Baxter Nye Engineering & Surveying, Inc, dated September 10, 2021 (the "Definitive Plan") and endorsed by the Mashpee Planning Board on January 5 2022 and recorded with the Barnstable County Registry of Deeds at Book 694 Page 50

Applicant's predecessor in title, Southworth Mashpee Properties LLC, executed and recorded with said Registry of Deeds a Covenant with the Board to construct ways and install services within said subdivision dated December 13, 2021 and recorded on January 27, 2022 -with said Registry of Deeds in Book 34860, Page 128 (the "Covenant");

The Applicant has granted a first mortgage to the Lender covering all of the lots in said subdivision in order to finance the cost of said construction and installation which said mortgage is dated March 31, 2022 and recorded with said Barnstable County Registry of Deeds in Book 35014, Page 96;

The Applicant wishes to obtain a release of all of said lots from the Covenant without posting a bond or depositing money with the Board and is desirous of having the Lender retain sufficient funds otherwise due the Applicant to secure the full performance of its obligations to construct the ways and install the services to the mortgaged premises, all as provided in M.G.L.c.41, s.81U and the Mashpee Subdivision Regulations;

The remaining cost for the work to complete said construction and installation, as set forth on the attached spreadsheet is \$238,350.00 and the Board requires an additional 50%, or a total of \$357,525 (the "Security") to be retained by the Lender as undisbursed construction funds as security for completion of the work.

The Lender does agree to retain the Security in undisbursed construction funds otherwise due the Applicant to secure said construction and installation all in accordance with the construction disbursement schedule attached hereto (the "Disbursement Schedule"); and

The Board is agreeable to an arrangement whereby the Lender is to retain the Security to secure the said construction and installation.

NOW, THEREFORE, the Applicant, Lender and Board hereby agree as follows:

1. In order to secure the construction of ways and installation of municipal services in said subdivision in accordance with the Rules and Regulations of the Board, the Lender agrees to retain in its possession first mortgage and secured line of credit proceeds in the amount of \$357,525, and to disburse said money to the Applicant in accordance with the

TRIPARTITE AGREEMENT

Disbursement Schedule only after the Board has notified the Lender in form of a letter that the work has been satisfactorily completed in accordance with the terms and conditions of the Disbursement Schedule and Mashpee Subdivision Rules and Regulations.

2. The Applicant agrees to complete the said construction and installation as provided in said Rules and Regulations and Applicant and Lender agree that if the work is not satisfactorily completed by 12/31/2025 then, upon notice to the Lender and Applicant in writing of such non-completion, said funds shall forthwith be available to the Town of Mashpee for the completion of said construction and installation.
3. The Applicant agrees to appear before the Board annually to provide progress reports on the work indentified in the Disbursement Schedule.
4. The MASHPEE PLANNING BOARD hereby releases all of the lots shown on the Subdivision Plan from the Covenant.

In witness whereof, the parties hereto have caused this instrument to be executed in their behalf as of the day and year first above written.

SILVA DEVELOPMENT LLC

MASHPEE PLANNING BOARD

BY: \_\_\_\_\_  
Leonardo L. DaSilva, Manager

\_\_\_\_\_  
\_\_\_\_\_

NORWOOD BANK

\_\_\_\_\_

BY: \_\_\_\_\_  
John J. Crowley, Vice President

\_\_\_\_\_  
\_\_\_\_\_

TRIPARTITE AGREEMENT

COMMONWEALTH OF MASSACHUSETTS

Norfolk:ss

January \_\_\_, 2023

Then personally appeared before me the above-named Leonardo L. DaSivla, Manager, who produced a valid driver's license as evidence of identity and acknowledged the foregoing to be true and accurate and that it was executed for its within stated purpose and as his free act and deed.

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Notary Public

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Norfolk:ss

January \_\_\_, 2023

Then personally appeared before me the above-named John J. Crowley, Vice President, who produced a valid driver's license as evidence of identity and acknowledged the foregoing to be true and accurate and that it was executed for its within stated purpose and as his free act and deed.

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Notary Public

My Commission Expires:

TRIPARTITE AGREEMENT

COMMONWEALTH OF MASSACHUSETTS

Barnstable: ss

January \_\_, 2023

Then personally appeared before me \_\_\_\_\_

\_\_\_\_\_, in their respective capacities as members of the Mashpee Planning Board, who each produced a valid driver's license as evidence of identity and acknowledged the foregoing to be true and accurate and that it was executed for its within stated purpose and as his/her free act and deed.

\_\_\_\_\_  
Notary Public

My Commission Expires:



**\*Action Item\* May 1, 2023 Special and Annual Town Meeting Article Deadline -  
MONDAY, February 13, 2023**

Terrie Cook

Wed 1/4/2023 3:09 PM

To: All Selectmen <allselectmen@mashpeema.gov>; All FinCom Members  
<AllFinComMembers@mashpeema.gov>; All Department Heads  
<AllDepartmentHeads@mashpeema.gov>; Kathleen Soares <KSoares@mashpeema.gov>; Mary Ann Romero  
<mromero@mashpeema.gov>; Stacey Ducharme <sducharme@mashpeema.gov>; Jennifer M. Thomas  
<jmthomas@mashpeema.gov>; Stephanie Coleman <SColeman@mashpeema.gov>; Tamara Gray  
<TGray@mashpeema.gov>; Jennifer Beaton <jbeaton@mashpeema.gov>; Lisa Frye  
<lfrye@mashpeema.gov>; Karol A. Grato <kgrato@mashpeema.gov>; stephenmone@comcast.net  
<stephenmone@comcast.net>; Robert Tomaino <rtomaino@mashpeema.gov>; Sandra Pacheco  
<spacheco@mashpeema.gov>; Jessica Kelley <jkelley@mashpeema.gov>; Marilyn Cullity  
<mcullity@mashpeema.gov>; Ava Costello <ACostello@mashpeema.gov>; Mary Waygan  
<marywaygan@mashpeegovernment@gmail.com>; Christopher Avis <CAvis@mashpeema.gov>  
Cc: Rodney C. Collins <rccollins@mashpeema.gov>; Wayne E. Taylor <wtaylor@mashpeema.gov>

**\*MAY 1, 2023 SPECIAL AND ANNUAL TOWN MEETINGS ARTICLE SUBMISSION DEADLINE  
MONDAY, FEBRUARY 13 2023\***

Good Day:

Please be advised that proposed Warrant Articles for the May 1, 2023 Special and Annual Town Meetings are due to this office by 4:30 pm on Monday, February 13, 2023.

As soon as possible, submit Articles with explanations, as a **WORD** document via email to the Town Manager ( [rccollins@mashpeema.gov](mailto:rccollins@mashpeema.gov) ), Assistant Town Manager ( [wtaylor@mashpeema.gov](mailto:wtaylor@mashpeema.gov) ), and to me ( [tmcook@mashpeema.gov](mailto:tmcook@mashpeema.gov) ).

A hard copy must also be submitted to this office by the deadline.

Below is the notice to be published in the Enterprise on Friday, January 6, 2023:

**TOWN OF MASHPEE  
MAY 2023 SPECIAL & ANNUAL TOWN MEETING WARRANTS  
ARTICLE SUBMISSION DEADLINE  
PUBLIC NOTICE**

Pursuant to Mashpee Code Chapter 2, Section 2-1(C), please be advised that Warrant Articles for the May 1, 2023 Special and Annual Town Meetings must be submitted to the Office of the Select Board no later than the close of business on Monday, February 13, 2023.

Per Order of  
***Mashpee Select Board***

David W. Weeden, Chair

Chair

John J. Cotton, Vice-

Thomas F. O'Hara , Clerk  
Carol A. Sherman

Colombo

Michaela Wyman-

Thank you.

**Terrie M. Cook, MCPPO** | Administrative Assistant to the Town Manager  
Office of the Town Manager  
16 Great Neck Road North, Mashpee, MA 02649  
Office: 508.539.1401 | Fax: 508.539.1142  
Email: [tmcook@mashpeema.gov](mailto:tmcook@mashpeema.gov)



*"Preserving public trust and providing professional services."*

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Evan Lehrer  
Town Planner  
(508) 539-1414  
elehrer@mashpeema.gov



Planning Department  
Mashpee Town Hall  
16 Great Neck Road North  
Mashpee, MA 02649

To: Mashpee Planning Board  
From: Evan Lehrer, Town Planner  
Date: January 13, 2023  
Re: Fill restriction proposal

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Attached to this memo is modified language intended to encourage property owners in the floodplain to utilize more resilient, safe, and environmentally beneficial construction methods for new homes or redevelopment in Mashpee's floodplains. Generally this means raising a structure on pilings or constructing atop a solid wall foundation with flood vents.

The proposal seeks to prohibit the use of fill to elevate any proposed home's first floor elevation to at or above base flood elevation.

Further the proposal contemplates requiring any property in the floodplain utilize a Board of Health Approved Innovative/Alternative septic system:

The benefits of this approach are threefold:

1. I/A systems require a reduced distance to groundwater and thus require less material for construction. Some I/As only require less than 2.0 feet to groundwater.
2. I/A are more effective at treatment for nutrient removal
3. I/A require a smaller footprint.

Things to note regarding this proposal:

Staff have been contemplating the appropriate mechanism to make these regulatory changes. The attachment here contemplates a zoning bylaw change which requires a 2/3 town meeting vote. We may consider making these regulatory changes through ConComm regulations and Board of Health Regulations that can be promulgated without a Town Meeting Vote.

Regardless of the vehicle that carries these proposed amendments, staff recommend a robust education and community engagement process before considering any proposed changes. A benefit to proposing this at ConComm and Board of Health and not as a zoning bylaw to Town Meeting is that we can facilitate a robust engagement process and be in a position to promulgate those regulations in early summer and not have to wait for an October Town Meeting approval and January affirmation from the Attorney General.

Evan Lehrer  
*Town Planner*  
(508) 539-1414  
elehrer@mashpeema.gov



Planning Department  
Mashpee Town Hall  
16 Great Neck Road North  
Mashpee, MA 02649

If this is the favored approach I would recommend a subsequent zoning article submission to ensure that all of the governing regulatory documents whether they be zoning, wetlands protection, or health are consistent across the board.

On November 16, 2022 I presented an approach to these Clean Water Articles to the Planning Board in an effort to position the Town for success at an October Town Meeting. The Board unanimously supported that approach then. Since that time staff have conducted analyses and worked towards reworking some of these proposals based on feedback received last summer and are in a position to begin rolling out the education and engagement component beginning at the end of February.

We anticipate that feedback obtained through community outreach and education may lead to additional modifications prior to asking any regulatory body or legislative body to take final action on the proposed.

This fill article is intended to be accompanied by a proposal to increase the wetlands buffer to 150 feet as well as potential fertilizer restrictions. The last effort to make these changes was rife with misinformation and limited community engagement. Staff intend on position these proposals for success by providing the appropriate forums for discussion, feedback, and collaboration.

**Warrant Article \_\_\_\_ :**

To see if the Town will vote to add the following new subsections into Article XI: Floodplain Zone Overlay as follows:

**§174-67 Prohibitions**

The purpose of these prohibitions are to encourage more resilient, safer, and environmentally beneficial construction methods in the 100 year floodplain and is not intended to otherwise restrict or prevent construction of a new or redeveloped dwelling or other allowable structure.

No person shall fill, place or dump in a floodplain any soil, loam, peat, sand, gravel, rock or other material substance, refuse, trash, rubbish, debris or dredged material for the purposes of raising their first floor elevation to be at or above the base flood elevation. Solid wall foundations with flood vents or pilings are the only acceptable construction methods within the 100-year floodplain.

No Letters of Map Revision based on Fill (LOMR-Fs) or Letters of Map Amendment Based on Fill (LOMA-F) will be permitted

Conventional Title V Septic System technologies shall not be permitted within the 100 year flood plain and a Board of Health approved Innovative/Alternative septic system is required. For the purposes of this section any lot who is partially impacted by the 100 year flood plain shall be considered within the 100 year floodplain unless otherwise served by a public or private wastewater treatment facility.

**§174-67.1 Exceptions to rule prohibiting the use of fill in any flood zone**

Landscape material up to two feet in depth at the foundation and tapered to meet grade within ten feet (10) of the foundation shall not be calculated towards grade plane and shall not be considered fill as regulated in §174-67 of this Bylaw.

The use of rock for the purposes of reconstructing a revetment or groin shall not be considered fill as regulated by §174-67 of this Bylaw. The reconstruction of such structures shall require all permits as required by local, state, and/or federal laws.

The use of dredged material for beach re-nourishment shall not be not be considered fill as regulated in §174-67 of this Bylaw but shall require all permits as required by local, state, and/or federal laws.

Any material: soil, loam, peat, sand, gravel, rock or other material substance required for the installation of a Board of Health approved Innovative/Alternative Septic System shall not be considered fill as regulation in §174-67 of this Bylaw.

Explanation:

This article would require new construction or redevelopment of homes in the 100 year floodplain utilize either a solid-wall foundation with flood vents or pilings for new homes or redeveloped homes. Further it requires that properties touched by the floodplain install Innovative/Alternative septic systems unless served by a public or private wastewater treatment facility. This bylaw does not propose to remove the rights of any property owner to build or re-build a new dwelling on lots in the floodplain. If your lot is buildable today, it will remain buildable following the passage of this article.

Article \_\_\_\_:

To see if the Town will vote to add new section 174-45.7: Solar Energy Systems to the Mashpee Zoning Bylaws as follows:

## **Solar Energy Systems**

### **Purpose and Intent**

This section promotes the creation of new small, medium and large-scale, ground-mounted solar energy systems by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations. This section ordinance is adopted pursuant to the Commonwealth of Massachusetts Green Communities Act and Massachusetts General Laws Chapter 40A Section 3.

### **General Provisions**

- A.** Small scale ground mounted solar energy systems and roof mounted solar energy systems shall be considered an accessory use allowed as-of-right in the R-3, R-5, C-1, C-2, C-3, and I-1 districts. In issuing such building permit, the Building Inspector shall ensure that neighboring properties are effectively protected from any adverse impacts from glare.
- B.** Any medium or large scale solar energy system shall be allowed in the R-3, R-5, C-1, C-2, C-3 and I-1 Zoning Districts only after the issuance of a Special Permit by the Planning Board. In issuing such Special Permit, the Board shall ensure that neighboring properties are effectively protected from any significant adverse impacts from glare, that any such systems are properly fenced or otherwise secured, and that no hazardous materials are stored in quantities greater than permitted by other sections of this bylaw.
- C.** The construction and operation of all ground-mounted solar energy systems shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a ground-mounted solar energy system shall be constructed in accordance with the Massachusetts State Building Code.
- D.** The solar energy system's owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the ground-mounted solar energy system and any access road(s).



## **E. Dimensional Criteria**

### **Small Scale Solar Energy Systems**

1. Small scale ground mounted systems shall comply with the setback requirements typical of the zoning district and shall not exceed fifteen (15') feet in height.
2. Small scale ground mounted systems shall be exempt from the performance standards defined in Section G of this chapter.

### **Medium and Large Scale Solar Energy Systems**

1. Medium and Large Scale Solar energy systems may be accessory to another principal structure or use provided that they satisfy the dimensional criteria and performance standards contained in this section.
2. Ground-mounted solar energy systems shall be set back a distance of at least 100 feet from a public or private way. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.
3. Ground-mounted solar energy systems shall be set back a distance of at least 125 feet from any inhabited Residence, and 100 feet from any property in residential use. For the purposes of this section, a Residence is defined as the primary living structure and not accessory structures. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.
4. Ground-mounted solar energy systems shall be set back a distance of at least 50 feet from any commercial property or use, and 25 feet from any industrial property or use notwithstanding the provisions of paragraph 2 above (relative to medium and large scale solar energy systems). The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.
5. Ground-mounted solar energy systems shall be set back a distance of at least 50 feet from abutting conservation land and any property not included in the Ground-mounted solar array application. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.
6. Fixed tilt Ground-mounted solar energy systems shall have a maximum height of 15 feet above grade. In the case of single or dual axis tracking Ground-mounted solar energy systems, the Planning Board may increase the maximum height as appropriate based on site-specific considerations.
7. Inverters, energy storage systems, and transmission system substations shall be set back a distance of at least 200 feet from any residence. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.

#### **F. Special Permits Rules and Application Requirements**

A Solar Energy System Special Permit shall not be granted unless each of the following requirements, in addition to the requirements in §174-24 C Special Permit use, are satisfied:

1. A properly completed and executed application form and application fee
2. Any requested waivers
3. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any
4. Name, contact information and signature of any agents representing the project proponent
5. Name, address, and contact information for proposed system installer
6. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar energy system
7. Proposed hours of operation and construction activity
8. Blueprints or drawings of the solar energy system signed by a Massachusetts licensed Registered Professional Engineer showing the proposed layout of the system and any potential shading from nearby structures
9. Utility Notification - evidence that the utility company that operates the electrical grid where a grid-intertie solar energy system is to be located has been informed of the system owner or operator's intent to install an interconnected facility and acknowledges receipt of such notification, and a copy of an Interconnection Application filed with the utility including a one or three line electrical diagram detailing the solar electric installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code (527 CMR § 12.00) compliant disconnects and overcurrent devices. Off-grid solar energy systems shall be exempt from this requirement.
10. Documentation of the major system components to be used, including the electric generating components, battery or other electric storage systems, transmission systems, mounting system, inverter, etc.
11. Preliminary Operation & Maintenance Plan for the solar energy system, which shall include measures for maintaining safe access to the installation, storm water management, vegetation controls, and general procedures for operational maintenance of the installation
12. Abandonment & Decommissioning Plan - Any ground-mounted solar energy system which has reached the end of its useful life or has been abandoned (i.e., when it fails to operate for more than one year without the written consent of the Planning Board) shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. The Abandonment & Decommissioning Plan shall include a detailed description of how all of the following will be addressed:
  - a. Physical removal of all structures; equipment, building, security barriers and transmission lines from the site, including any materials used to limit vegetation.
  - b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
  - c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow landscaping or below-grade foundations left *in situ* in order to minimize erosion and disturbance of the site.

- d. Description of financial surety for decommissioning - Proponents of ground-mounted solar energy systems shall provide a form of surety, either through escrow account, bond or other form of surety approved by the Planning Board to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be commercially reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.
  - e. It shall be a condition of any special permit that all legal documents required to enable the Town to exercise its rights and responsibilities under the plan to decommission the site, enter the property and physically remove the installation shall be provided prior to the issuance of a building permit.
13. Proof of liability insurance
14. A storm water management plan prepared by a Massachusetts licensed Registered Professional Engineer
15. A Site Plan, with stamp and signature of the Massachusetts licensed Registered Professional Engineer that prepared the plan, including the following:
- a. Everything required under this bylaw and Site Plan Approval
  - b. Existing Conditions Plan, showing property lines, map and lot from the Assessor's records, and physical features, including roads and topography, for the entire project site, signed and sealed by a Massachusetts licensed Registered Land Surveyor
  - c. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation, fencing or structures including their height, and placement of system components, including solar arrays and related structures and equipment
  - d. An estimate of earthwork operations including the volume of cut and fill and the amount of soil material to be imported or exported from the site
  - e. Locations of wetlands, vernal pools, and Priority Habitat Areas defined by the Natural Heritage & Endangered Species Program (NHESP)
  - f. Locations of floodplain area(s)
  - g. Zoning district designation for the parcel(s) of land comprising the project site (submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose)
  - h. Materials storage and delivery and equipment staging area(s)
  - i. Location of screening vegetation or structures

**G. Required Performance Standards – Medium and Large Scale Solar Energy Systems**

1. Visual Impact Mitigation – The site plan for a ground-mounted solar energy system shall be designed to screen the array to the maximum extent practicable year round from adjacent properties in residential use and from all roadways.
2. All required setbacks shall be left in their undisturbed natural vegetated condition for the duration of the solar energy system's installation. In situations where the naturally vegetated condition within required setbacks is not wooded and does provide adequate screening of the solar array, the Planning Board may require additional intervention including, but not limited to:
  - a. A landscaping plan showing sufficient trees and understory vegetation, of a type common in natural areas of Mashpee, to replicate a naturally wooded area and to constitute a visual barrier between the proposed array and neighboring properties and roadways
  - b. Berms along property lines and roadways with suitable plantings to provide adequate screening to neighboring properties and roadways.
3. Lighting – Lighting of ground-mounted solar energy systems shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
4. Signage – Signs on ground-mounted solar energy systems shall comply with all applicable regulations of this bylaw and/or any Town sign bylaw. A sign shall be required to identify the owner, operator and interconnected utility and provide a 24-hour emergency contact phone number. Ground-mounted solar energy systems shall not be used for displaying any advertising signage.
5. Utility Connections – Within setback distances and except where soil conditions, location, property shape, and topography of the site or requirements of the utility provider prevent it, all utility connections from grid-intertie solar energy systems shall be placed underground. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
6. Vegetation Management – All land associated with the ground-mounted solar energy system shall be covered and grown in natural vegetation. The height of vegetation must be managed by regular mowing or grazing so as to minimize the amount and height of combustible material available in case of fire. Herbicides, pesticides, or chemical fertilizers shall not be used to manage vegetation. To the greatest extent practicable, a diversity of plant species shall be used, with preference given to species that are native to New England. Use of plants identified by the most recent copy of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources is prohibited. Management of all vegetated areas shall be maintained throughout the duration of the

solar energy system's installation through mechanical means without the use of chemical herbicides.

7. Noise Generation – Noise generated by ground-mounted solar energy systems and associated equipment and machinery shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10.
  8. Fencing – Fencing around solar arrays shall provide a minimum 6" clearance between the fence bottom and the ground to allow passage of small wildlife. The Planning Board shall require residential style fencing where necessary to screen the solar energy systems year round from adjacent residences.
  9. Land Clearing and Soil Erosion – Clearing of natural vegetation and topsoil shall be limited to what is necessary for the construction, operation and maintenance of the ground-mounted solar energy system. No topsoil removed during construction shall be exported from the site.
  10. Erosion Control and Stormwater – Erosion Control and Stormwater Management notation shall be included to show that adequate provisions against erosion and adverse impacts of runoff are appropriately mitigated.
  11. Emergency Services – The ground-mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Mashpee Fire Department, and any other neighboring Fire Department upon request. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- H. The Planning Board may, upon the prior written request of the applicant, waive any of the requirements of this Section, but must state their reasons for doing so in writing as part of their decision.

Submitted by Planning Board

#### EXPLANATION

This section promotes the creation of new small, medium and large-scale, ground-mounted solar energy systems by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations.

Already  
Approved

Article \_\_\_\_:

To see if the Town will vote to amend §174-3 of the Mashpee Zoning Bylaw- Terms Defined as follows:

Photovoltaic System (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity.

Rated Nameplate Capacity: The maximum rated output of electric power production of a photovoltaic system in watts of Direct Current (DC).

Solar Collector: A device, structure, or a part of a device or structure for the primary purpose of harvesting solar energy for use in a solar energy system.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System: A device or structural design feature for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Solar Energy System, Active: A solar energy system that collects and transforms solar energy into another form of energy or transfers heat from a solar collector to another medium, via mechanical, electrical, or chemical means.

Solar Energy System, Grid-Intertie: A photovoltaic system or other active solar energy system designed to generate electricity that is connected to an electric circuit served by an electric utility.

Solar Energy System, Ground-Mounted: An active solar energy system that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

Solar Energy System, Large-Scale: An active solar energy system that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

Solar Energy System, Medium-Scale: An active solar energy system that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC).

Solar Energy System, Off-Grid: A photovoltaic system or other active solar energy system designed to generate electricity in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

Solar Energy System, Passive: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Solar Energy System, Roof-Mounted: An active solar energy system that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).

Solar Energy System, Small-Scale: An active solar energy system that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 15 kW DC or less).

Submitted by Planning Board

**EXPLANATION**

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Article\_\_\_\_:

To see if the Town will vote to amend §174-31, Landspace Requirements Table, Footnote 4 of the as follows:

<sup>4</sup> These height restrictions shall not apply to chimneys, water towers, skylights, roof-mounted solar energy systems and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy nor to wireless or broadcasting towers and other like unenclosed structures, except that when any structure or portion of a structure is proposed to exceed forty (40) feet in height, construction shall require a Federal Aviation Administration (FAA) Determination of No Hazard or evidence of exemption for the determination process. Other than for those items excepted above, height shall be measured from the average original grade of the land adjacent to the foundation line of any proposed structure (prior to the clearance of the natural vegetation from said site) to any applicable point on a structure. Except for a traditional widow's walk of up to one hundred (100) 58 square feet in area, roof decks will be permitted only if located directly on top of the first or second story of any building.

Article \_\_\_\_:

To see if the Town will vote to amend §174-31, Landspace Requirements Table by adding new footnote 15 to read as follows:

<sup>15</sup> Minimum lot frontage required for the development of solar energy systems shall be twenty-five (25) feet.

Article\_\_\_\_:

To see if the Town will vote to add §174-25 (I)(16) of the Mashpee Zoning By Law "Table of Use Regulations" by adding the letter 'Y' located in the columns identified as R-3, R-5, C-1, C-2, and C-3 and replacing the letters 'SP' in the column identified as I-1 with a 'Y' as follows:

Type of Use	Residential		Commercial			Industrial
	R-3	R-5	C-1	C-2	C-3	I-1
Small-scale Solar Energy System, subject to the provisions of Sec. 174-45.7	Y	Y	Y	Y	Y	Y

Submitted by Planning Board

**EXPLANATION:**

This article would allow the development of small scale solar energy systems in the residential, commercial and industrial zoning districts of the Town as a by-right accessory use.

Article\_\_\_\_:

To see if the Town will vote to amend §174-25 (H)(12) of the Mashpee Zoning By Law "Table of Use Regulations" by adding the letters 'SP' located in the columns identified as R-3, R-5, C-1, C-2, and C-3 and replacing the letters 'PR' in the column identified as I-1 with a 'SP' as follows:

Type of Use	Residential		Commercial			Industrial
	R-3	R-5	C-1	C-2	C-3	I-1
Medium-scale Solar Energy System, subject to the provisions of Sec. 174-45.7	SP	SP	SP	SP	SP	SP

Submitted by Planning Board

**EXPLANATION:**

This article would allow the development of medium scale solar energy systems in the residential, commercial and industrial zoning districts with a Special Permit from the Planning Board.

Article\_\_\_\_\_:

To see if the Town will vote to add §174-25 (H)(13) of the Mashpee Zoning By Law "Table of Use Regulations" by adding the letters 'SP' located in the columns identified as R-3, R-5, C-1, C-2, and C-3 and replacing the letters 'PR' in the column identified as I-1 with a 'SP' as follows:

Type of Use	Residential		Commercial			Industrial
	R-3	R-5	C-1	C-2	C-3	I-1
Large-scale Solar Energy System, subject to the provisions of Sec. 174-45.7	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>	<b>SP</b>

Submitted by Planning Board

**EXPLANATION:**

This article would allow the development of large scale solar energy systems in the residential, commercial and industrial zoning districts of the Town as a by-right accessory use.

## Article 29

To see if the Town will vote to amend §174-3 of the Mashpee Zoning By-Law, Terms Defined as follows:

Photovoltaic System (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity.

Rated Nameplate Capacity: The maximum rated output of electric power production of a photovoltaic system in watts of Direct Current (DC).

Solar Collector: A device, structure or a part of a device or structure for the primary purpose of harvesting solar energy for use in a solar energy system.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System: A device or structural design feature for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

Solar Energy System, Active: A solar energy system that collects and transforms solar energy into another form of energy or transfers heat from a solar collector to another medium, via mechanical, electrical or chemical means.

Solar Energy System, Grid-Intertie: A photovoltaic system or other active solar energy system designed to generate electricity that is connected to an electric circuit served by an electric utility.

Solar Energy System, Ground-Mounted: An active solar energy system that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

Solar Energy System, Large Scale: An active solar energy system that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

Solar Energy System, Medium Scale: An active solar energy system that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10-150 kW DC).

Solar Energy System, Off-Grid: A photovoltaic system or other active solar energy system designed to generate electricity in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

Solar Energy System, Passive: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Solar Energy System, Roof-Mounted: An active solar energy system that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).

Solar Energy System, Small-Scale: An active solar energy system that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 15 kW DC or less).

Submitted by the Petition

**Explanation:** This amendment serves to define terms that are used in the new proposed Solar Energy Systems Overlay District.

**The Board of Selectmen will make a recommendation at Town Meeting of Article 29 by a vote of 5-0**  
**The Finance Committee will make a recommendation at Town Meeting of Article 29 by a vote of 6-1**

### **Article 30**

To see if the Town will vote to amend §174-4, Enumeration of Districts by adding:

**SOLAR ENERGY SYSTEMS OVERLAY DISTRICT**

Submitted by Petition

**Explanation:** This article would create and establish a Solar Energy System Overlay District as enumerated in proposed Section 174-45.7.

**The Board of Selectmen will make a recommendation at Town Meeting of Article 30 by a vote of 5-0**

**The Finance Committee will make a recommendation at Town Meeting of Article 30 by a vote of 6-1**

### **Article 31**

To see if the Town will vote to amend §174-5, Establishment of Zoning Map by adding §174-5 (H) as follows:

The Solar Energy Systems Overlay District shall include all of the parcels of land described as follows:

All of the land as shown on Town of Mashpee Assessor Fiscal Year 2022 Tax Maps: 72-117; 72-113; 72-112; 72-111; 72-110; 72-118; 79-80; 79-79; 79-71; 79-72; 79-73; 79-74; 79-75; 79-76; 79-77 and 79-78.

All are located in the R-5 and C-2 Zoning District.

Submitted by Petition

**Explanation:** This article is intended to define by reference to the Mashpee Assessor Fiscal Year 2022 tax maps, the land within the Solar Energy Systems Overlay District that should be attached to this zoning map.

**The Board of Selectmen will make a recommendation at Town Meeting of Article 31 by a vote of 5-0**

**The Finance Committee will make a recommendation at Town Meeting of Article 31 by a vote of 6-1**



## Article 32

To see if the Town will vote to amend §174-25 (H)(12) of the Mashpee Zoning By Law "Table of Use Regulations by adding "SP" under Zoning Districts R-5 and C-2

TYPE OF USE	RESIDENTIAL		COMMERCIAL			INDUSTRIAL
	R-3	R-5	C-1	C-2	C-3	I-1
Medium-scale and Large-scale Ground mounted Solar Energy Systems, provided that neighboring properties are effectively protected from any significant adverse impacts from glare, that any such systems are properly fenced or otherwise secured, and that no hazardous materials are stored in quantities greater than permitted by other sections of this By-Law, subject to approval by the Plan Review Committee and Design Review Committee.  (Allowed by SP under 174-45.7 only in the Solar Energy System Overlay District).		SP		SP		PR

Submitted by Petition

**Explanation:** This article would allow the development of medium and large scale solar energy systems in the residential (R-5) and commercial (C-2) zoning districts with a Special Permit from the Planning Board provided they are within the Solar Energy Systems Overlay District.

**The Board of Selectmen will make a recommendation at Town Meeting of Article 32 by a vote of 5-0**  
**The Finance Committee will make a recommendation at Town Meeting of Article 32 by a vote of 6-1**

### **Article 33**

To see if the Town will vote to amend Article VII Land Space Requirement, Section 174-31, Land Space Requirement Table by adding footnote "25" to "maximum of lot coverage (percent)." Footnote 25 would read as follows:

Structures erected solely for the purpose of roof-mounted solar energy systems in permitted parking lots/areas shall not contribute to a parcel's lot coverage maximum but shall comply with all setback criteria of the applicable zoning district. For medium and large scale solar energy systems requiring a special permit from the Planning Board, pursuant to Sec.174-25(H)12 Solar Energy Systems Overlay District, the Planning Board may, at its sole discretion, approve in its decision a solar energy system whose lot coverage exceeds 20% in consideration of site specific conditions.

Submitted by Petition

**Explanation:** Rationale and support for zoning change to enhance the density of solar projects in Mashpee: In 2018 the Commonwealth of Massachusetts put forth a new solar initiative called the Smart program. This groundbreaking concept will help Massachusetts be a leader in solar energy. Given the high cost of land in Mashpee, it is essential to achieve enough density to make a solar project meaningful. The proposed footnote to the By-Law will give the planning board sufficient tools and oversight to achieve an appropriate balance between solar project density and the needs of the community.

**The Board of Selectmen will make a recommendation at Town Meeting of Article 33 by a vote of 5-0**

**The Finance Committee will make a recommendation at Town Meeting of Article 33 by a vote of 6-1**

### **Article 34**

To see if the Town will vote to establish within the Town of Mashpee a Solar Energy System Overlay District by adding a new Section 174-45.7 as follows:

#### **SOLAR ENERGY SYSTEMS OVERLAY DISTRICT**

##### **A. Purpose and Intent**

1. This section promotes the creation of new small, medium and large-scale, ground-mounted solar energy systems overlay district, in the areas which are delineated on a map dated January 25, 2021 and entitled "Solar Energy Systems Overlay District, ROUTE 151, ALGONQUIN AVENUE AND OLD BARNSTABLE ROAD, Mashpee, Massachusetts," (attached hereto) and which shall be considered as superimposed over other districts established by the zoning by-laws of the Town. This map, as it may be amended from time to time, is on file with the office of the Town Clerk and with any explanatory material therein, is hereby made a part of this chapter, by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installations. This Overlay District Ordinance is adopted pursuant to the Commonwealth of Massachusetts green Communities Act and Massachusetts General Laws Chapter 40A Section 3.

2. Uses, other than Solar Energy Systems, otherwise not permitted in the portions of a zoning district superimposed by this district shall not be permitted in this district.

3. The Solar Energy Systems Overlay District shall include all of the land within the lines described in subsection B, which are in the R-5 and C-2 zoning districts. Medium and large scale solar energy systems located in the industrial zoning district (I-1) are exempt from the requirements of this chapter and require approval only from the Plan Review Committee pursuant to the applicable dimensional criteria of the zoning district.

## **B. Bounds**

1. Including all of the land within the following described lines:

Property Description: The land in the Town of Mashpee, Barnstable County, Massachusetts beginning at the Northeast corner of the premises at Route 151; thence South 05°54'17" West, a distance of 203.10'; thence South 82°22'02" East, a distance of 107.07'; thence South 08°34'16" West, a distance of 154.18'; thence South 84°05'40" East, a distance of 272.51'; thence South 09°46'40" West, a distance of 1,026.79' by Algonquin Avenue; thence North 77°51'29" West, a distance of 320.36' by Old Barnstable Road; thence South 89°31'13" West, a distance of 731.65' by Old Barnstable Road; thence North 73°24'07" West, a distance of 125.90' by Old Barnstable Road; thence North 66°44'57" West, a distance of 568.90' by Old Barnstable Road; thence Northerly along centerline old brick yard road West, a distance of 1,080'+/-; thence North 83°31'22" West, a distance of 27.59' +/- to ditch; thence Northerly along ditch West a distance of 175'+/-; thence North 85°34'30" East a distance of 5'+/-; thence North 24°26'35" West, a distance of 150.11' to Old Barnstable Road; thence With a curve turning to the left with an arc length of 76.29' by Route 151 with a radius of 4,189.42' to a concrete bound; thence South 09°02'50" East, a distance of 159.61'; thence South 10°46'40" East a distance of 42.72'; thence South 04°15'30" East, a distance of 206.16'; thence South 76°43'49" East, a distance of 300.57'; thence North 09°46'40" East, a distance of 433.00' to Route 151; thence South 84°05'40" East, a distance of 63.18' by Route 151; thence With a curve turning to the left with an arc length of 37.30' with a radius of 25.00'; thence South 09°46'40" West, a distance of 154.04'; thence South 80°13'20" East, a distance of 199.99'; thence North 09°46'36" East, a distance of 190.94' to Route 151; thence South 84°05'40" East, a distance of 405.08' along Route 151, which is the point of beginning and having an area of 39.674 acres.

Meaning and intending to include all of the land as shown on Town of Mashpee Assessor Fiscal Year 2021 Tax Maps: 72-117; 72-113; 72-112; 72-111; 72-110; 72-118; 79-80; 79-79; 79-71; 79-72; 79-73; 79-74; 79-75; 79-76; 79-77 and 79-78.

### **C. Permitted Uses**

Within the Solar Energy Systems Overlay District, the following uses are permitted provided all necessary permits, orders and approvals required by local, state and federal law are obtained.

1. Any medium or large scale solar energy system shall be allowed in the Solar Energy Overlay District only after the issuance of a Special Permit by the Planning Board. In issuing such Special Permit, the Board shall ensure that neighboring properties are effectively protected from any significant adverse impacts from glare that any such systems are properly fenced or otherwise secured and that no hazardous materials are stored in quantities greater than permitted by other sections of this by-law, subject to approval by the Plan Review Committee and Design Review Committee.
2. The Solar Energy System's owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the ground-mounted solar energy system and any access road(s).

### **D. Dimensional Criteria**

#### **Small, Medium and Large Scale Solar Energy Systems**

1. Small, Medium and Large Scale Solar Energy Systems may be accessory to another principal structure or use provided that they satisfy the dimensional criteria and performance standards contained in this section.
2. Ground-mounted solar energy systems shall be set back a distance of at least 100 feet from a public or private way. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.
3. Ground-mounted solar energy systems shall be set back a distance of at least 125 feet from any inhabited residence, and 100 feet from any property in residential use. For the purposes of this section, a residence is defined as a primary living structure and not accessory structures. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.
4. Ground-mounted solar energy systems shall be set back a distance of at least 50 feet from any commercial property or use and 25 feet from any industrial property or use notwithstanding the provisions of paragraph 2 above (relative to medium and large scale solar energy systems). The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations.
5. Ground-mounted solar energy systems shall be set back a distance of at least 50 feet from abutting conservation land and any property not included in the Ground-mounted solar array application. The Planning Board may reduce the minimum setback distance as appropriate based on site specific considerations.

6. Fixed tilt Ground-mounted solar energy systems shall have a maximum height of 15 feet above grade. In the case of single or dual axis tracking Ground-mounted solar energy systems, the Planning Board may increase the maximum height as appropriate based on site-specific considerations.

7. Inverters, energy storage systems, and transmission system substations shall be set back a distance of at least 200 feet from any residence. The Planning Board may reduce the minimum setback distance as appropriate based on site-specific conditions.

#### **E. Special Permits Rules and Application Requirements**

A Solar Energy System Special Permit shall not be granted unless each of the following requirements, in addition to the requirements in §174-24 C Special Permit use, are satisfied:

1. A properly completed and executed application form and application fee.
2. Any requested waivers. To this end, as part of its Special Permit decision, the Planning Board may, at its sole discretion, establish a lot coverage maximum that exceeds 20% in consideration of site specific conditions.
3. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any.
4. Names, contact information and signatures of any agents representing the project proponent.
5. Name, address and contact information for proposed system installer.
6. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar energy system.
7. Proposed hours of operation and construction activity.
8. Blueprints or drawings of the solar energy system signed by a Massachusetts' licensed Registered Professional Engineer showing the proposed layout of the system and any potential shading from nearby structures.
9. Utility Notification: Evidence that the utility company that operates the electrical grid where a grid-intertie solar energy system is to be located has been informed of the system owner or operator's intent to install an interconnected facility and acknowledges receipt of such notification, and a copy of an Interconnection Application filed with the utility including a one or three line electrical diagram detailing the solar electric installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code (527 CMR§ 12.00) compliant disconnects and overcurrent devices. Off-grid solar energy systems shall be exempt from this requirement.

10. Documentation of the major system components to be used, including the electric generating components, battery or other electric storage systems, transmission systems, mounting system, inverter, etc.

11. Preliminary Operation and Maintenance Plan for the solar energy system, which shall include measures for maintaining safe access to the installation, storm water management, vegetation controls, and general procedures for operational maintenance of the installation.

12. Abandonment and Decommissioning Plan: Any ground-mounted solar energy system which has reached the end of its useful life or has been abandoned (i.e., when it fails to operate for more than one year without the written consent of the Planning Board) shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. The Abandonment and Decommissioning Plan shall include a detailed description of how all of the following will be addressed:

(a) Physical removal of all structures; equipment, building, security barriers and transmission lines from the site, including any materials used to limit vegetation.

(b) Disposal of all solid and hazardous waste in accordance with local, state and federal waste disposal regulations.

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow landscaping or below-grade foundations left *in situ* in order to minimize erosion and disturbance of the site.

(d) Description of financial surety for decommissioning: Proponents of ground-mounted solar energy systems shall provide a form of surety, either through escrow account, bond or other form of surety approved by the Planning Board to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be commercially reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

(e) It shall be a condition of any special permit that all legal documents required to enable the Town to exercise its rights and responsibilities under the plan to decommission the site, enter the property and physically remove the installation shall be provided prior to the issuance of a building permit.

**F. Required Performance Standards: Small, Medium and Large Scale Solar Energy Systems**

1. **Visual Impact Mitigation:** The site plan for a ground-mounted solar energy system shall be designated to screen the array to the maximum extent practicable year round from adjacent properties in residential use and from all roadways.

2. All required setbacks shall be left in their undisturbed natural vegetated condition for the duration of the solar energy system's installation. In situations where the naturally vegetated condition within required setback is not wooded and does not provide adequate screening of the solar array, the Planning Board may require additional intervention including, but not limited to:

(a) A landscaping plan showing sufficient trees and understory vegetation, of a type common in natural areas of Mashpee, to replicate a naturally wooded area and to constitute a visual barrier between the proposed array and neighboring properties and roadways.

(b) Berms along property lines and roadways with suitable plantings to provide adequate screening to neighboring properties and roadways.

3. **Lighting:** Lighting of ground-mounted solar energy systems shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Lighting shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

4. **Signage:** Signs on ground-mounted solar energy systems shall comply with all applicable regulations of this by-law and/or any Town sign by-law. A sign shall be required to identify the owner, operator and interconnected utility and provide a 24-hour emergency contact phone number. Ground-mounted solar energy systems shall not be used for displaying any advertising signage.

5. **Utility Connections:** Within setback distances and except where soil conditions, location, property shape, and topography of the site or requirements of the utility provider prevent it, all utility connections from grid-intertie solar energy systems shall be placed underground. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

6. **Vegetation Management:** All land associated with the ground-mounted solar energy system shall be covered and grown in natural vegetation. The height of vegetation must be managed by regular mowing or grazing so as to minimize the amount and height of combustible material available in case of fire. Herbicides, pesticides, or chemical fertilizers shall not be used to manage vegetation. To the greatest extent practicable, a diversity of plant species shall be used, with preference given to species that are native to New England. Use of plants identified by the most recent copy of the "Massachusetts Prohibited Plant List" maintained by the Massachusetts department of Agricultural Resources is prohibited. Management of all vegetated areas shall be maintained throughout the duration of the solar energy system's installation through mechanical means without the use of chemical herbicides.

7. **Noise Generation:** Noise generated by ground-mounted solar energy systems and associated equipment and machinery shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality Noise Regulations, 310 CMR 7.10.



8. Fencing: Fencing around solar arrays shall provide a minimum 6" clearance between the fence bottom and the ground to allow passage of small wildlife. The Planning Board shall require resident style fencing where necessary to screen the solar energy systems year round from adjacent residences.

9. Land Clearing and Soil Erosion: Clearing of natural vegetation and topsoil shall be limited to what is necessary for the construction, operation and maintenance of the ground-mounted solar energy system. No topsoil removed during construction shall be exported from the site.

10. Erosion Control and Stormwater: Erosion Control and Stormwater Management notation shall be included to show that adequate provisions against erosion and adverse impacts of runoff are appropriately mitigated.

11. Emergency Services: The ground-mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Mashpee Fire Department and any other neighboring Fire Department upon request. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

Submitted by Petition

**Explanation:** This section promotes the creation of new Solar Energy Systems Overlay District for small, medium and large-scale, ground-mounted solar energy systems on land with the Overlay District currently zoned R-5 and C-2 by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and for providing adequate financial assurance for the eventual decommissioning of such installation.

**The Board of Selectmen will make a recommendation at Town Meeting of Article 34 by a vote of 5-0**  
**The Finance Committee will make a recommendation at Town Meeting of Article 34 by a vote of 6-1**

## **Article 35**

To see if the Town will vote to amend the Zoning By-law as follows:

Add a new sub-Section to any Solar Energy System Overlay District zoning bylaw by adding to the Required Performance Standards for Small, Medium and Large Scale Solar Energy Systems the following:

### **174-45.7 SOLAR ENERGY SYSTEMS OVERLAY DISTRICT**

#### **Section F. Required Performance Standards: Small, Medium and Large Scale Solar Energy Systems**

12. Open Space Requirement. A Solar Energy System which encompasses a minimum land area of seven acres, which may be in one or more parcels, and shall consist of one acre of allowed developed area for each half acre of upland (i.e. excluding water bodies or wetlands as defined under MGL C. 131, §40) permanently set aside as undeveloped open space and deeded to the Town of Mashpee in the care and custody of its Conservation Commission (provided that said land is not subject to any previous conservation restriction or other prohibition on its development), or to a nonprofit organization, the principal purpose of which is the conservation of open space, in either case subject to a formal conservation restriction to be held by the Town of Mashpee. The developer's declaration of his choice of the open space preservation methods described above, which may be different for individual such parcels, shall be included in his application for a Special Permit to develop a Solar Energy System, along with maps and plans describing the open space areas. Any water bodies or wetlands, as defined under MGL C. 131, §40, which lie within the boundaries of the Solar Energy System shall also be permanently set aside and deeded to one of the entities identified above under the terms described. When delineating the upland to be set aside as undeveloped open space, any land which is forested shall be prioritized as open space. Before final approval of the Solar Energy System Special Permit, the developer shall also file with the Planning Board a copy of the conservation restrictions necessary to secure the permanent legal existence of the open space and a copy of any proposed deed for transfer in fee to the Town or to a nonprofit organization. Approval of the Solar Energy System shall require approval by the Planning Board of said conservation restrictions after consultation with Town Counsel. As required by law, any such restrictions may also require approval by the Commonwealth of Massachusetts. Any open space required to meet the provisions of this Section shall be surveyed, properly bounded on the ground by concrete monuments and shown on a plan recorded at the Barnstable County Registry of Deeds or Land Court Registry. Said plan shall be recorded and said boundary monuments shall be set within six (6) months of the approval of the Solar Energy System Special Permit. Any transfer of the fee title to property to the Town or a nonprofit organization shall be recorded, along with the required conservation or agricultural restrictions, within one (1) year of the approval of the Solar Energy System Special Permit. Said transfer shall be completed before the issuance of any building permit for development within said phase.

13. Setbacks from water bodies and wetlands. The developed area within a Solar Energy System development may not lie within three hundred (300) feet of any water body or stream or within one hundred (100) feet of any wetland as defined under MGL C. 131, §40.  
or take any other action related thereto.

Submitted by Petition

**Explanation:** This article would amend the Zoning By-law to require that any Solar Energy Systems developments of seven acres or more provide open space (one half acre open space per one acre developed) as well as setbacks from water bodies (300') and wetlands (100') in order to preserve the Town's environment.

**The Board of Selectmen will make a recommendation at Town Meeting of Article 35 by a vote of 5-0**  
**The Finance Committee will make a recommendation at Town Meeting of Article 35 by a vote of 7-0**

# Regional Housing Strategy

NOVEMBER 2022\*



CAPE COD  
COMMISSION

## AFFORDABLE AND ATTAINABLE HOUSING CHALLENGES

Affordable and attainable housing for people with a variety of income levels and needs is key to a vibrant, healthy, and resilient region. However, Cape Cod is facing a significant challenge in providing affordable and attainable housing for current and future Cape Cod residents. The region's draw as a seasonal and retirement destination, combined with regulatory and physical limitations have resulted in a highly constrained housing market that is unaffordable to many residents; a problem which has only become more acute during the COVID-19 pandemic.

### Developing a comprehensive regional housing strategy to secure our region's future

Developing a regional housing strategy that will address the housing supply, affordability, and availability issues facing the region is a key recommendation of the Regional Policy Plan. Successful implementation of the regional housing plan will not only provide residents with safe and attainable housing, but will also provide a more reliable workforce and customer base for our local businesses.

## PROJECT ELEMENTS



**Baseline Data** – Compilation and analysis of the current population and housing units in the county, by subregion, and town will provide a deeper understanding of the current housing landscape. This will look into affordability of housing in those geographies, as well as regulatory or land use characteristics and traits of the current housing stock.



**Stakeholder Engagement** – Through a series of meetings, an online survey, and focus groups, stakeholders will identify housing preferences, barriers to providing desired housing in the region, and strategies and tools for overcoming those challenges.



**Regional Affordable Housing Entities** – Commission staff will evaluate the potential, and develop recommendations, for new regional entities to manage the development of additional affordable housing units for the region, to augment the Strategy's recommendations.



**Strategies & Recommendations** – Based on the feedback from the stakeholder meetings and the initial data collection and compilation process, strategies and recommendations will be identified for implementation and facilitating action toward solving for the region's housing challenges.



**Residential Design Guidelines** – Residential guidelines will help facilitate residential development that provides more diversity in housing options and types, including net-zero housing, but in forms that still complement and fit in with the character of the region.



**Decision Support Tool** – A decision support tool will help local staff and leaders achieve housing goals and visions, based on the challenges and strategies identified in the plan.

*\*Project elements are subject to change.*



# Housing Profile: Mashpee

## Key Demographic and Economic Information

POPULATION	HOUSEHOLDS	HOUSEHOLD SIZE	HOUSING UNITS	MEDIAN HOME PRICE (OCT 2022 YTD)	MEDIAN HOUSEHOLD INCOME (2021)	RESIDENTIAL PROPERTY TAX RATE
<b>15,060</b>	<b>6,603</b>	<b>2.26</b>	<b>10,757</b>	<b>\$785,000</b>	<b>\$83,563</b>	<b>\$8.03</b> (FY22)

The Town of Mashpee has an estimated year-round population of just over 15,000 residents. It is bordered by Sandwich on the north, Vineyard Sound on the south, Falmouth on the west, and Barnstable on the east. About 32% of homes in the town are seasonal, which is slightly lower than the region as a whole (36%). The Town of Mashpee contains one Community Activity Center within its boundaries: Mashpee Commons.

### Mashpee by Age



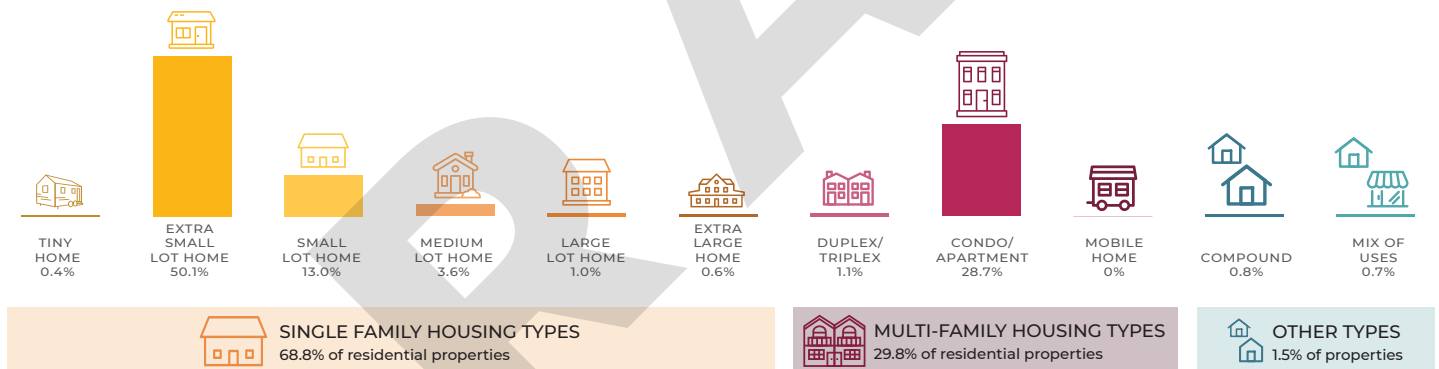
### Mashpee by Race



(2020 Decennial Census; ACS 2021 5-year Estimates; Cape Cod and Islands Association of Realtors — single family home prices; Massachusetts Department of Revenue)

## Current Housing Stock

The Cape Cod Commission conducted a housing typology study using local assessors' data and state class property codes. The graph below shows the distribution of various types of residences using this data, which differs slightly from the ACS counts. In Mashpee, about 69% of residential properties are single family homes; about 30% are multi-family properties. Less than 2% are other types of properties which may be single family or multi-family homes such as compounds, which may include multiple houses on one parcel occupied by different households or a single family home with a guest house. Mix of uses are properties that have at least one residence on them but also have some sort of other use such as agricultural or commercial.



## Housing Stock by Year Built

Like the region, the majority of housing units in the town were built between 1950 and 1999. Almost 1/4 of Mashpee's housing stock was built in the 2000s, which is relatively high for the region. (Assessors data and CCC housing typology analysis)



## Owners and Renters

There are about 6,600 year-round occupied housing units in Mashpee; of these, 84% are owner and 16% are renter-occupied. (ACS 2021 5-year Estimates)



## Seasonality

About 1/3 of all housing units in Mashpee are used for seasonal, recreational, or occasional use. (ACS 2021 5-year Estimates)

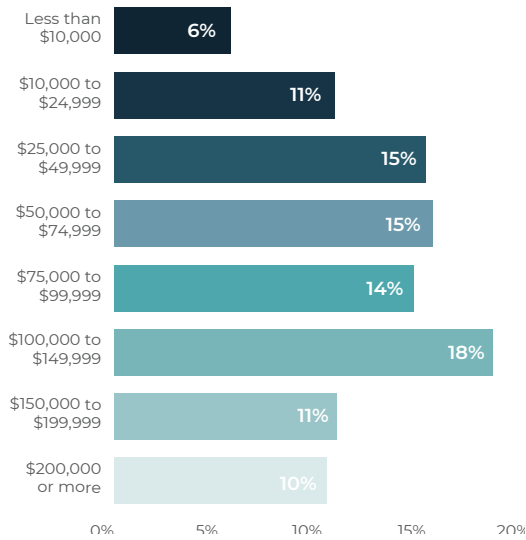




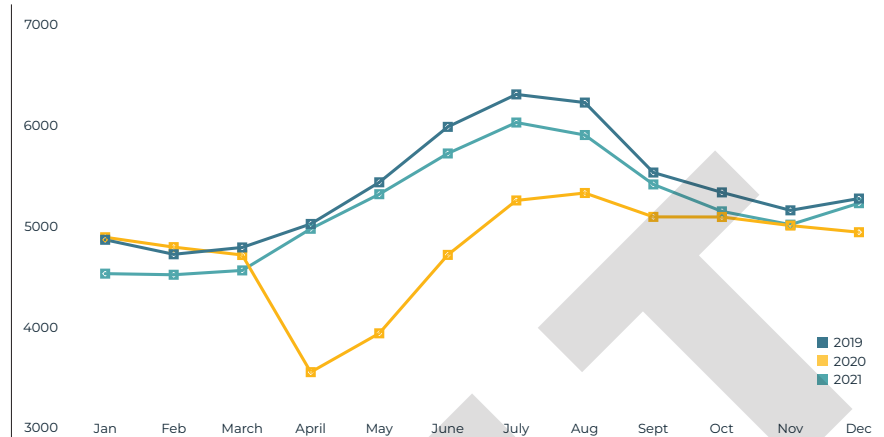
## Wages, Employment, and Housing Affordability

### Households per Income Bracket

(ACS 2021 5-year Estimates)



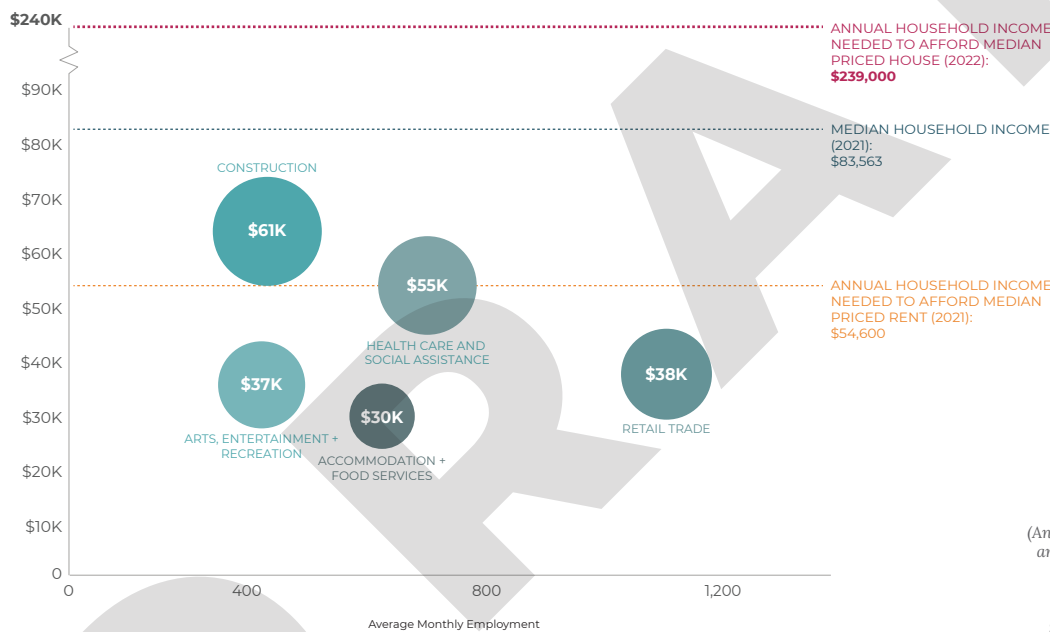
### Employment by Month



Like much of the region, employment in Mashpee can be highly seasonal. In 2019, employment peaked in July at 34% more than the low in February. Due to the pandemic, 2020 patterns were significantly different, but in 2021 started to return to pre-pandemic levels and trends.

(MA Labor Market Information, ES-202 data)

### Housing Affordability



In 2021 the median price for a home for sale in Mashpee was \$582,500.

In 2022, prices only increased.

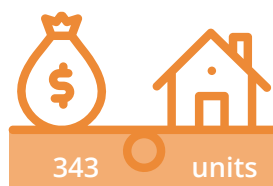
The October YTD median single-family home price was \$785,000. Average wages in the town's largest industries by employment fall well below what is needed to affordably purchase a home at median sales prices (affordably purchase means a household spends 30% or less on housing costs). While the median gross rent, according to the American Community Survey, is more affordable, availability of year-round rental housing is very limited.

(Annual income refers to a household's earnings, while annual wage refers to an individual's earnings. Data: Cape Cod and Islands Association of Realtors; 2021 ACS 5-Yr Estimates; Draft 2022 Cape Cod Housing Needs Assessment; 2017 Regional Housing Market Study; MA Labor Market Information, ES-202 data)

### Affordable Housing Units

The Massachusetts Subsidized Housing Inventory is used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law, which encourages communities to have 10% of their housing stock be affordable for low-to-moderate income households. While housing developed under Chapter 40B is eligible for inclusion on the inventory, many other types of housing also qualify to count toward a community's affordable housing stock.

#### SUBSIDIZED HOUSING INVENTORY UNITS

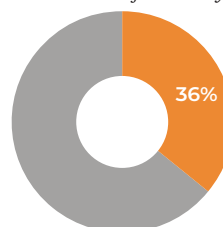


**5.3%** of housing units

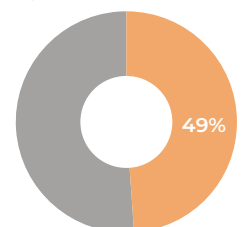
(These numbers do not yet reflect 2020 Census data as the necessary data are not yet available.)

### Housing Cost Burdened

A household is considered cost burdened when housing costs exceed more than 30% of monthly income. (ACS 2021 5-year Estimates)



... of owner households in Mashpee spend 30% or more of income on housing costs



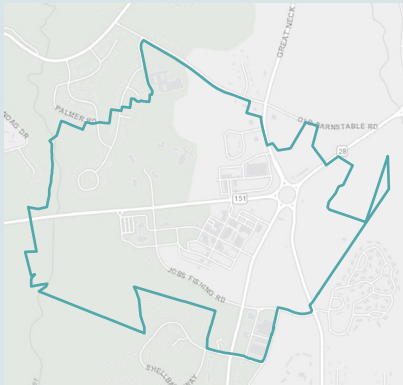
... of renter households in Mashpee spend 30% or more of income on housing costs



## Community Activity Centers

Community Activity Centers are areas with a concentration of business activity, community activity, and a compact built environment that may be suitable for additional multi-family housing and a mix of uses at a scale of growth and development desired by the community. The vision for these areas is to accommodate these uses in a walkable, vibrant area, preserve historic buildings, and to provide diverse services, shopping, recreation, civic spaces, housing, and job opportunities, with adequate infrastructure and pedestrian amenities to support development. Seventeen Community Activity Centers have been identified across the region. Mashpee has one identified Community Activity Center: Mashpee Commons.

### Mashpee Commons



COMMUNITY ACTIVITY CENTER AREA (ACRES)

**361**



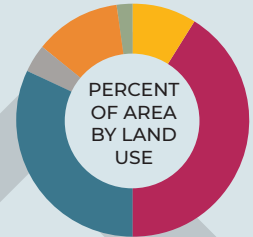
ESTIMATED HOUSING UNITS

**128**



ESTIMATED HOUSING UNITS PER ACRE

**0.4**



- Residential 9%
- Commercial 41%
- Tax Exempt 32%
- Industrial 4%
- Multiple Uses 12%
- Conservation 2%

The Mashpee Commons Community Activity Center is focused around Route 28 and Route 151 and the commercial uses there. It is surrounded by undeveloped land and residential land. Residential uses comprise very little of the community activity center area in terms of land use.

## Zoning

### Residential Development Ordinances



#### Accessory Dwelling Unit by Right

An accessory dwelling unit (ADU) is a secondary housing unit on a single-family residential lot. ADUs can include over-garage units, carriage houses, or in-house apartments, and may provide more affordable housing options.

☒ ALLOWED



#### Multi-family Housing by Right

Multi-family zoning by right makes the ability to develop multi-family units in certain districts of a town easier, supporting expanding and diversifying the housing stock.

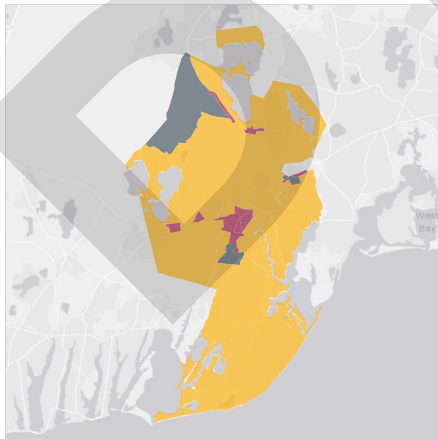
☐ NOT ALLOWED



#### Inclusionary Zoning Policy

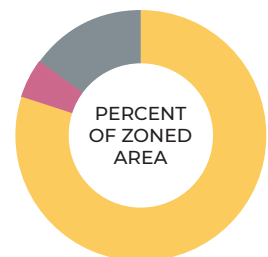
Inclusionary zoning requires or incentivizes private developers to designate a certain percentage of the units in a given project as available to lower to moderate income households.

☐ NOT ADOPTED



### Zoning Districts

As with most Cape towns, the vast majority of the town is zoned for residential uses, as can be seen in the map and the graph. These zoning categories are broad and do not capture the many nuances of the specific zoning regulations for each district, nor do they include overlay districts, but help to provide a summary of the distribution of land available for certain types of uses throughout town.



- Residential 80%
- Commercial 5%
- Industrial 15%





## SCOPE OF WORK

# Regional Housing Strategy

September 2022

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Affordable and attainable housing for people with a variety of income levels and needs is key to a vibrant, healthy, and resilient region. However, Cape Cod is facing a significant challenge in providing affordable and attainable housing for current and future Cape Cod residents. This impacts not only those seeking housing, but also our economy as employers may struggle to find employees locally. The region's draw as a seasonal and retirement destination and the strong Boston economy, combined with regulatory and physical limitations have resulted in a highly constrained housing market that is unaffordable to many residents; a problem which has only become more acute during the COVID-19 pandemic. Even prior to the pandemic, the income needed to affordably purchase a home at median sales prices exceeded the median household income in all towns and over the past year, median sales prices have increased throughout the region.

Following is a scope of work for developing a regional housing strategy that will address the housing supply, affordability, and availability issues facing the region by identifying appropriate areas for housing development and creating policies and strategies to further the goals of the strategy. Successful implementation of the regional housing plan will not only provide residents with safe and attainable housing, but will also provide a more reliable workforce and customer base for our local businesses.

## Scope of Work

### TASK 1: BACKGROUND DATA AND INFORMATION GATHERING

In order to understand our current housing landscape, we will need to gather data and information at the regional, town, and community activity center level. This will include understanding the current population and housing units in these geographies, what people can afford, and other elements such as regulatory or land use characteristics. This work will build off of the current work the Commission is doing to compile a housing typology for the region which includes information on residential properties, such as type of property (single-family or multi-family), building size, and lot size, at the regional and town levels. This information, and the other data points to be collected and analyzed (see the appendix for a list of data points) will be compiled into regional and individual

town housing profiles, which will include information on the 17 Community Activity Centers throughout the region, identified in the 2018 Regional Policy Plan as focal areas for housing development. A consultant will be engaged to develop population and housing needs projections through 2050.

These profiles will be available online and profiles will serve as the baseline information presented during the first stakeholder meetings. In addition to the profiles, Commission staff will review other housing strategies across the state and nation and identify unique strategies for addressing housing challenges. Some of these strategies will be highlighted in case studies which will also be made available online.

Also as part of this task, a consultant will be engaged to conduct an analysis of existing zoning in the region to identify where different types of housing are allowed to be built and the potential permitting pathways (e.g., by right, by special permit).

#### Deliverables

- Housing profiles for the region and towns
- Housing strategy case studies
- Zoning analysis that shows where in the region different types of housing can be built by right and by special permit

## **TASK 2: FIRST STAKEHOLDER MEETINGS: INTRODUCTION TO HOUSING LANDSCAPE AND MISSING MIDDLE HOUSING**

Once the data are compiled for Task 1, stakeholder meetings will begin. This will include meetings to seek input from each of the 15 towns, using the housing profiles for the towns and region as the basis for the information presented at those meetings. Participants at these meetings will include municipal staff and representatives as well as members of the public. In addition to a meeting for each town, separate focus group meetings will be held for affordable housing advocates and practitioners, open space and conservation advocates and practitioners, housing developers, large employers, and other housing and economic development organizations as appropriate. During these initial meetings, participants will learn about the existing housing landscape in the region, as well as the concept of missing middle housing and its various forms. Participants will share what types of housing they want to see in different areas in their towns, community activity centers, and the region. This will provide similar information and opportunities for input as the online survey, which will be available following these meetings for further and expanded input.

#### Potential meeting structure

- Provide an overview of the current housing landscape in towns, its community activity centers, and the region at large

- Presentation providing an introduction to missing middle housing types
  - This will include examples of missing middle housing types in that community/the region
- Ask participants to provide feedback on what types of housing they'd like to see in their communities
  - In small groups, step through the different missing middle housing types and for each type ask if it seems appropriate for their community and if so, where. If not, why not?
- Summary discussion on which types of housing seemed most desired or supported by stakeholders in their town and the region
- Wrap up and next steps

#### Deliverables

- Identified stakeholder list
- Outreach materials for meetings
- Stakeholder meeting materials development
- Facilitation of stakeholder meetings
- Meeting notes

### TASK 3: ONLINE PREFERENCE SURVEY

Simultaneously with, or following, the initial stakeholder meetings, an online survey, developed with a consultant, will be available for stakeholders to complete. The survey will help to gather more information on what types of housing people would like to see and where in their communities. This survey will focus on the different types of multi-family housing given the predominance of single-family homes in the region and the lack of other types of housing options. The online tool will allow respondents to identify where certain types of missing middle housing are appropriate and desirable.

#### Deliverables

- Online visual preference survey
- Outreach materials for survey
- Survey analysis

### TASK 4: SECOND STAKEHOLDER MEETINGS: HOUSING PREFERENCES & BARRIERS

Commission staff will conduct a second round of stakeholder meetings in each of the towns. During these meetings, a summary of the results of the online survey and the feedback from the initial meeting relevant for their community will be presented. Following this background presentation, attendees will brainstorm what they believe are the barriers and challenges to creating the desired types of housing in the appropriate and desired areas in their communities and the region.

### Potential meeting structure

- Presentation of summary of feedback from first meeting and online survey, clearly identifying which types of missing middle housing are desired and where
- Facilitated discussion on what attendees see as key challenges/barriers to affordable and attainable housing in their town and the region (e.g., zoning, infrastructure, etc.)
- Ask participants to share any efforts in their town to address housing challenges in anticipation of the third meeting
- Wrap up and next steps

### Deliverables

- Outreach materials for meetings
- Stakeholder meeting materials development
- Facilitation of stakeholder meetings
- Meeting notes

## TASK 5: THIRD STAKEHOLDER MEETINGS: IDENTIFYING STRATEGIES & TOOLS

After synthesizing the feedback from the previous meetings, a third round of stakeholder meetings will be held in each town which will focus on developing strategies for the regional housing plan. The meeting will begin with a brief summary of desired housing types and locations from the previous meetings and survey, followed by an overview of the key challenges to creating and sustaining those types of housing from the second round of meetings. After this overview, participants will be asked to brainstorm strategies and tools for addressing the housing challenges in their community and supporting development of the desired types of housing.

### Potential meeting structure

- Presentation on desired housing types for the community and key challenges to developing that type of housing
- Facilitated discussion or brainstorm on possible strategies or recommended actions to help address housing challenges in their community and the region and foster desired housing development
  - Spend dedicated portions of time on different types of strategies and tools (e.g., regulatory, financial, etc.) as well as asking participants to identify relevant actors for the strategies
- Wrap up and next steps

### Deliverables

- Outreach materials for meetings
- Stakeholder meeting materials development

- Facilitation of stakeholder meetings
- Meeting notes

## **TASK 6: REGIONAL AFFORDABLE HOUSING ENTITIES**

To inform and augment the strategies and recommendations of the Plan that arise from the stakeholder meetings, Commission staff will work with a consultant to evaluate the potential and develop recommendations for new regional entities to manage the development of additional affordable housing units for the region. This will include a review of existing entities in the region that are operating in this sphere, as well as looking beyond the region for examples of entities elsewhere that effectively manage development of additional affordable housing.

### **Deliverables**

- Identification and recommendation of potential new regional entities for the management of additional affordable housing development

## **TASK 7: DEVELOP AND REFINE POTENTIAL STRATEGIES AND RECOMMENDATIONS**

Using the feedback from the stakeholder meetings, Commission staff will compile and refine strategies for addressing the region's housing challenges and supporting the desired housing development. The strategies may include recommendations for regulatory or zoning changes, financing opportunities, ideas for actions municipalities can take, as well as ideas for actions advocates and non-profit organizations can take. Strategies and recommendations may also be organized by Placetype. These strategies will be available in a draft document for further stakeholder feedback. Additionally, at public meetings in each subregion, the draft strategies will be shared for feedback, highlighting the most applicable for the areas in that subregion. Focus group meetings will also provide opportunities to obtain feedback on the draft strategies.

### **Potential meeting structure**

- Presentation on draft strategies
- Facilitated discussion on feedback for refining the draft strategies
- Wrap up and next steps

### **Deliverables**

- Draft compiled strategies document
- Four subregional listening sessions on the draft strategies
- Focus group listening sessions of the draft strategies

## **TASK 8: DEVELOP DRAFT & FINAL PLAN**

Based on the feedback from the stakeholder meetings and the initial data collection and compilation, Commission staff will develop a draft regional housing plan. The draft will be shared electronically for public comment and feedback prior to being finalized. It will contain background information, an overview of the stakeholder process, a summary of the feedback from the stakeholder process, and a robust discussion of strategies and recommendations. Commission staff will finalize the plan based on the feedback on the draft plan.

### **Deliverables**

- Draft plan
- Final plan

## **TASK 9: DEVELOP REGIONAL RESIDENTIAL DESIGN GUIDELINES**

To help facilitate residential development that provides more diversity in housing options and types, but in forms that still complement and fit in the with character of the region, Commission staff will engage a consultant to develop Cape Cod residential design guidelines. The pattern book will be something municipalities can point developers to as a resource for developing housing that fits into the region's community character. It can also be used as a tool to help streamline permitting by clarifying development expectations up front.

### **Deliverables**

- Cape Cod Residential Design Guidelines

## **TASK 10: DEVELOP REGIONAL DESIGN GUIDELINES FOR RESIDENTIAL NET-ZERO CONSTRUCTION**

To help facilitate residential development that is more energy efficient and helps mitigate the impacts of climate change, Commission staff and a consultant will conduct an evaluation of new net-zero building standards and building options. Following the evaluation to ensure a deep and clear understanding of net-zero residential building, staff and the consultant will work to develop region-specific design guidelines for residential net-zero construction to facilitate greater implementation throughout the region. The guidelines will include considerations of the cost differences for net-zero construction, methods for net-zero residential construction, and may also highlight retrofitting historic structures, as well as identifying possible funding opportunities (if they exist) to support net-zero construction. As appropriate, standards and guidelines will be incorporated into the overall regional residential design guidelines developed as Task 9.

### **Deliverables**

- Evaluation and summary of net-zero standards for residential construction
- Design guidelines to facilitate net-zero residential construction in the region

## **TASK 11: DEVELOP A DECISION SUPPORT TOOL**

Based on the challenges and strategies identified in the plan and through the planning process, Commission staff will work with a consultant to develop a decision support tool that will help local staff and leaders achieve housing goals and visions. The tool may include functionalities such as allowing a user to identify zoning and permitting processes for developing different types of housing in certain areas, potentially identifying barriers to housing in areas throughout the region, as well as changes that may need to occur or strategies to implement to overcome those barriers.

### **Deliverables**

- Regional housing decision support tool



## Appendix

### TASK 1: ANTICIPATED DATA TO BE COLLECTED

#### Demographics and economics (region and town)

- Population (current and 2035)
  - By age
  - Source: Census
- Number of households and type (current and 2035)
  - Source: Census/Housing Market Study
- Jobs (current and 2035)
  - Occupation/industry
  - Source: Census/BLS

#### Housing and household characteristics (region and town)

- Housing typology statistics
  - Number of housing units
    - i. Single-family, multifamily, mobile units, etc.
    - ii. Structure (e.g., single-family, multifamily)
    - iii. Building size
    - iv. Lot size
    - v. Percent single-family vs. multi-family
- 50%, 80%, 100%, 120%, >120% Median Household Income (rental and owner)
  - Also AMI (HUD uses AMI)
  - Source: Census and HUD
- Affordable home price and gross rent
  - Source: CCC analysis and Census data
- Estimated unit demand (current)
  - Source: Regional Housing Market Study
- Estimated unit supply (current)
  - Source: Regional Housing Market Study
- Median home price
  - Source: CCIAOR
- Home occupancy characteristics
  - Seasonal
  - Vacant
  - Source: Census data
- New and second homeowner survey information as relevant

- Other data points for consideration:
  - Homelessness
  - Population disability status

### Community Activity Center characteristics

- Land use characteristics (% commercial, residential (sf vs. multifamily), protected open space, industrial, etc.)
- Population (with age cohorts)
- Median household income
- # of residential units and type (sf vs. other)
- Size of residential units
- # of Affordable housing units or properties (State Subsidized Housing Inventory)
- Age of structures
- # of jobs
- Zoning districts (maybe more map, less numerical)
  - List of community amenities in the CAC
- Walkability score

### *Community Activity Centers by SubRegion*

- Upper Cape (5): Sandwich Downtown, Buzzards Bay, Woods Hole, Falmouth, Mashpee Rotary
- Mid Cape (7): Osterville, Barnstable Village, Hyannis, South Yarmouth, West Dennis, Dennis Village, Dennis Port
- Lower Cape (3): Harwich Port, Chatham, Orleans (none in Brewster)
- Outer Cape (2): Wellfleet, Provincetown (none in Truro and Eastham)

### Municipal factors

- Collect information for each town on whether they have affordable housing trusts, committees, etc.
- Collect information for each town on where they allow multifamily development/other zoning or regulations that might be relevant

\*Projections for population and households for 2035 will require a new analysis, likely to be carried out by a consultant.



# Housing Profile: Barnstable County

## Key Demographic and Economic Information

POPULATION	HOUSEHOLDS	HOUSEHOLD SIZE	HOUSING UNITS	MEDIAN HOME PRICE (OCT 2022 YTD)	MEDIAN HOUSEHOLD INCOME (2021)
228,996	98,163	2.3	164,885	\$690,000	\$82,619

Barnstable County has a year-round population of nearly 229,000, according to the most recent decennial census. The median household income is about \$82,600, lower than the Massachusetts median household income of approximately \$89,000. The county is also older than the state and a significant portion of the housing stock, 36%, is used for seasonal use or as second homes. The 15 towns that comprise Barnstable County are all unique but face many similar challenges when it comes to housing affordability and availability.

### Barnstable County by Age



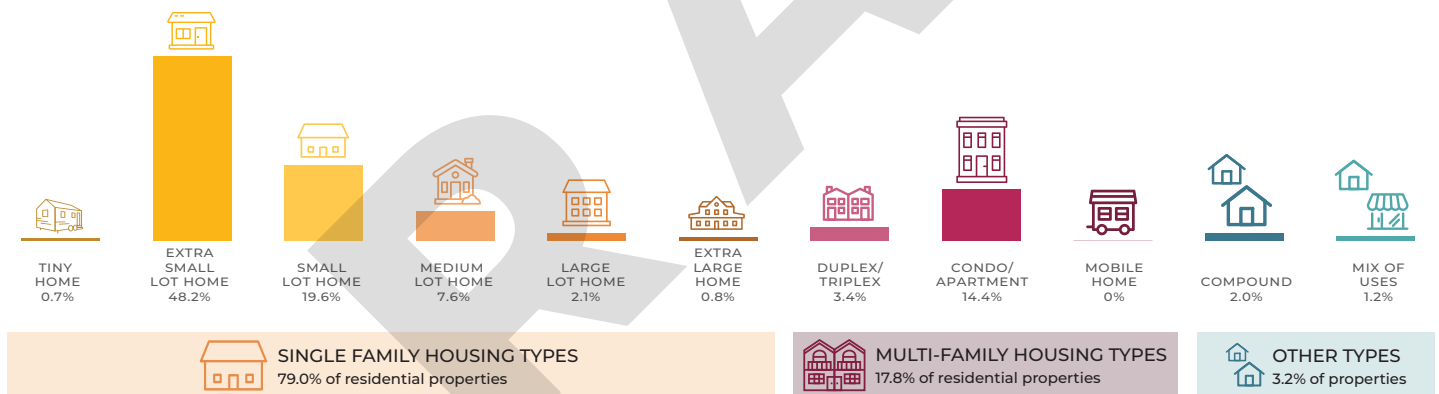
### Barnstable County by Race



(2020 Decennial Census; ACS 2021 5-year Estimates; Cape Cod and Islands Association of Realtors; Massachusetts Department of Revenue)

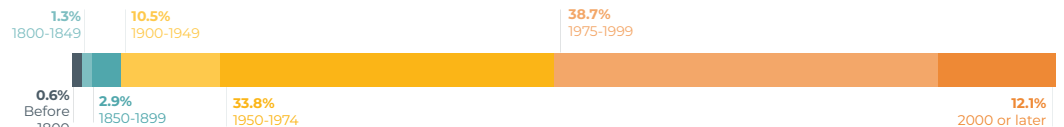
## Current Housing Stock

The Cape Cod Commission conducted a housing typology study using local assessors' data and state class property codes. The graph below shows the distribution of various types of residences using this data, which differs slightly from the ACS counts. County-wide, nearly 80% of residential properties are single family homes; almost 18% are multi family properties. The remaining 3.2% are other types of properties that may be single family or multifamily homes such as compounds, which may include multiple houses on one parcel occupied by different households or a single family home with a guest house. Mix of uses are properties that have at least one residence on them but also have some sort of other use such as agricultural or commercial.



## Housing Stock by Year Built

Almost 90% of the region's housing stock is more than 20 years old. The vast majority of housing units in the region were built between 1950 and 1999. (Assessors data and CCC housing typology analysis)



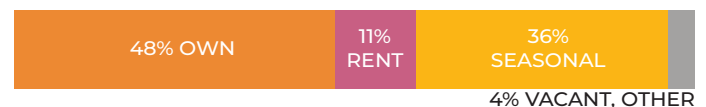
## Owners and Renters

There are about 98,000 occupied housing units in the region; of these, 81% are owner-occupied and 19% are renter-occupied. (ACS 2021 5-year Estimates)



## Seasonality

Approximately 36% of all housing units in the region are used for seasonal, recreational, or occasional use. (ACS 2021 5-year Estimates)

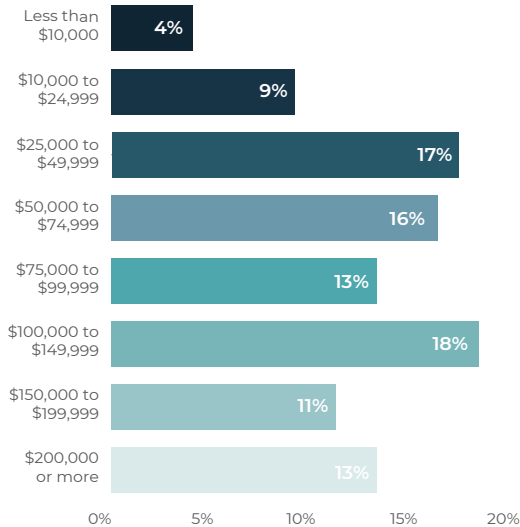




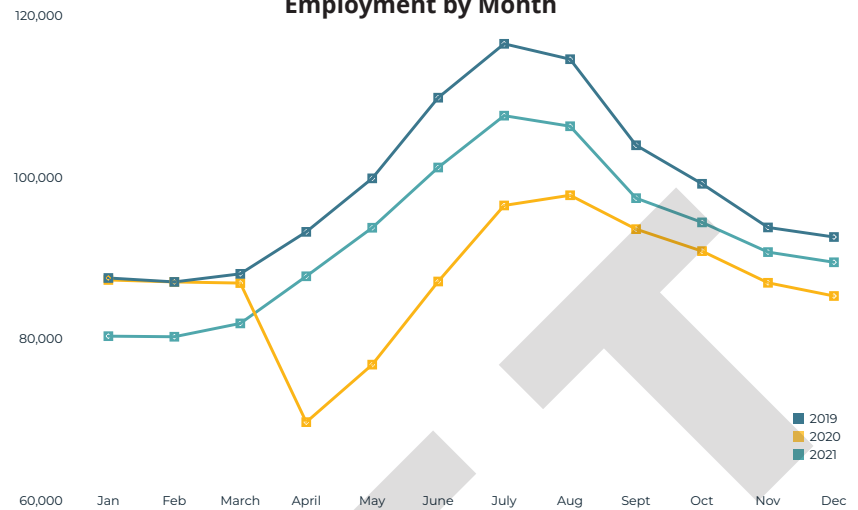
## Wages, Employment, and Housing Affordability

### Households per Income Bracket

(ACS 2021 5-year Estimates)



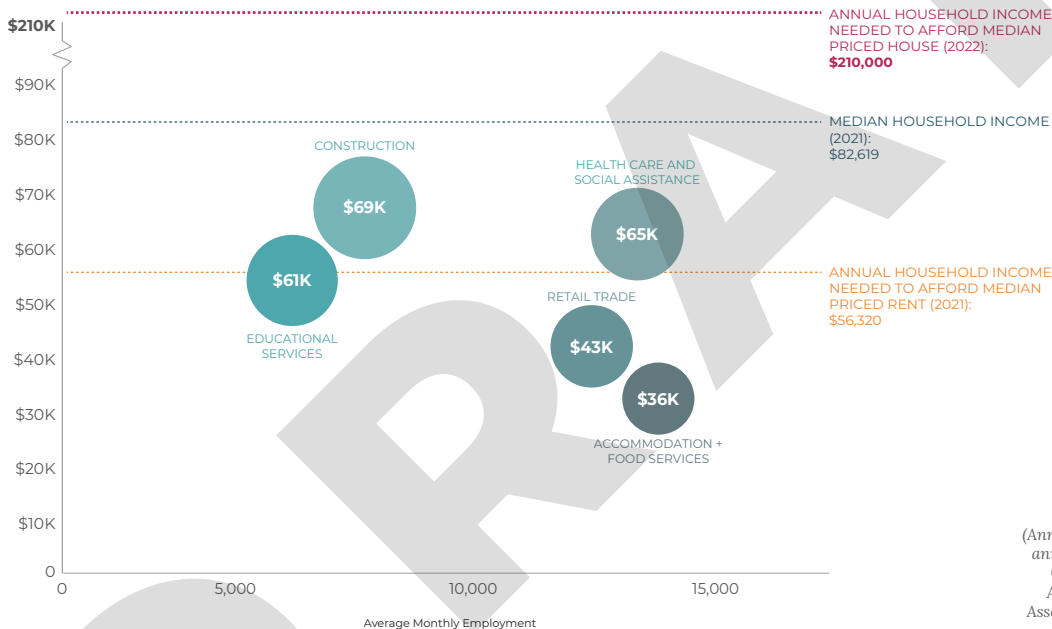
### Employment by Month



Employment in the region is highly seasonal, given the draw as a tourism and second-homeowner destination. In 2019, employment peaked in July at 34% more than the low in February. Due to the pandemic, 2020 patterns were significantly different, but in 2021 started to return to pre-pandemic levels and trends.

(MA Labor Market Information, ES-202 data)

### Housing Affordability



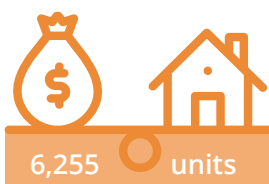
In 2021 the median price for a home for sale in the region was \$540,000. In 2022, prices only increased. The October YTD median single-family home price was \$690,000. Average wages in the county's largest industries by employment fall well below what is needed to affordably purchase a home at median sales prices (affordably purchase means a household spends 30% or less on housing costs). While the median gross rent, according to the American Community Survey, is more affordable, availability of year-round rental housing is very limited.

(Annual income refers to a household's earnings, while annual wage refers to an individual's earnings. Data: Cape Cod and Islands Association of Realtors; 2021 ACS 5-Yr Estimates; 2022 Cape Cod Housing Needs Assessment; 2017 Regional Housing Market Study; MA Labor Market Information, ES-202 data)

### Affordable Housing Units

The Massachusetts Subsidized Housing Inventory is used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law, which encourages towns to have 10% of their housing stock be affordable for low-to-moderate income households. While housing developed under Chapter 40B is eligible for inclusion on the inventory, many other types of housing also qualify to count toward a community's affordable housing stock.

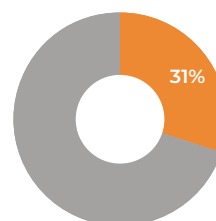
### SUBSIDIZED HOUSING INVENTORY (SHI) UNITS Regional Total



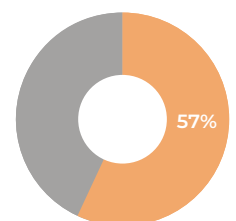
**6.0%** of the region's housing units are listed on the SHI  
(These numbers do not yet reflect 2020 Census data as the necessary data are not yet available.)

### Housing Cost Burdened

A household is considered cost burdened when housing costs exceed more than 30% of monthly income. (ACS 2021 5-year Estimates)



... of owner households in Barnstable County spend 30% or more of income on housing costs



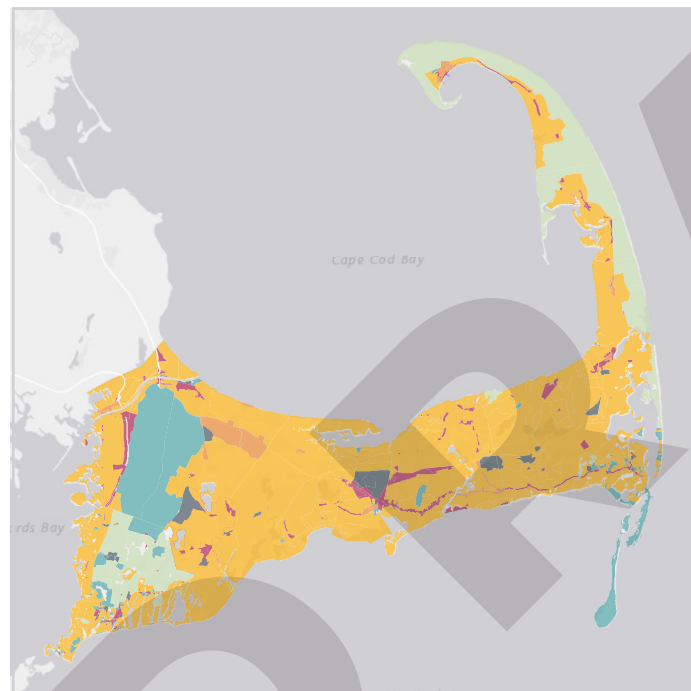
... of renter households in Barnstable County spend 30% or more of income on housing costs



## Community Activity Centers

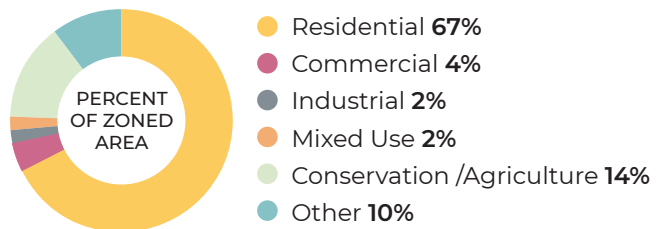
Community Activity Centers are one of eight Placetypes, areas with similar natural and built characteristics, identified in the 2018 Regional Policy Plan. Community Activity Centers are areas with a concentration of business activity, community activity, and a compact built environment that may be suitable for additional housing and a mix of uses. They are typically more walkable and densely developed than other Placetypes and often contain concentrations of historic buildings that contribute to the region's unique character. The vision for these areas is to accommodate a mixed-use and multifamily development in a walkable, vibrant area, preserve historic buildings, and to provide diverse services, shopping, recreation, civic spaces, housing, and job opportunities, with adequate infrastructure and pedestrian amenities to support development. Seventeen Community Activity Centers have been identified across the region.

### CAPE COD PLACETYPES



### Zoning Districts

The vast majority of land in the region is zoned for residential uses, as can be seen in the map and the graph below. Some of the primary uses for zones in the "other" category include those related to harbor and marina uses, municipal uses, and Joint Base Cape Cod. These zoning categories are broad and do not capture the many nuances of the specific zoning regulations for each district, nor do they include overlay districts, but help to provide a summary of the distribution of land available for certain types of uses throughout the region.



CAPE COD  
COMMISSION

The Housing Profiles have been created as a data resource by the Cape Cod Commission. Explore more data related to housing, demographics, and the economy at [datacapecod.org](https://datacapecod.org).

CAPECODCOMMISSION.ORG • DATACAPECOD.ORG



# MORIARTY TROYER & MALLOY LLC

ATTORNEYS AT LAW

Kimberly A. Bielan  
Direct Dial: (781) 817-4607  
kbielan@lawmtm.com  
Admitted in MA & RI

January 6, 2023

***Via Email Only***

***(jordan.velozo@capecodcommission.org;  
alexander.peterson@capecodcommission.org)***

Jordan Velozo, Esq., Chief Regulatory Officer  
Alexander Peterson, Esq., Regulatory Planner II  
Cape Cod Commission  
P.O. Box 226  
3225 Main Street  
Barnstable, MA 02630

**Re: Falmouth Road Market, CCC File No. 21015**

Dear Attorneys Velozo and Peterson:

On behalf of Project Applicant, Shellback Development LLC ("Applicant"), I write to respectfully request that the Applicant be permitted to withdraw, without prejudice, its application for a Development of Regional Impact ("Application") concerning the property located at 647 Falmouth Road (Route 28), Mashpee, Massachusetts ("Property").

The Applicant understands that the Subcommittee and Cape Cod Commission staff have outstanding concerns relative to the ability to safely ingress and egress from the Property, which cannot be adequately addressed in light of the present site configuration. Accordingly, after consultation with the prospective tenant, it is the Applicant's intention to diligently pursue alternative avenues that will enable the Applicant to resubmit its Application in the near term. While the Applicant is loathe to seek to withdraw its Application at this stage after ample substantive discussion and public participation has occurred, it is confident that a future submission will, from its inception, address the Commission's concerns relative to access to the Property.

The Applicant appreciates the substantial time and resources that have been expended by the Commission to review the Application and is confident that such efforts will ultimately lead to an approvable project that readily promotes the objectives of the Commission. Thank you for your attention to this matter.

Respectfully,

Kimberly A. Bielan

cc: Evan Lehrer, Mashpee Town Planner



# ***TOWN OF FALMOUTH***

## **ZONING BOARD OF APPEALS**

---

59 TOWN HALL SQUARE, FALMOUTH, MA 02540  
508-495-7460 – FAX 508-495-7463

### **BOARD OF APPEALS NOTICE OF PUBLIC HEARING**

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

**Application #098-22 Michael K. Noonan, 11 Surrey Lane, East Falmouth, MA.:** Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-162 and 240-38G(4)(b) of the Code of Falmouth to allow a Home Based Service Business (wood delivery) and to allow a vehicle over 13,000GVW. The subject property is 11 Surrey Lane, East Falmouth, MA.

Map 29 Section 06 Parcel 005 Lot(s) 004

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on **Thursday, January 5, 2023 at 6:30PM**  
You are invited to be present.

By Order of the Board of Appeals,  
Chairman, Terrence Hurrie

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. \*Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>





# ***TOWN OF FALMOUTH***

## **ZONING BOARD OF APPEALS**

---

59 TOWN HALL SQUARE, FALMOUTH, MA 02540  
508-495-7460 – FAX 508-495-7463

### **BOARD OF APPEALS NOTICE OF PUBLIC HEARING**

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

**Application #097-22 William and Carol Brenner, 3 Ruth Terrace, Waquoit, MA.:** Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-23 I. and 240-162 of the Code of Falmouth to construct a detached accessory apartment and to allow a home occupation for a mobile coffee business on subject property known as 3 Ruth Terrace, Waquoit, MA.

Map 30 Section 05 Parcel 003 Lot(s) 007

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on **Thursday, January 5, 2023 at 6:30PM**  
You are invited to be present.

By Order of the Board of Appeals,  
Chairman, James T. Morse

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM.\*Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>



# ***TOWN OF FALMOUTH***

## **ZONING BOARD OF APPEALS**

59 TOWN HALL SQUARE, FALMOUTH, MA 02540  
508-495-7460 – FAX 508-495-7463

### **BOARD OF APPEALS NOTICE OF PUBLIC HEARING**

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

**Application #099-22 John F. and Andrea W. McCarthy, 15 Ipswich Drive, East Falmouth, MA.:**

Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-69 E. of the Code of Falmouth to raze the existing dwelling and rebuild, exceeding 20% lot coverage by structures on subject property known as 15 Ipswich Drive, East Falmouth, Ma.

Map 41 Section 06 Parcel 000 Lot(s) 092

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on

**Thursday, January 5, 2023 at 6:30PM**

You are invited to be present.

By Order of the Board of Appeals,  
Chairman, James T. Morse

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. \*Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>



# ***TOWN OF FALMOUTH***

## **ZONING BOARD OF APPEALS**

59 TOWN HALL SQUARE, FALMOUTH, MA 02540  
508-495-7460 – FAX 508-495-7463

### **BOARD OF APPEALS NOTICE OF PUBLIC HEARING**

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

**Application #101-22 Eric and Mariana A. Shumway, 57 Beech Glen Road, Roxbury, MA.:** Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-10.2A and 240-11.3A (4) (formerly 240-3 C. and 240-69 E.) of the Code of Falmouth to raze and rebuild the nonconforming, single family dwelling on subject property known as 182 Edgewater Drive, East, East Falmouth, Ma.

Map 32 Section 15 Parcel 000F Lot(s) 001

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on

**Thursday, January 5, 2023 at 6:30PM**

You are invited to be present.

By Order of the Board of Appeals,  
Chairman, James T. Morse

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. \*Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>



# ***TOWN OF FALMOUTH***

## **ZONING BOARD OF APPEALS**

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59 TOWN HALL SQUARE, FALMOUTH, MA 02540  
508-495-7460 – FAX 508-495-7463

### **BOARD OF APPEALS NOTICE OF PUBLIC HEARING**

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

**Application #105-22 John R. and Anna A. Bowen, Trustees, 37 Cappawack Road, Mashpee, MA.:**

Applied to the Zoning Board of Appeals for a modification of existing permits #110-15 and #37-21 pursuant to section(s) 240-10.2A (formerly 240-3 C.) of the Code of Falmouth to remove condition No. 2 of the Special Permit (#110-15) and increase the total lot coverage; property is under an enforcement order by letter dated September 14, 2022. The subject property is 102 Grand Avenue, Falmouth, Ma.

Map 46B Section 21 Parcel 036 Lot(s) 001

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on

**Thursday, January 19, 2023 at 6:30PM**

You are invited to be present.

By Order of the Board of Appeals,  
Chairman, James T. Morse

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM.\*Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>



# ***TOWN OF FALMOUTH***

## **ZONING BOARD OF APPEALS**

---

59 TOWN HALL SQUARE, FALMOUTH, MA 02540  
508-495-7460 – FAX 508-495-7463

### **BOARD OF APPEALS NOTICE OF PUBLIC HEARING**

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

**Application #102-22 David E. and Dana L. Martin, Trustees, 88 Lucerne Avenue, Falmouth, MA.:**

Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-10.2A (formerly 240-3 C.) of the Code of Falmouth to remove the existing deck and construct an addition to the non-conforming, single family dwelling on subject property known as 88 Lucerne Avenue, Falmouth, Ma.

Map 39 Section 18 Parcel 015 Lot(s) 062

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on

**Thursday, January 19, 2023 at 6:30PM**

You are invited to be present.

By Order of the Board of Appeals,  
Chairman, James T. Morse

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. \*Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>



# ***TOWN OF FALMOUTH***

## **ZONING BOARD OF APPEALS**

---

59 TOWN HALL SQUARE, FALMOUTH, MA 02540  
508-495-7460 – FAX 508-495-7463

### **BOARD OF APPEALS NOTICE OF PUBLIC HEARING**

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

**Application #103-22 Alexis Borisy and Lia L. Meisinger, 531 Concord Avenue, Belmont, MA.:**

Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-10.2A (formerly 240-3 C.) of the Code of Falmouth to remove and rebuild the existing pool, add a hot tub, construct sheds and add a bathroom addition to the existing detached garage. The subject property is 109 Gansett Road, Woods Hole, Ma.

Map 49 Section 03 Parcel 018 Lot(s) 074

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on **Thursday, January 19, 2023 at 6:30PM**

You are invited to be present.

By Order of the Board of Appeals,  
Chairman, James T. Morse

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM. \*Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>



**TOWN OF FALMOUTH  
MASSACHUSETTS**

**BOARD OF APPEALS**

**Notice of Decision**

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by John C. and Bernadette Slattery, 90 Sailfish Drive, East Falmouth, MA.

(Map 33 Lot 025) under 240-3 C. & 240-69 E. of the Zoning By-Law, as amended to **grant** the special permit to remove the existing deck and construct an addition.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **December 28, 2022** which is the date the Decision was filed in the office of the Town Clerk.

Please contact Noreen Stockman at 508-495-7460  
or [Noreen.stockman@falmouthma.gov](mailto:Noreen.stockman@falmouthma.gov) if you have any questions or comments  
full text of decision available at <http://www.falmouthmass.us>





# ***TOWN OF FALMOUTH***

## **ZONING BOARD OF APPEALS**

---

59 TOWN HALL SQUARE, FALMOUTH, MA 02540  
508-495-7460 – FAX 508-495-7463

### **BOARD OF APPEALS NOTICE OF PUBLIC HEARING**

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

**Application #104-22 Timothy J. Gordon, 3 Amherst Avenue, Falmouth, MA.:** Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-10.2A and 240-11.3A.(4) (formerly 240-3 C. and 240-69 E.) of the Code of Falmouth to remove the existing deck, construct a small addition to the first floor, construct dormers to the front façade and expand the rear portion of the second floor. The subject property is 3 Amherst Avenue, Falmouth, Ma.

Map 46B Section 27 Parcel 005 Lot(s) 003

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on **Thursday, January 19, 2023 at 6:30PM**  
You are invited to be present.

By Order of the Board of Appeals,  
Chairman, James T. Morse

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM.\*Plans are available to review at <https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA>



**TOWN OF FALMOUTH  
MASSACHUSETTS**

**BOARD OF APPEALS**

**Notice of Decision**

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by Christopher Coppellotti, 63 Glen Avenue, North Falmouth, Ma.

(Map 04A Lot 112) under 240-C. and 240-69 E. of the Zoning By-Law, as amended to **grant** the special permit to raze and rebuild the dwelling, increasing lot coverage by structures.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **January 3, 2023** which is the date the Decision was filed in the office of the Town Clerk.

Please contact Noreen Stockman at 508-495-7460  
or [Noreen.stockman@falmouthma.gov](mailto:Noreen.stockman@falmouthma.gov) if you have any questions or comments  
full text of decision available at <http://www.falmouthmass.us>



**TOWN OF FALMOUTH  
MASSACHUSETTS**

**BOARD OF APPEALS**

**Notice of Decision**

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by Michael Duffany, 175 Palmer Avenue, Falmouth, MA.

(Map 38A Lot 000) under 240-23 E. and 240-3 C. of the Zoning By-Law, as amended to **grant** the special permit to convert the existing church into professional office space.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **December 30, 2022** which is the date the Decision was filed in the office of the Town Clerk.

Please contact Noreen Stockman at 508-495-7460  
or [Noreen.stockman@falmouthma.gov](mailto:Noreen.stockman@falmouthma.gov) if you have any questions or comments  
full text of decision available at <http://www.falmouthmass.us>



**TOWN OF FALMOUTH  
MASSACHUSETTS**

**BOARD OF APPEALS**

**Notice of Decision**

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by Patricia J. Barksdale, 71 Philadelphia Street, Teaticket, Ma.

(Map 39A Lot 029) under 240-3 C. and 240-69 E. of the Zoning By-Law, as amended to **grant** the special permit to remove a portion of the existing deck and construct a second story addition.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **January 3, 2023** which is the date the Decision was filed in the office of the Town Clerk.

Please contact Noreen Stockman at 508-495-7460  
or [Noreen.stockman@falmouthma.gov](mailto:Noreen.stockman@falmouthma.gov) if you have any questions or comments  
full text of decision available at <http://www.falmouthmass.us>



**TOWN OF FALMOUTH  
MASSACHUSETTS**

**BOARD OF APPEALS**

**Notice of Decision**

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by Mark Delorme, 345 Carriage Shop Road, East Falmouth, Ma.

(Map 29 Lot 001) under 240-38 I. of the Zoning By-Law, as amended to **grant** the special permit to allow a detached accessory apartment.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **January 6, 2023** which is the date the Decision was filed in the office of the Town Clerk.

Please contact Noreen Stockman at 508-495-7460  
or [Noreen.stockman@falmouthma.gov](mailto:Noreen.stockman@falmouthma.gov) if you have any questions or comments  
full text of decision available at <http://www.falmouthmass.us>



**TOWN OF FALMOUTH  
MASSACHUSETTS**

**BOARD OF APPEALS**

**Notice of Decision**

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by Paul S. Turecamo and Susan M. Orsillo, 26 Pennsylvania Court, Falmouth, MA. (Map 46B Lot 017) under 240-3 C. and 240-162 of the Zoning By-Law, as amended to **grant** the special permit to convert the existing garage into office space.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **January 6, 2023** which is the date the Decision was filed in the office of the Town Clerk.

Please contact Noreen Stockman at 508-495-7460  
or [Noreen.stockman@falmouthma.gov](mailto:Noreen.stockman@falmouthma.gov) if you have any questions or comments  
full text of decision available at <http://www.falmouthmass.us>

Town of Sandwich  
THE OLDEST TOWN ON CAPE COD



## Board of Appeals

100 Route 6A  
Sandwich, MA 02563  
Phone: 508-833-8001  
E-mail: [planning@sandwichmass.org](mailto:planning@sandwichmass.org)

### Appeal of the Decision of Building Commissioner CERTIFICATE OF APPROVAL

**PROPERTY ADDRESS:** 6 Jacobs Meadow Road  
**NAME OF APPLICANT:** Lawrence E. Stevens

TOWN CLERK  
TOWN OF SANDWICH

DEC 14 2022

10 H 35 M 16  
RECEIVED & RECORDED

On December 13, 2022 the Board of Appeals voted to approve an Appeal of the Decision of the Building Commissioner for 6 Jacobs Meadow Road, Sandwich, MA, Assessors Map 52 Parcel 50 for the purpose of appealing the Building Commissioner's zoning determination relating to a commercial use dated October 4, 2022.

The Board of Appeals certifies that this certificate is a true and correct copy of the decision to approve the Appeal of the Decision of the Building Commissioner and that copies of said decision, and of all plans referred to in the decision, have been filed with the Board of Appeals and the Town Clerk.

Any person aggrieved by this decision may appeal to the Superior Court or Land Court as in Section 17 of Chapter 40A, M.G.L. by filing a NOTICE OF ACTION AND COMPLAINT with the Town Clerk within twenty (20) days of the date of filing of this decision.

Board of Appeals Member

12/14/2022

Date



### **PROCEDURAL HISTORY**

1. Application for Appeal of the Decision of the Building Commissioner was received on October 21, 2022 for the purpose of appealing a written zoning determination of the Building Commissioner dated October 4, 2022.
2. After proper notice was given, the public hearing was opened on December 13, 2022 and closed December 13, 2022.
3. The application was not accompanied by a site plan.
4. The Board reviewed the application and all other materials submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing.
5. The following members attended the public hearing:

James Killion  
Christopher Neeven  
Kevin Kirrane  
Mary Foley

### **FINDINGS**

1. The Board of Appeals finds that this application meets the requirements of Section 8, M.G.L. Chapter 40A.
2. The Board of Appeals finds that the subject property is located in the R-2 zoning district.
3. The Board of Appeals finds that commercial vehicles are parked on the property.
4. The Board finds that the property appears to be used as a staging area for a commercial plumbing business.
5. The Board of Appeals finds that the activities on the property are in violation of the Sandwich Protective Zoning Bylaw Section 2200 Use Regulations. Commercial uses disallowed in the R2 zoning district.

Motion: I, James Killion, move to adopt these findings as the findings of the Board of Appeals.

Second: Kevin Kirrane

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Kevin Kirrane	Yes
	Mary Foley	Yes

### **DECISION**

After reviewing the application, the plan and other materials submitted and after giving due consideration to testimony given at the public hearing, the Board hereby approves the Appeal of the Decision of the Building Commissioner, for property located at 6 Jacobs Meadow Road, Sandwich, MA, Assessors Map 52 Parcel 50 for the purpose of

appealing the Building Commissioner's zoning determination relating to a commercial use dated October 4, 2022.

Motion: I, James Killion, moves to approve the Appeal of the Decision of the Building Commissioner.

Second: Kevin Kirrane

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Kevin Kirrane	Yes
	Mary Foley	Yes



**TOWN OF SANDWICH  
PUBLIC HEARING NOTICE  
BOARD OF APPEALS**

The Sandwich Board of Appeals will hold a Public Hearing on the application of Lisa Burns, Applicant and Lindsay & Lisa J. Burns, Property Owners, for a Special Permit under Section 2200 of the Sandwich Protective Zoning By-Law for property located at 24 Sandy Neck Road, East Sandwich, MA Assessor's Map #50, Parcel #65, for the purpose of a personal animal kennel. The Public Hearing will be held on January 10, 2023 at the Sand Hill School Community Center, 16 Dewey Ave, Sandwich, MA at 6:00 p.m. The public record information can be viewed at the Planning & Development office, 100 Route 6A, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

James Killion, Chair  
Sandwich Board of Appeals  
Publication: Sandwich Enterprise  
Publication Dates: December 23 and December 30, 2022



**TOWN OF SANDWICH  
PUBLIC HEARING NOTICE  
BOARD OF APPEALS**

The Sandwich Board of Appeals will hold a Public Hearing on the application of Scott & Donna Floeck, applicants and property owners, for a Variance under Section 2220 of the Sandwich Protective Zoning By-Law for property located at 115 Salt Marsh Road, Sandwich, MA, Assessor's Map #77, Parcel #70, for the purpose of constructing a boathouse. The Public Hearing will be held on January 10, 2023 at the Sand Hill School Community Center, 16 Dewey Ave, Sandwich, MA at 6:00 p.m. The public record information can be viewed at the Planning & Development office, 100 Route 6A, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

James Killion, Chair  
Sandwich Board of Appeals  
Publication: Sandwich Enterprise  
Publication Dates: December 23 and December 30, 2022



**TOWN OF SANDWICH  
PUBLIC HEARING NOTICE  
BOARD OF APPEALS**

The Sandwich Board of Appeals will hold a Public Hearing on the application of In Good Health, Inc., applicant, and GDBS II Trust & B. Marlin Nominee Trust, Gary Blank, Trustee, property owner, for a Special Permit under Sections 8005 & 8006 of the Sandwich Protective Zoning By-Law for property located at 449 Route 130, Sandwich, MA Assessor's Map #32, Parcel #s 6-4b, 6-7 & 6-8, for the purpose of operating a medical and recreational marijuana operation. The Public Hearing will be held on January 24, 2023 at the Sand Hill School Community Center, 16 Dewey Ave, Sandwich, MA at 6:00 p.m. The public record information can be viewed at the Planning & Development office, 100 Route 6A, Sandwich, MA, Monday-Friday 8:30 a.m. to 4:30 p.m.

James Killion, Chair  
Sandwich Board of Appeals  
Publication: Sandwich Enterprise  
Publication Dates: January 6 and January 13, 2023

# PLEASE JOIN US!

# MASSACHUSETTS OPEN SPACE CONFERENCE

*Photo credit: Diane Griffiths Peck*

## FREE WEBINAR SERIES

THURSDAY FEBRUARY 2ND, 9TH, 16TH    **12:00-1:30 PM**  
THURSDAY FEBRUARY 23RD                    **12:00-1:00 PM**

The Open Space Conference provides resources, peer to peer learning, and project inspiration for Open Space Committees, volunteers, and others involved in developing and implementing community-based conservation planning and projects.

**2/2: Open Space and Recreation Plans  
from Writing to Action**

**2/9: Tips & Tools for Landowner Outreach**

**2/16: Land Conservation & Restoration  
Initiatives for Climate Resiliency**

**2/23: BioMap, the Latest and Greatest**

Learn more & register for this free event at  
**[www.massopenspace.org](http://www.massopenspace.org)**

Please contact [massopenspace@gmail.com](mailto:massopenspace@gmail.com) with any questions





Massachusetts Department of Environmental Protection

## **eDEP Transaction Copy**

---

Here is the file you requested for your records.

To retain a copy of this file you must save and/or print.

**Username: EBELAIR**

**Transaction ID: 1460559**

**Document: Groundwater Discharge Monitoring Report Forms**

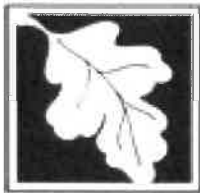
**Size of File: 1032.29K**

**Status of Transaction: Submitted**

**Date and Time Created: 12/20/2022:2:02:49 PM**

**Note:** This file only includes forms that were part of your transaction as of the date and time indicated above. If you need a more current copy of your transaction, return to eDEP and select to "Download a Copy" from the Current Submittals page.





**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Groundwater Discharge Program

**Groundwater Permit**  
**DISCHARGE MONITORING REPORT**

668

1. Permit Number

2. Tax identification Number

2022 NOV MONTHLY

3. Sampling Month & Frequency

**A. Facility Information**

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Facility name, address:

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

2. Contact information:

MYLES OSTROFF

a. Name of Facility Contact Person

6174311097

b. Telephone Number

myles@chartweb.com

c. e-mail address

3. Sampling information:

11/4/2022

a. Date Sampled (mm/dd/yyyy)

RI ANALYTICAL

b. Laboratory Name

BRENT PLANT

c. Analysis Performed By (Name)

**B. Form Selection**

1. Please select Form Type and Sampling Month & Frequency

Discharge Monitoring Report - 2022 Nov Monthly



All forms for submittal have been completed.



2. This is the last selection.



3. Delete the selected form.



**Groundwater Permit**  
**DISCHARGE MONITORING REPORT**

668

1. Permit Number

2. Tax identification Number

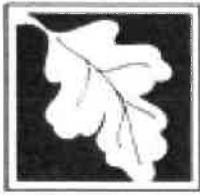
2022 NOV MONTHLY

3. Sampling Month & Frequency

**D. Contaminant Analysis Information**

- For "0", below detection limit, less than (<) value, or not detected, enter "ND"
- TNTC = too numerous to count. (Fecal results only)
- NS = Not Sampled

1. Parameter/Contaminant	2. Influent	3. Effluent	4. Effluent Method Detection limit
Units			
BOD	120	ND	3.0
MG/L			
TSS	120	ND	2.0
MG/L			
TOTAL SOLIDS	410		
MG/L			
AMMONIA-N	18		
MG/L			
NITRATE-N		3.1	0.050
MG/L			
TOTAL NITROGEN(NO3+NO2+TKN)		5.5	0.50
MG/L			
OIL & GREASE		4.1	0.50
MG/L			



**Massachusetts Department of Environmental Protection**  
Bureau of Resource Protection - Groundwater Discharge Program

**Groundwater Permit**  
**MONITORING WELL DATA REPORT**

668

1. Permit Number

2. Tax identification Number

2022 NOV MONTHLY

3. Sampling Month & Frequency

**A. Facility Information**

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Facility name, address:

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

2. Contact information:

MYLES OSTROFF

a. Name of Facility Contact Person

6174311097

b. Telephone Number

myles@chartweb.com

c. e-mail address

3. Sampling information:

11/23/2022

a. Date Sampled (mm/dd/yyyy)

WHITEWATER

b. Laboratory Name

JAIME STEWART

c. Analysis Performed By (Name)

**B. Form Selection**

1. Please select Form Type and Sampling Month & Frequency

Monitoring Well Data Report - 2022 Nov Monthly

☐ All forms for submittal have been completed.

2. ☐ This is the last selection.

3. ☐ Delete the selected form.



**Groundwater Permit**  
MONITORING WELL DATA REPORT

668

1. Permit Number

2. Tax identification Number

2022 NOV MONTHLY

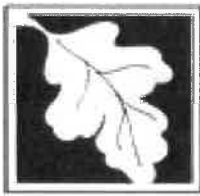
3. Sampling Month & Frequency

**C. Contaminant Analysis Information**

- For "0", below detection limit, less than (<) value, or not detected, enter "ND"
- TNTC = too numerous to count. (Fecal results only)
- NS = Not Sampled
- DRY = Not enough water in well to sample.

<

Parameter/Contaminant	P-1	P-2	P-4	P-6		
Units	Well #: 1	Well #: 2	Well #: 3	Well #: 4	Well #: 5	Well #: 6
PH	6.2	DRY	6.8	6.6		
S.U.						
STATIC WATER LEVEL	19.6	DRY	46.9	51.7		
FEET						
SPECIFIC CONDUCTANCE	975	DRY	1010	1050		
UMHOS/C						



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Groundwater Discharge Program

**Groundwater Permit**

**DAILY LOG SHEET**

668

1. Permit Number

2. Tax identification Number

2022 NOV DAILY

3. Sampling Month & Frequency

**A. Facility Information**

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1. Facility name, address:

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a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

2. Contact information:

MYLES OSTROFF

a. Name of Facility Contact Person

6174311097

b. Telephone Number

myles@chartweb.com

c. e-mail address

3. Sampling information:

11/30/2022

a. Date Sampled (mm/dd/yyyy)

WHITEWATER

b. Laboratory Name

JAIME STEWART

c. Analysis Performed By (Name)

**B. Form Selection**

1. Please select Form Type and Sampling Month & Frequency

Daily Log Sheet - 2022 Nov Daily



All forms for submittal have been completed.



2. This is the last selection.



3. Delete the selected form.



**Groundwater Permit**  
DAILY LOG SHEET

668

1. Permit Number

2. Tax identification Number

2022 NOV DAILY

3. Sampling Month & Frequency

**C. Daily Readings/Analysis Information**

Date	Effluent Flow GPD	Reuse Flow GPD	Irrigation Flow GPD	Turbidity	Influent pH	Effluent pH	Chlorine Residual (mg/l)	UV Intensity (%)
1	8148					7.5		
2	10364					7.5		
3	7141					7.4		
4	9372					7.4		
5	9373							
6	8152							
7	12590					7.8		
8	10221					7.6		
9	8454					7.7		
10	8299					7.5		
11	10204					7.5		
12	10204							
13	10204							
14	10377					7.6		
15	6297					7.5		
16	8320					7.6		
17	10304					7.5		
18	8886					7.6		
19	8886							
20	8886							
21	10951					7.4		
22	10289					7.4		
23	6022					7.5		
24	6022							
25	8743					7.4		
26	8744							
27	8744							
28	8052					7.3		
29	10976					7.3		
30	8145					7.4		
31								



Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Groundwater Discharge Program

## Groundwater Permit

668

1. Permit Number

2. Tax identification Number

**Important:** When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Any person signing a document under 314 CMR 5.14(1) or (2) shall make the following certification

If you are filing electronic-ally and want to attach additional comments, select the check box.



### Facility Information

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

### Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

ELIZABETH BELAIR

a. Signature

12/20/2022

b. Date (mm/dd/yyyy)

### Reporting Package Comments

PLANT MET ALL DISCHARGE PERMIT REQUIREMENTS FOR NOVEMBER 2022.





**Town of Barnstable**  
**Planning & Development Department**  
[www.townofbarnstable.us/planninganddevelopment](http://www.townofbarnstable.us/planninganddevelopment)



Elizabeth Jenkins  
Director

January 10, 2023

Department of Housing and Community Development  
100 Cambridge Street, Suite 300 - Boston, MA 02114

Cape Cod Commission  
P.O. Box 226 - 3225 Main Street (Route 6A) - Barnstable, MA 02630

Town of Sandwich, Planning Board  
16 Jan Sebastien Drive - Sandwich, MA 02563

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16 Great Neck Road - Mashpee, MA 02649

Town of Yarmouth, Planning Board  
1146 Route 28 - Yarmouth, MA 02664

Town of Barnstable, Zoning Board of Appeals  
367 Main Street- Hyannis, MA 02601

**Reference: Town of Barnstable – Town Council**  
**Proposed Zoning Amendment – TC Item No. 2022-144**

**The proposed Zoning Amendment is in compliance with the 2018 Growth Incentive Zone Decision #35.**

**AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY REPEALING THE ZONING DISTRICTS KNOWN AS THE “HYANNIS VILLAGE ZONING DISTRICTS” AND REPLACING THEM WITH REVISED AND UPDATED DISTRICTS COLLECTIVELY KNOWN AS THE “DOWNTOWN HYANNIS ZONING DISTRICTS”**

The Barnstable Town Council, acting under Chapter 40A, Section 5 of the General Laws of the Commonwealth of Massachusetts, will hold a public hearing on Thursday, February 2, 2023, at 7:00 p.m. in the James H. Crocker, Jr. Hearing Room located in Barnstable Town Hall, 2nd Floor, 367 Main Street, Hyannis, MA. The public may attend and provide comment in person or may provide comment remotely using the Zoom link found below. The purpose of this public hearing is to take comment on a proposal to amend the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 zoning by repealing the zoning districts known as the “Hyannis Village Zoning Districts” and replacing them with revised and updated districts collectively known as the “Downtown Hyannis Zoning Districts”.

The proposal is to amend the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 zoning by repealing the zoning districts known as the “Hyannis Village Zoning Districts” and replacing them with revised and updated districts collectively known as the “Downtown Hyannis Zoning Districts”.

Section 1 repeals the districts collectively known as the “Hyannis Village Zoning Districts” and replaces them with seven new districts collectively known as the “Downtown Hyannis Zoning Districts” as shown on map dated January 21, 2022, and available at Town Hall and on the website, as noted below.

Section 2 amends Section 240-5 by deleting the eight “Hyannis Village Zoning Districts” and inserting in its place the seven “Downtown Hyannis Zoning Districts”. The “Hyannis Parking Overlay District” is also deleted.

Section 3 amends Article III District Regulations to repeal Sections 240-24.1 through 240-24.1.13 and replaces them with new sections 240-24.1.1 through 240-24.1.17.

The following new sections are proposed to be incorporated with the proposed zoning amendment:

- Downtown Hyannis Zoning Districts, Title & General Provisions to establish the name, title, applicability and permitting authority for the proposed Downtown Hyannis Zoning Districts.
- Definitions to provide defined words, phrases and terms applicable for real property within the Downtown Hyannis Zoning Districts.
- Standards for all Districts to establish building standards, use provisions, parking standards and minimum required accessory parking spaces and site standards applicable to all seven Downtown Hyannis Zoning Districts.
- Standards for each of the seven proposed zoning districts including Downtown Main Street District (DMS), Downtown Village District (DV), Downtown Neighborhood District (DN), Downtown Hospital District (DH), Hyannis Harbor District (HH), Transportation Center District (TC), and Highway Commercial District (HC) to provide detailed provisions for each zoning district including the intent of each district and standards for lots, buildings, uses and sites customized for each specific district.
- Tables to provide a summary table of dimensional standards for all of the seven proposed zoning districts and standards for frontage types and building components.

The purpose of the proposed zoning amendment includes but is not limited to updating the zoning in Downtown Hyannis is to address housing goals, including increasing housing supply and diversity in areas with infrastructure and community activity and away from open spaces and areas with critical natural resource value; improve the urban fabric of downtown Hyannis in a manner consistent with its historic and maritime character and existing development patterns; improving the ease of use of the zoning ordinance for the public and for businesses and developers; and encouraging housing production and mixed use development at human-scale density, and create predictable outcomes in urban form.

This amendment was introduced at Town Council on March 3, 2022 and was referred to the Planning Board for review and recommendation. The Planning Board voted on a recommendation on the amendment on April 11, 2022.

The Thursday, February 2, 2023 Town Council meeting shall take place in person. The public may attend in person or may provide public comment or participate in the Public Hearing through remote access via the following Zoom link or telephone number and Meeting ID:

Link: <https://townofbarnstable-us.zoom.us/j/82315149465>

Phone: 888 475 4499 US Toll-free Meeting ID: 823 1514 9465

In addition, the meeting may be viewed in real-time via Channel 18 and may be viewed via the Live Stream on the Town of Barnstable’s website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>

Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to [cynthia.lovell@town.barnstable.ma.us](mailto:cynthia.lovell@town.barnstable.ma.us) so that they may be displayed for remote public access viewing.

A copy of the full text for the proposed zoning amendment can be found on the Town’s website, <https://www.townofbarnstable.us>, Department of Planning and Development’s homepage, under “current projects” via zoning updates. Additionally, copies are available at the Town Council Office, 367 Main Street, Hyannis, MA between the hours of 8:30 AM to 4:30 PM, Monday through Friday and can also be obtained from the Planning and Development Office, 367 Main Street, 3rd floor, Hyannis MA during concurrent hours. Copies can also be obtained by calling 508-862-4738 or emailing [cynthia.lovell@town.barnstable.ma.us](mailto:cynthia.lovell@town.barnstable.ma.us).



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Elizabeth Jenkins  
Director

January 10, 2023

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1146 Route 28 - Yarmouth, MA 02664

Town of Barnstable, Zoning Board of Appeals  
367 Main Street- Hyannis, MA 02601

**Reference: Town of Barnstable – Town Council**  
**Proposed Zoning Amendment – TC Item No. 2022-145**

**AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY AMENDING ARTICLE VII SIGN REGULATIONS**

The Barnstable Town Council, acting under Chapter 40A, Section 5 of the General Laws of the Commonwealth of Massachusetts, will hold a public hearing on Thursday, February 2, 2023, at 7:00 p.m. in the James H. Crocker, Jr. Hearing Room located in Barnstable Town Hall, 2nd Floor, 367 Main Street, Hyannis, MA. The public may attend and provide comment in person or may provide comment remotely using the Zoom link found below. The purpose of this public hearing is to take comment on a proposal to amend the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 zoning by amending Article VII Sign Regulations.

The proposal is to amend the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 zoning by amending Article VII Sign Regulations. The proposed amendment is a companion to Item 2022-144 which comprehensively updates the zoning regulations within the area designated as the Downtown Hyannis Growth Incentive Zone and proposes to create seven new zoning districts. The purpose of the proposed zoning amendment is to update the signage regulations in Article VII of the Zoning Code to reflect the proposed new zoning district names. The allowable size, number, and height of signs in most cases is not proposed to be altered. For the consolidated Hyannis Gateway and Gateway Medical Districts, proposed as Highway Commercial, the more generous signage allowance was incorporated. For the new Downtown Village District, provisions of the former districts were

combined and redrafted with the intent of allowing appropriate signage for the wide variety of business and commercial properties, but respecting the smaller scale of many of the lots.

This amendment was introduced at Town Council on March 3, 2022 and was referred to the Planning Board for review and recommendation. The Planning Board voted on a recommendation on the amendment on April 11, 2022.

The Thursday, February 2, 2023 Town Council meeting shall take place in person. The public may attend in person or may provide public comment or participate in the Public Hearing through remote access via the following Zoom link or telephone number and Meeting ID:

Link: <https://townofbarnstable-us.zoom.us/j/82315149465>

Phone: 888 475 4499 US Toll-free      Meeting ID: 823 1514 9465

In addition, the meeting may be viewed in real-time via Channel 18 and may be viewed via the Live Stream on the Town of Barnstable's website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>

Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to [cynthia.lovell@town.barnstable.ma.us](mailto:cynthia.lovell@town.barnstable.ma.us) so that they may be displayed for remote public access viewing.

A copy of the full text for the proposed zoning amendment can be found on the Town's website, <https://www.townofbarnstable.us>, Department of Planning and Development's homepage, under "current projects" via zoning updates. Additionally, copies are available at the Town Council Office, 367 Main Street, Hyannis, MA between the hours of 8:30 AM to 4:30 PM, Monday through Friday and can also be obtained from the Planning and Development Office, 367 Main Street, 3rd floor, Hyannis MA during concurrent hours. Copies can also be obtained by calling 508-862-4738 or emailing [cynthia.lovell@town.barnstable.ma.us](mailto:cynthia.lovell@town.barnstable.ma.us).



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January 10, 2023

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1146 Route 28 - Yarmouth, MA 02664

Town of Barnstable, Zoning Board of Appeals  
367 Main Street- Hyannis, MA 02601

**Reference: Town of Barnstable – Town Council**  
**Proposed Zoning Amendment – TC Item No. 2022-146**

**The proposed Zoning Amendment is in compliance with the 2018 Growth Incentive Zone Decision #35.**

**AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I GENERAL ORDINANCES, CHAPTER 240 ZONING BY MOVING AND RENUMBERING SECTION 240-122.1 REGISTERED RECREATIONAL MARIJUANA CULTIVATORS, RESEARCH FACILITIES, AND TESTING LABORATORIES INTO A NEW OVERLAY ZONING DISTRICT AND REPEALING SECTIONS 240-129 AND 240-129.1 EXPIRED TEMPORARY MORATORIUM FOR MARIJUANA USES**

The Barnstable Town Council, acting under Chapter 40A, Section 5 of the General Laws of the Commonwealth of Massachusetts, will hold a public hearing on Thursday, February 2, 2023, at 7:00 p.m. in the James H. Crocker, Jr. Hearing Room located in Barnstable Town Hall, 2nd Floor, 367 Main Street, Hyannis, MA. The public may attend and provide comment in person or may provide comment remotely using the Zoom link found below. The purpose of this public hearing is to take comment on a proposal to amend the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning by moving and renumbering Section 240-122.1 Registered Recreational Marijuana Cultivators, Research Facilities, and Testing Laboratories into a new overlay zoning district and repealing Sections 240-129 and 240-129.1 expired temporary moratoria for marijuana uses.



The proposed zoning amendment is a corollary amendment to the proposed new Downtown Hyannis Zoning. Adult use registered recreational marijuana cultivators, research facilities, and testing laboratories are currently allowed within the Medical Services (MS) Zoning District and the Gateway Medical (GM) Zoning District. The new Downtown Hyannis Zoning will create a total of seven zoning districts, where there are currently eight, and the boundaries of the MS and GM Zoning Districts will change with the redrawing of the zoning district lines. The purpose of the proposed zoning amendment is to maintain the current location of the allowed recreational marijuana uses within a new overlay district that will be concurrent with the extent of the existing MS and GM zoning districts. There are no changes proposed to the current allowed location of recreational marijuana uses and there are no changes proposed to the recreational marijuana use regulations themselves.

The proposed zoning amendment will also repeal Sections 240-129 and 240-129.1 expired temporary moratoria for registered recreational and medical marijuana uses.

This amendment was introduced at Town Council on March 3, 2022 and was referred to the Planning Board for review and recommendation. The Planning Board voted on a recommendation on the amendment on April 11, 2022.

The Thursday, February 2, 2023 Town Council meeting shall take place in person. The public may attend in person or may provide public comment or participate in the Public Hearing through remote access via the following Zoom link or telephone number and Meeting ID:

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