


letter presented on April 17 Public Hearing and related references

Mohamad Fahd <mohamadf@hotmail.com>

Thu 4/25/2024 6:21 AM

To: Evan Lehrer <ELehrer@mashpeeema.gov>; Karyn Leslie <kleslie@mashpeeema.gov>

 5 attachments (4 MB)

Letter to Planning Board re 474 Main Street and 31 Ashumet Road.pdf; 89 Industrial Drive Special Permit Water Works.pdf; Mashpee 130 Shoppes special permit.pdf; all 3 lots of Mashpee 130 shops.pdf; 474 Main Street and 31 Ashumet Road - booklet.pdf;

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.

Sent: Saturday, April 20, 2024 12:39 AM

To: Karen Faulkner <kdfaulknerlaw@gmail.com>; dhbalz@yahoo.com <dhbalz@yahoo.com>; mikerichardsonpb@gmail.com <mikerichardsonpb@gmail.com>; robhansen00@msn.com <robhansen00@msn.com>; dale.oakleyjr@gmail.com <dale.oakleyjr@gmail.com>

Greetings,

I am attaching the long letter read at the Public Hearing on the 474 Main St./31 Ashumet Rd Special Permit.

included are the following:

- 1- A concise summary of the same letter in light of Mashpee Statutes and By-laws. Notice the definitions of Plumbing Supplies vs. Plumbing Systems. And the possibility of two entrance ways on Main St.
- 2- The June 17, 2000 Special Permit of Everett J. Prescott (EJP) at the (I-1 zone) 89 Industrial Dr.
- 3- The January 2, 2009 Special Permit of the Mashpee 130 Shops (Shoppes) that indicates the Entrance way to Main St. is for all 3 lots.
- 4- A "pocket" plan of the 3 lots.
- 5- A pdf booklet of all those files.

Thank you for your attention.

Regards,
Mohamad

Mohamad Fahd
35 Ashumet Road, Unit 2C
Mashpee, MA

Mashpee Planning Board
16 Great Neck Road North
Mashpee, MA

April 17, 2024

RE: Proposed project at 474 Main Street/31 Ashumet Road, Mashpee

Dear Madam Chair Faulkner:

Thank you for accepting my neighborhood's testimony on this matter. At the last meeting, we handed you a petition signed by residents of Old Colony and Ashumet Road asking the Planning Board to deny the commercial entrance onto Ashumet Road as the heavy truck traffic will endanger pedestrian, endanger students waiting at the bus stop located directly across from the entrance way, cause noise, and damage a road which was built for pedestrian traffic only, and hurt our property values.

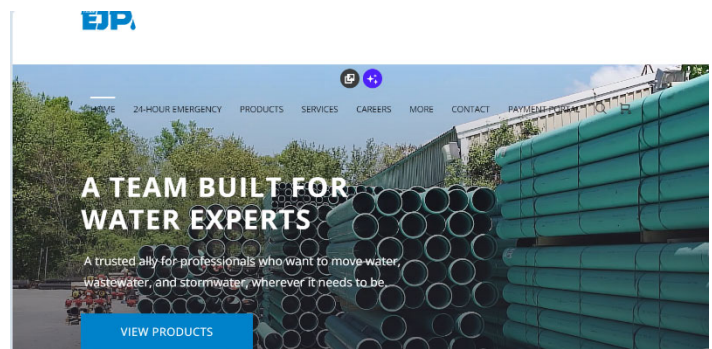
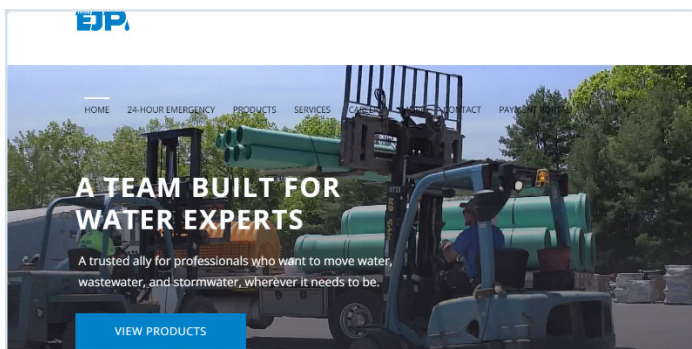
There are now thirty-nine (39) residents of Ashumet Road and Old Colony who have signed this petition against this proposal and we urge you not allow a commercial entrance way onto Ashumet Road. I present these signatures to you now.

There are additional matters I would like to testify to you about:

#1: THE PROPOSED USE NOT ALLOWED in COMMERCIAL C-3 ZONES AND IS ONLY ALLOWED IN INDUSTRIAL ZONE (I-1)

The use proposed at 474 Main Street/31 Ashumet Road is not allowed. The property is zoned C-3. Mashpee's Zoning Bylaw Section 174-25 lists all of the uses allowed in the C-3 zone.

The application lists the use as "commercial building for retail sales of water related products with indoor and outdoor storage". First of all, this description of a use as listed is misleading. This company is a waterworks supplier. From their website "A trusted ally for professionals who want to move water, wastewater, and stormwater, wherever it needs to be." These water related products include, but are not limited to: pipe, hydrants, fittings, connections, clamps, couplings, saddles, backflow preventors, valve and service boxes as per their website: <https://www.ejprescott.com/products> These items are large requiring outdoor storage and heavy equipment to move. This is not a retail store, but an industrial operation, a wholesale business and storage facility, and as such is not allowed in C-3.



The application states the proposed use is allowed by the Zoning Bylaw Sec 174-25-E-13 (the use table table) in the C-3 as with the retail sale of “water related” product. This is false.

Here is Section 174-25-E.13:

§ 174-25 Table of Use Regulations

Table of Use Regulations

§ 174-25 Following is the Table of Use Regulations:

History: Amended 10-7-2002 ATM, Article 22, approved by Attorney General 11-27-2002.

Type of Use		Residential		Commercial			Industrial
		R-3	R-5	C-1	C-2	C-3	I-1
E. Principle retail business and consumer service establishments.							
Type of Use		Residential		Commercial			Industrial
		R-3	R-5	C-1	C-2	C-3	I-1
(13)	Places for retail or wholesale sales of furniture, carpeting, stone and masonry supplies, plumbing supplies, doors and windows, lumber, glass and mirrors and electrical supplies (but not including televisions and similar electronic products, and not including "home improvement" centers or other large retail establishments with over 40,000 square feet of gross floor area). <u>History: [Added 10-7-2002 ATM, Article 22, approved by Attorney General 11-17-2002.</u>	---	---	SP	SP	SP	---

The proposed business is NOT listed in the chart, and at the last meeting the applicant admitted the business is not plumbing supplies – in fact it is not any type of business allowed by Section 174-25-E.13:

Uses allowed in C-3 per Zoning Bylaw Sec 174-25-E.13.for retail or wholesale sales:	Is this the proposed use?
Furniture	No
Carpeting	No
Stone and masonry supplies	No
Plumbing supplies	No
Doors and windows	No
Lumber	No
Glass and mirrors and electrical supplies	No

This shows that the proposed use is not allowed in the Commercial Zone C-3 and the application must be denied.

The reason the development feels so intrusive to our neighborhood is because it is an industrial use, not a commercial use, and is only allowed in the town’s industrial zone (I-1).

The company currently functions from 89 Industrial Drive in Mashpee under a special permit from the Zoning Board of Appeals (Recorded in the Barnstable Registry of Deeds Bk 13014 Page 262 on May 17, 2000) to allow “outdoor storage of waterworks materials (hydrants, pipe, fittings).” This special permit is attached here. The use was approved under Zoning Bylaw Section 125-25. G.9 as a wholesale business and storage. It cannot be moved to the Commercial Zone C-3.

The proposed project of this type is for an Industrial Use, not a Commercial Use, and allowed only in the Industrial Zone I-1. The proposed use is allowed under Zoning Bylaw Section 125-25. G.9 (the use table) in the Industrial Zone only. This use is not allowed in C-3 and not allowed at 474 Main Street/31 Ashumet Road

G. Principle industrial, wholesale and transportation uses						
Type of Use		Residential		Commercial		
		R-3	R-5	C-1	C-2	C-3
(9)	Wholesale business and storage	--	--	--	--	--

PROPOSED PROJECT IS WHOLESALE BUSINESS AND STORAGE, NOT RETAIL: It should also be noted that the site plan describes the proposed building as having 1248 sq. ft. of retail area and 4752 sq. ft. of warehouse area, plus extensive outdoor storage on a gravel and a large non-defined asphalt area that is not designated for parking, which is probably also going to be used for storage. This is more evidence that this is NOT a retail operation but a wholesale business and storage, and again, this is only allowed in the Industrial Zone I-1 and not allowed in Commercial C-3.

THE SPECIAL PERMIT CANNOT BE APPROVED. The Special Permit must be denied per Zoning Bylaw Sec 174-24-C.2. "A Special Permit...may be approved only if it is determined that the proposed use or development is consistent with applicable state and town regulations, statutes, bylaws and plans,..." The proposed use is not consistent with town bylaws and therefore cannot be approved. Furthermore the entrance way will have a significant adverse impact on neighboring properties and be detrimental to our area and neighborhood.

§174-24 Explanation of symbols used in Table of Use Regulations

C. Special Permit use

- 2) A Special Permit may be issued only following the procedures specified by the General Laws and may be approved only if it is determined that the proposed use or development is consistent with applicable state and town regulations, statutes, bylaws and plans, will not adversely affect public health or safety, will not cause excessive demand on community facilities, will not significantly decrease surface or groundwater quality or air quality, will not have a significant adverse impact on wildlife habitat, estuarine systems, traffic flow, traffic safety, waterways, fisheries, public lands or neighboring properties, will not cause excessive levels of noise, vibrations, electrical disturbance, radioactivity or glare, will not destroy or disrupt any species listed as rare, endangered or threatened by the Massachusetts Natural Heritage Program or any known historic or archaeological site, will not produce amounts of trash, refuse or debris in excess of the town's landfill and waste disposal capacities, will properly dispose of stumps, construction debris, hazardous materials and other waste, will provide adequate off-street parking, will not cause excessive erosion or cause increased runoff onto neighboring properties or into any natural river, stream, pond or water body and will not otherwise be detrimental to the town or the area.

PROJECT DOES NOT COMPLY WITH THE REQUIREMENTS OF THE GROUNDWATER PROTECTION DISTRICT AND CANNOT BE APPROVED AS THE PROJECT CANNOT BE FOUND TO BE IN COMPLIANCE WITH TOWN REGULATIONS AND CANNOT BE FOUND TO NOT HAVE AN ADVERSE IMPACT ON GROUNDWATER QUALITY:

The amount of proposed impervious surface (the sum of the building, the asphalt areas, and the gravel storage area) does not comply with the zoning requirements for the Groundwater Protection District:

Zoning Bylaw Section 174-80. (Allowed uses in the Groundwater Protection District) F. Land uses which result in the rendering impervious of no more than fifteen percent (15%) or two thousand five hundred (2,500') square feet of any lot, whichever is greater, except as permitted under §174-82.

Zoning Bylaw Section 174-81 (Prohibited uses in the Groundwater Protection District) N. Land uses which result in the rendering impervious of no more than fifteen percent (15%) or two thousand five hundred (2,500') square feet of any lot, whichever is greater, except as permitted under §174-82. X.

The project does not comply with the requirements of the Groundwater Protection District and should not be approved.

APPLICATION MUST HAVE A WATER QUALITY REPORT, A STORM WATER PLAN, AND PLANTING PLAN:

Per the Zoning Bylaw, other items which are required for this application are:

1. Water Quality Report per §174-27 **Water Quality Report**
2. The Stormwater **Management Plan** and design which conforms with the requirements of Subsection 174-27.2.B.3).
3. A Planting Plan in compliance with Section 174-31 Footnote 14 which states: "Where such area (the required buffer area from roads and side lines) is not naturally wooded, it shall be suitably planted with sufficient trees and under story 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 development and the roadway." The proposed "undisturbed area" is not sufficiently vegetated to constitute a visual barrier between the proposed development and the roadway" and therefore requires a **planting plan** which meets this requirement.

ACCESS IS ALLOWED FROM ROUTE 130: When the Special Permit for the corner lot (470 Main Street, Assessor's Map 27 Parcel 21) was approved by the Planning Board, the three lots (470 Main Street, 474 Main Street, and 31 Ashumet Road) were considered all together, and 470 Main Street was required to build a driveway from the corner lot (470 Main Street) from its parking lot onto this project's property (474 Main Street) to provide access, through the existing parking lot to Main Street/ Route 130 so as to not violate the distance requirement between driveways entering onto Route 130 and the provisions that apply in the C-3 district (Section 174-25.1) requiring access to a street other than Main Street/Route 130. The intent was, in effect, to create a shared parking lot with shared access from Main Street/Route 130. This entrance way should be used to access any proposed development at 474 Main Street/31 Ashumet Road.

I would like to thank the Planning Board for their diligence in reviewing this application, and for protecting the Old Colony and Ashumet Road neighborhood.

Yours,

Mohamad Fahd

Letter presented
on the April 17 Public Hearing
relative to the Special Permit
sought by proponent
on behalf of end user
Everett J. Prescott (EJP)

Enclosures:

3-lot Map of 470-474 Main St, and 31 Ashumet Rd

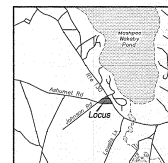
Summary of points presented in the styled letter

The styled letter to Planning Board

EJP Special Permit

130 Shops Special Permit

RECEIVED AND RECORDED
MAY 18 2007
REGISTRY OF DEEDS
JOINT FEE



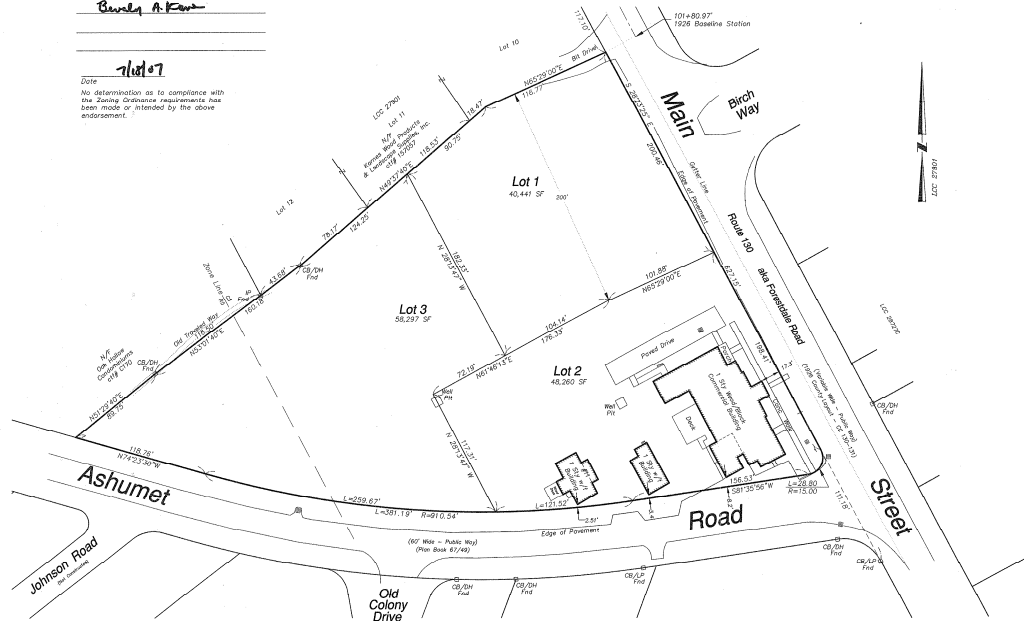
Location Map:
1"=2,000'

Approved under the Subdivision Control
Law is not required.
MASHPEE PLANNING BOARD

Bundy A. Kern

Date: 7/18/07
No determination as to compliance with
the zoning ordinance requirements has
been made or intended by the above
endorsement.

For Registry Use Only



ZONES:

C3 Area 40,000 SF
Frontage (min) 200'
Setbacks Front 75'
Side 20' Rear 20'
R5 Area 80,000 SF
Frontage (min) 150'
Setbacks Front 40'
Side 25' Rear 25'

ASSESSORS REF.:

Map 27, Part 31

OVERLAY DISTRICT:

Groundwater Protection Overlay District

FLOOD ZONE:

Zone C as per
Community Flood No.
#250009 0005 A
rev. September 15, 1978

OWNER:

Mashpee 130 Shops, Inc.
7 Industrial Park Rd.
Mashpee MA 02551

I certify that this plan has been prepared in
conformity with the rules and regulations of the
Registers of Deeds of the Commonwealth of
Massachusetts.

Robert R. Hennessey 7/18/07

This survey was performed in compliance with the
Professional and Technical Standards for the practice
of Land Surveying in the Commonwealth of
Massachusetts (2002 CMR).



Notes/Revision:	PREPARED FOR: Mashpee 130 Shops, Inc. 5 Quail Run Road Norfolk MA 02056	PREPARED BY: Sullivan Engineering, Inc. PO Box 609 Osterville, MA 02655 (508)428-2344 (508)428-3115 fax Sullivan@seinc.com	CapeSurv 7 Parker Road Osterville MA 02655 (508) 420-2894 (508) 420-2895 fax Hennessey@cape-surv.com	Title: Plan Of Land On Main Street & Ashumet Road In Mashpee, Massachusetts	Sheet 1 of 1
		Scale: 0 20 40 80 160 Feet	Drawn: BRL/BAK Comp: BRL/BAK Review: (Drawing # 0323)	Date: May 18, 2007	Scale: 1"=40'

Summary of points covered in the letter to Chair Faulkner in the 474 Rt 130/31 Ashumet Rd application.

All references are to the Mashpee Zoning Bylaw.

THE PROPOSED USE is NOT ALLOWED in COMMERCIAL C-3 ZONES. IT IS ONLY ALLOWED IN INDUSTRIAL ZONE (I-1)

The property is zoned C-3. Mashpee's Zoning Bylaw §174-25 lists all of the uses allowed in the C-3 zone.

"Absence of any designation on the table in §174-25 means that the use listed is not permitted, except as provided under §174-24.J"

The "closest" description is §174-25 (13) plumbing supplies.

Ref. <https://www.lawinsider.com/dictionary/plumbing-supplies> .These are defined and controlled by licensed plumbers, in general, and are available in retail or wholesale quantities. The distribution of Waterworks as done by EJP (Everett J. Prescott) fall under the purview of the Mass. Dept. of Public Utilities. The waterworks materials such as pipe, hydrants, fittings, connections, clamps, couplings, saddles, backflow preventors, valve and service boxes, constitute what is called plumbing systems.

Ref. <https://www.lawinsider.com/dictionary/plumbing-system>

The proposed use is allowed under Zoning Bylaw §174-25. G.9 and G.13 in the Industrial zone.

"G. Principle industrial, wholesale and transportation uses → Wholesale business and storage/contractor yard".

THE SPECIAL PERMIT CANNOT BE APPROVED. The Special Permit must be denied per Zoning By-law §174-24-C.2. "A Special Permit...may be approved only if it is determined that the proposed use or development is consistent with applicable ... town regulations, statutes, bylaws and plans,...", moreover, if it is determined that it "will not adversely affect public health or safety, ..., will not have a significant adverse impact on ... traffic flow, traffic safety, or neighboring properties".

In all cases involving a Special Permit, the application shall include, among other articles, "proposed parking, drainage utilities and landscaping and other proposed features... In addition, traffic studies, water-quality impact reports, environmental impact reports, fiscal impact reports and similar items may be required along with those other specific items required by §174-46 and §174-47.

PROJECT DOES NOT COMPLY WITH THE REQUIREMENTS OF THE GROUNDWATER PROTECTION DISTRICT. HENCE IT CANNOT BE APPROVED IT IS NOT IN COMPLIANCE WITH TOWN REGULATIONS, AND CANNOT BE FOUND TO NOT HAVE AN ADVERSE IMPACT ON GROUNDWATER QUALITY:

The amount of proposed impervious surface (the sum of the building, the asphalt and gravel areas

does not comply with the zoning requirements for the Groundwater Protection District.

§174-80 F and §174-81 N.

Absent from the application are **A WATER QUALITY REPORT, A STORM WATER PLAN, AND PLANTING PLAN**. Per §174-27, §174-27.2 C, and §174-31 Footnote 14, respectively.

ACCESS IS ALLOWED FROM ROUTE 130 in two non-prohibited distinct manners:

First manner, When the Special Permit for the corner lot (470 Main Street) was approved by the Planning Board, the three lots (470 Main Street, 474 Main Street, and 31 Ashumet Road) were **considered all together**, and 470 Main Street was required to build a driveway from the corner lot (470 Main Street) from its parking lot onto this current project's property (474 Main Street) to provide access, through the existing parking lot to Main Street/ Route 130 so as to not violate the distance requirement between driveways entering onto Route 130 and the provisions that apply in the C-3 district (§174-25.1 Standards for Development in C-3 Districts) requiring access to a street other than Main Street/Route 130. The intent was, in effect, to create a shared parking lot with shared access from Main Street/Route 130. This entrance way should be used to access any proposed development at 474 Main Street/31 Ashumet Road.

Second manner, the driveway accessing the Landscape Express property to the north encroaches significantly onto this applicant's property. Serious consideration should be given to sharing said driveway between the two properties, which will not violate any provisions of the Zoning By-law and is, in fact, directly in conformance with the design requirements for C-3 zoning districts (§174-25.1 3) which states that " Unless prohibited by topographic, wetland or traffic safety conditions which, in the opinion of the Planning Board, it is not feasible to overcome, any driveway access to the site shall be located where the side line of the property intersects such roadway in order to facilitate shared driveway access with existing or future development on the adjacent property."

Furthermore, under §174-41 C Parking Lot Design "Interconnection between parking areas on adjacent commercial properties shall be required where appropriate." This is a case where it is appropriate.

Incidentally, the parking area proposed (9 spots + 1 handicap) does nowhere explain the massive amount of asphalt paved area and gravel. §174-39 requires that "Parking in excess of these requirements shall be prohibited". In fact, the applicant's apparent parking area is clearly for an outdoor "Commercial warehouse".

For all of the reasons above, the Special Permit should be disallowed and denied.

Mohamad Fahd
35 Ashumet Road, Unit 2C
Mashpee, MA

Mashpee Planning Board
16 Great Neck Road North
Mashpee, MA

April 17, 2024

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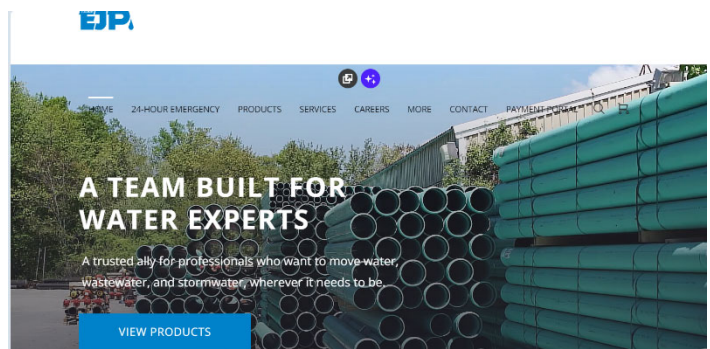
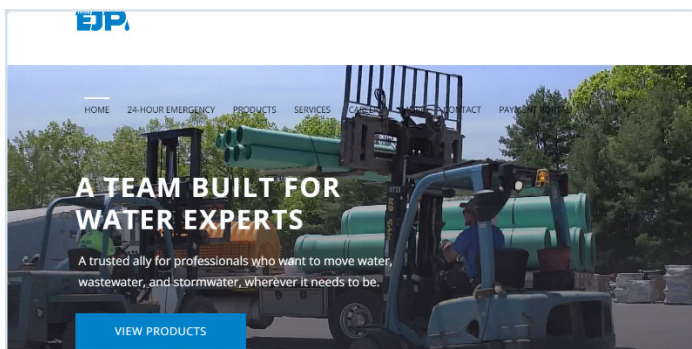
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E. Principle retail business and consumer service establishments.							
Type of Use		Residential		Commercial			Industrial
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The proposed business is NOT listed in the chart, and at the last meeting the applicant admitted the business is not plumbing supplies – in fact it is not any type of business allowed by Section 174-25-E.13:

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Type of Use		Residential		Commercial			Industrial
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(9)	Wholesale business and storage	--	--	--	--	--	SP

PROPOSED PROJECT IS WHOLESALE BUSINESS AND STORAGE, NOT RETAIL: It should also be noted that the site plan describes the proposed building as having 1248 sq. ft. of retail area and 4752 sq. ft. of warehouse area, plus extensive outdoor storage on a gravel and a large non-defined asphalt area that is not designated for parking, which is probably also going to be used for storage. This is more evidence that this is NOT a retail operation but a wholesale business and storage, and again, this is only allowed in the Industrial Zone I-1 and not allowed in Commercial C-3.

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§174-24 Explanation of symbols used in Table of Use Regulations

C. Special Permit use

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3. A Planting Plan in compliance with Section 174-31 Footnote 14 which states: "Where such area (the required buffer area from roads and side lines) is not naturally wooded, it shall be suitably planted with sufficient trees and under story 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 development and the roadway." The proposed "undisturbed area" is not sufficiently vegetated to constitute a visual barrier between the proposed development and the roadway" and therefore requires a **planting plan** which meets this requirement.

ACCESS IS ALLOWED FROM ROUTE 130: When the Special Permit for the corner lot (470 Main Street, Assessor's Map 27 Parcel 21) was approved by the Planning Board, the three lots (470 Main Street, 474 Main Street, and 31 Ashumet Road) were considered all together, and 470 Main Street was required to build a driveway from the corner lot (470 Main Street) from its parking lot onto this project's property (474 Main Street) to provide access, through the existing parking lot to Main Street/ Route 130 so as to not violate the distance requirement between driveways entering onto Route 130 and the provisions that apply in the C-3 district (Section 174-25.1) requiring access to a street other than Main Street/Route 130. The intent was, in effect, to create a shared parking lot with shared access from Main Street/Route 130. This entrance way should be used to access any proposed development at 474 Main Street/31 Ashumet Road.

I would like to thank the Planning Board for their diligence in reviewing this application, and for protecting the Old Colony and Ashumet Road neighborhood.

Yours,

Mohamad Fahd

05-17-2000 @ 02:36



Town of Mashpee

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16 Great Neck Road North
Mashpee, Massachusetts 02649

MASHPEE ZONING BOARD OF APPEALS

Decision for a Special Permit

RE: Robert A. Lawton SP-00-21
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89 Industrial Drive
Map 88 Block 27
OFFICIAL
COPY

A Petition was filed on December 22, 1999 by Robert A. Lawton of Lincoln, Rhode Island for a Special Permit under Section 174-25.G.9 of the Zoning By-laws to allow for outside storage of waterworks materials (hydrants, pipe, fittings) on property located in an I-1 zoning district at 89 Industrial Drive (Map 88 Block 27) Mashpee, MA.

Notice was duly given to abutters in accordance with Massachusetts General Laws Chapter 40A. Notice was given by publication in The Mashpee Enterprise, a newspaper of general circulation in the Town of Mashpee, on February 4 and February 11, 2000, a copy of which is attached hereto and made a part hereof.

A Public Hearing was held on the Petition at the Mashpee Town Hall on Wednesday, February 23, 2000, at which time the following members of the Zoning Board of Appeals were present and acting throughout: Edward M. Govoni, Frederick R. Borgeson and Richard T. Guerrera.

The Mashpee Zoning Board of Appeals issues this Decision pursuant to the provisions of Massachusetts General Law, Chapter 40A, Section 9 and the Town of Mashpee Zoning By-laws.

Attorney Brian Garner of Dunning and Kirrane law firm represented the applicant and stated that the applicant is a main waterworks supplier of municipalities. Mr. Lawton also attended the meeting.

The Design Review Committee has made several recommendations for the installation of extensive landscaping.

No comments were received from abutters.

title ref 12700/125

Mashpee Zoning
Board of Appeals

Robert A. Lawton SP-00-21

2

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GENERAL FINDINGS

O F F I C I A L

O F F I C I A L

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C O P Y

1. that the subject property is located at 89 Industrial Drive and consists of 1.38 acres.

N O T

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SPECIAL PERMIT CRITERIA

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O F F I C I A L

Section 9 of Chapter 40A and Section 174-24C of the Mashpee Zoning By-law

require that the permit granting authority determine that the proposed use and development are consistent with applicable law, rules and regulations; that there will be no adverse effect on public health or safety; that there will not be an excessive demand upon community facilities created as a result of the proposal; and that there will not be a significant adverse impact on the environmental factors listed in Section 174-24.C.2.

SPECIFIC FINDINGS

1. that the subject lot is in an Industrial zoning district.
2. that the proposal is an allowed use upon the granting of a Special Permit by the Zoning Board of Appeals.
3. that the applicant has conformed to Design Review's recommendations for landscaping.
4. that there will be no adverse effect on public health or safety.
5. that there will not be an excessive demand upon community facilities created as a result of the proposal.

In view of the foregoing, the Mashpee Zoning Board of Appeals found that the applicant met the criteria necessary for the granting of a Special Permit. Upon motion duly made and seconded, the Zoning Board of Appeals voted unanimously on February 23, 2000 to grant a Special Permit. The Special Permit is conditioned upon compliance with the following:

- the applicant must submit a performance security in the amount of \$5,000 to guarantee completion of the landscaping.
- the applicant must submit two stamped and engineered plans showing the 50-foot buffer and height of the fence.
- the applicant must submit up-to-date, revised landscaping plans as agreed upon at the Design Review Committee for the Board's files.

**Mashpee Zoning
Board of Appeals**

Robert A. Lawton SP-00-21

3

TOWN OF MASHPEE



**PUBLIC
HEARING
NOTICE**

The Mashpee Zoning Board of Appeals will hold Public Hearings on Wednesday, February 23, 2000, at 7:30 P.M. at the Mashpee Town Hall, 18 Great Neck Road Road North, on the following:

Prime Homes, Inc. - Requests a Variance from Section 174-31 of the Zoning By-laws for permission to vary the sideline setback requirements to allow for construction of a single-family home on property located in an R-5 zoning district at 17 Snead Drive (Map 87 Block 40) Mashpee, MA. (Owner of record: Kenneth Marsters, et al Trustee).

Robert A. Lawton - Request a Special Permit under Section 174-25.G 9 of the Zoning By-laws to allow for outside storage of waterworks materials (hydrants, pipe, fittings) on property located in an I-1 zoning district at 89 Industrial Drive (Map 88 Block 27) Mashpee, MA.

Pauline A. Hicks - Requests a Variance from Section 174-31 of the Zoning By-laws for permission to vary the lot space requirements on property located in an R-3 zoning district at 10 Hicks Way (Map 44 Block 47) Mashpee, MA.

Pauline A. Hicks - Request a Variance from Section 174-31 of the Zoning By-laws for permission to vary the lot space requirements on property located in an R-3 zoning district at 22 Hicks Way (Map 44 Block 48) Mashpee, MA.

Pauline A. Hicks - Request a Variance from Section 174-31 of the Zoning By-laws for permission to vary the lot space requirements on property located in an R-3 zoning district at 26 Hicks Way (Map 44 Block 54) Mashpee, MA.

Pauline A. Hicks - Request a Variance from Section 174-31 of the Zoning By-laws for permission to vary the lot space requirements on property located in an R-3 zoning district at 23 Hicks Way (Map 44 Block 55) Mashpee, MA.

Binh Phu - Request a Variance from Section 174-31 of the Zoning By-laws for permission to vary the sideline setback requirements to allow for construction of a single-family home on property located in an R-5 zoning district at 25 Nobbs Road (Map 29 Block 102) Mashpee, MA.

John B. & Elaine Wilson - Request a Special Permit under Section 174-20 of the Zoning By-laws for permission to demolish an existing structure and build a single-family home on property located in an R-3 zoning district at 202 Monomoscoy Road (Map 114 Block 43A) Mashpee, MA.

John B. & Elaine Wilson - Request a Variance from Sections 174-31 and 174-33 of the Zoning By-laws for permission to vary the front setback requirements and the setback requirements to the water and wetlands to allow for construction of a single-family home on property located in an R-3 zoning district at 202 Monomoscoy Road (Map 114 Block 43A) Mashpee, MA.

Jeffrey R. & Sheila A. Eydenberg - Request a Variance from Section 174-31 of the Zoning By-laws for permission to vary the sideline setback requirements to allow

for additions to an existing dwelling on property located in an R-3 zoning district at 43 Kim Path (Map 117 Block 90) Mashpee, MA.

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TOWN OF MASHPEE
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IN FAVOR:

Edward M. Govoni
Edward M. Govoni

IN FAVOR:

Richard T. Guerrero
Richard T. Guerrero

IN FAVOR:

Frederick R. Borgeson
Frederick R. Borgeson

This Decision has been duly filed on March 6, 2000 with the Town Clerk of Mashpee. Any appeals shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A within Twenty days after the date of said filing.

This Decision is effective when a Certified Copy is filed at the Registry of Deeds. A Certified Copy may be obtained from the Town Clerk after the expiration of the 20-day Appeal period. Special Permits shall lapse after two years and Variances and Appeals after one year, unless substantial use or construction has commenced or applications for extensions have been filed prior to the expiration date.

Jeffrey R. & Sheila A. Eydenberg - Request a Special Permit under Section 174-17 of the Zoning By-laws for permission to expand a pre-existing, non-conforming dwelling on property located in an R-3 zoning district at 43 Kim Path (Map 117 Block 90) Mashpee, MA.
J & M LLC - Request a Variance from Article IV for permission to amend the prior use Variance to allow for construction of a gasoline service station with ancillary retail sales on property located in an I-1 zoning district at 723 Falmouth Road (Map 81 Block 2) Mashpee, MA. (Owner of record: Wags Road Realty Trust).

Lloyd B. & Roberta Gainsboro - Request a Variance from Sections 174-31 and 174-33 of the Zoning By-laws for permission to vary the sideline setback and front setback requirements and the setback requirements to the water and wetlands to allow for construction of a pool on property located in an R-3 zoning district at 15 Keel Way (Map 120 Block 139) Mashpee, MA.

Per order of:
Edward M. Govoni, Chairman
Mashpee Zoning Board of Appeals

January 4, 11, 2000

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BK13014 PG265

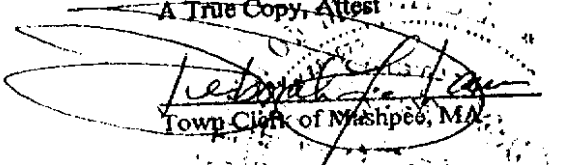
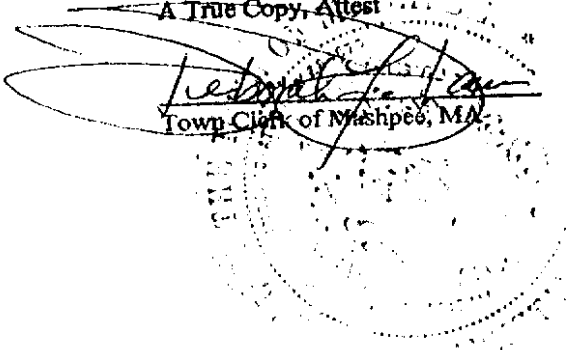
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A True Copy, Attest

Town Clerk of Mashpee, MA


I HEREBY CERTIFY THAT NO NOTICE OF APPEAL
HAS BEEN RECEIVED BY THIS OFFICE DURING
THE TWENTY DAYS FOLLOWING RECEIPT AND
RECORDING OF NOTICE FROM THE APPEALS
BOARD OF APPROVAL OF THE ATTACHED
DOCUMENT.


TOWN CLERK
DATE OF CERTIFICATION
May 12, 2000



Town of Mashpee

Bk 23348 Pg 22 #10
01-02-2009 @ 09:09a

Planning Board

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16 Great Neck Road North, Mashpee, MA 02649
Telephone (508) 539-1400 ext. 520 • Fax (508) 539-0954
Email: planning@ci.mashpee.ma.us
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MASHPEE PLANNING BOARD
Special Permit Decision
Mashpee 130 Shoppes, Inc.

Lowy **470 Main Street (Route 130) Map 27, Block 21**
Development / Redevelopment of Retail and Office Buildings

I. Proposal.

This decision concerns an application by Mashpee 130 Shoppes, Inc., 5 Quail Run Road, Norfolk, MA 02056, for development / redevelopment of retail and office buildings in a C-3 zoning district, located at 470 Main Street (Route 130) at the corner of Ashumet Road. The lot is identified on the Mashpee Assessors Maps as Map 27, Block 21. The proposal includes rehabilitation and partial reconstruction of the former Melia's / Ma Glockner's / Mashpee VFW Post building for retail use and demolition and replacement of two smaller former cottages for office use.

The Project is shown on a 3-sheet set of site plans prepared by Sullivan Engineering, Inc., P.O. Box 659, Osterville, MA, 02655 dated July 30, 2007, as revised on November 19, 2008. Proposed building elevations and floor plans are shown on an 8-sheet set of plans by JB Designs, P.O. Box 285, West Barnstable, MA 02668 dated 10-28-08 and landscaping is shown on a two-sheet set of plans entitled "A Landscape Plan for Rt 130 Shops", revised date September 19, 2008, by Tavares land Design, P.O. Box 1135, Plymouth, MA 02360. The applicant submitted an impact statement and a number of additional materials describing the project and addressing water quality, traffic and stormwater management issues.

II. Jurisdiction.

The application was made and this decision has been issued by the Mashpee Planning Board pursuant to Section 174-24.C. and other provisions of the Mashpee Zoning By-Laws as they existed on November 19, 2008, the date on which this special permit was approved. Where reference is made herein to the Mashpee Zoning By-Law, it shall refer to the provisions thereof as they existed on November 19, 2008.

III. Chronology.

Application for this Special Permit was made with the Town Clerk on July 8, 2008. A hearing was opened before the Mashpee Planning Board at the Mashpee Town Hall, 16 Great Neck Road North, Mashpee, Massachusetts on September 3, 2008 at 7:45 p.m. Notice was duly given to abutters in accordance with Massachusetts General Laws Chapter 40A. Notice was also given by publication in the Mashpee Enterprise, a newspaper of general circulation in the town of Mashpee on August 15 and 22, 2008. The hearing was continued on October 15, November 5, and November 19, 2008.

On August 28, 2008, the applicant met with the Design Review and Plan Review Committees.

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The Project is subject to approval by the Mashpee Historic District Commission. The applicant met with the Commission on October 15, November 5, and November 19, 2008, on which date the project was approved 4-0 by the Commission.

On November 19, 2008, the Planning Board closed the public hearing and voted to make the following findings and grant a special permit authorizing the project, with the conditions enumerated below. The members of the Planning Board were recorded as follows: Members Beverly A. Kane, Dennis H. Balzarini, Thomas O'Hara, Joseph Mullen and James Leonard were recorded as voting in favor of the decision. No members were recorded as voting against.

IV. Findings.

1. The Property is located in the C-3 Zone as depicted on the Town of Mashpee Zoning Map. The applicable zoning on the date this permit was approved allowed the proposed uses in the C-3 district subject to special permit approval by the Planning Board.
2. The project satisfies the requirements of Massachusetts General Law Chapter 40A, in that it complies with the general purposes and intent of the Mashpee Zoning By-Law on the applicable date.
3. The project is not located within any area mapped as Priority Habitat of Rare Species under the Mass. Endangered Species Act Regulations (321 CMR 10) or Estimated Habitat of Rare Wildlife under the Mass. Wetland Protection Act Regulations (310 CMR 10).
4. The proposed development complies with the lot area and dimensional requirements set forth in the Zoning By-law, except that setbacks do not meet current requirements. As the main building is only proposed to be rehabilitated, its existing setbacks are grandfathered (the building predates the adoption of zoning in Mashpee by more than 20 years). The two smaller buildings are proposed to be demolished and reconstructed on the same footprint and have received approval of findings by the Zoning Board of Appeals under Section 174-17 that the proposed reconstruction will not be substantially more detrimental to the neighborhood than the existing nonconforming structures.
5. The proposed project requires 51 parking spaces, while 52 spaces are provided. The excess parking area will be designated as a loading zone, as the Zoning by-law prohibits parking in excess of zoning requirements. If the adjacent parcels are developed, the lot is designed to allow for interconnection with parking facilities on those parcels. The parking area otherwise meets the Zoning By-law's requirements for space and aisle size, 3 foot separation from vertical objects, required parking field landscaping, handicapped parking spaces and other standards.
6. A water quality report, dated June 23, 2008 by Tetra Tech Rizzo, was provided under the provisions of Section 174-27 of the Mashpee Zoning By-laws. The project is located in a Zone II public water supply well recharge area and a Groundwater Protection District under Mashpee Zoning. Within Groundwater Protection Districts, impervious surface coverage is limited to no more than 15% unless approved by the Board based on the provision of a system of drainage which provides for the artificial recharge of precipitation to groundwater through site design that incorporates natural drainage patterns and vegetation and through the use of constructed (stormwater) wetlands, wet (retention) ponds, water quality swales, sand filters, organic filters or similar site-appropriate best management practices capable of removing nitrogen and other contaminants from stormwater. The applicant has proposed that all stormwater from the site be

treated in a bioretention swale which the Board finds meets these requirements. The Board therefore finds that the project may exceed 15% impervious surface coverage under the provisions of Section 174-82.A.(4) of the Zoning By-Law. The project, as proposed, includes approximately 56% impervious surface coverage, including 16% rooftops, 36% parking and 4% walkways.

7. The existing septic system and grease trap will be removed from the property, as restaurant use is no longer proposed, reducing total Title 5 wastewater flow to 478 gpd, which is proposed to be treated using a standard Title V septic system with a 1500 gallon septic tank shared by all three buildings, with leaching chambers under the paved parking area. [The Board of health has approved the septic system plans. As the project, along with two adjacent parcels under the same ownership, are in a Zone II, total wastewater flow on the three parcels will be limited to that previously approved for the restaurant and other uses previously located on the site. According to the Health Agent, development on the two other parcels will require use of a denitrifying wastewater treatment system under the Board of Health's "600 gallon" rule.
8. The project site, architectural and landscape plans were reviewed at a joint Design Review / Plan Review Committee meeting on August 28, 2008. A number of amendments to the plan were suggested which have since been incorporated into the current set of plans. The applicant was told to return to the Design Review Committee for approval of proposed signage.
9. Various versions of the project plans were reviewed by the Board's Consulting Engineer, Charles Rowley, who provided comment letters dated November 5 and November 19, 2008. The plans have been revised to reflect Mr. Rowley's recommendations.
10. The applicant has received written waivers from the abutting lot owners allowing the Board to reduce the required 10 foot vegetated buffer areas required at the side and rear of the property. The Board hereby waives the buffer requirement where required in order to accommodate the proposed parking area and dumpster locations as shown on the proposed site plan.
11. In conformance with the provisions of Article VI, Section 174-24.C.(2) of the Zoning Bylaw, the Planning Board finds that the proposal will not adversely affect public health or safety, will not cause excessive demand on community facilities, will not significantly decrease surface or ground water quality or air quality, will not have significant adverse impact on wildlife habitat, estuarine systems, traffic flow, traffic safety, waterways, fisheries, public lands or neighboring properties, will not cause excessive levels of noise, vibration, electrical disturbance, radioactivity or glare, will not destroy or disrupt any species listed as rare, endangered or threatened by the Massachusetts Natural Heritage program or any known historic or archaeological site, will not produce amounts of trash, refuse or debris in excess of the town's landfill and waste disposal capacities, will properly dispose of stumps, construction debris, hazardous materials and other wastes, will provide adequate off street parking, will not cause excessive erosion or cause increase runoff into neighboring properties or into any natural river, stream, pond or water body and will not otherwise be detrimental to the town or the area.

V. Conditions.

APPROVED PLANS

1. Construction of this Project shall be done only in conformance with the following plans, which have been approved by the Planning Board:

3-sheet set of site plans prepared by Sullivan Engineering, Inc., P.O. Box 659, Osterville, MA, 02655 dated July 30, 2007, as revised on November 19, 2008.

Proposed building elevations and floor plans as shown on an 8-sheet set of plans by JB Designs, P.O. Box 285, West Barnstable, MA 02668 dated 10-28-08.

Landscaping as shown on a two-sheet set of plans entitled "A Landscape Plan for Rt 130 Shops", revised date September 19, 2008, by Tavares Land Design, P.O. Box 1135, Plymouth, MA 02360.

Exterior lighting fixtures, including parking lot lights and those mounted on the buildings, shall be downlit shaded fixtures on curved "gooseneck" mounting arms as approved by the Historic District Commission.

8'x5' site identification sign located as shown on the site plan and depicted at a scale of $\frac{3}{4}"=1'$ on Attachment C1, by Plymouth Sign Co., along with two 12"x60" building mounted signs to be located on the two smaller buildings facing the parking lot, also at a scale of $\frac{3}{4}"=1'$ on Attachment C2, by Plymouth Sign Co. These signs have also been approved by the Historic District Commission.

2. Curbing and berms around planting islands shall be of sufficient height above any areas covered with mulch or wood chips to contain them during heavy rains.
3. Cardboard recycling containers shall be provided adjacent to the proposed dumpsters. Dumpsters shall be provided with locks as recommended by the Mashpee Police Department and shall be enclosed by a solid fence.

ALLOWED USES

4. The Board approves the following uses as listed in the Mashpee Zoning By-law Section 174-25 Table of Uses:

Within the main building, retail uses as permitted under Section 174-25.E.(12).

Within the two smaller buildings, office uses permitted under Section 174-25.D.(1)

5. Under no circumstances shall there be outdoor storage of objects or materials of any sort, including motor vehicles, trailers, containers or boats. No more than three motor vehicles may be parked on the property overnight.

SIGNAGE

6. Any new free standing signage, other than that specifically approved above, shall require review by the Design Review Committee and approval by the Planning Board prior to installation.
7. Building signage, other than that specifically approved above, shall require review and approval by the Design Review Committee prior to installation, with a notice of any such approval and approved designs forwarded to the Planning Board.

PRIOR TO SIGNATURE OF SPECIAL PERMIT

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8. Prior to signature of this special permit decision by the Board, the required inspection fee (\$250 + \$.02 per sq. ft. of impervious surface coverage or $\$250 + \$.02 \times 25,974 \text{ sq. ft.} = \769.48) shall be submitted to the Board in care of the Town Planner's Office. Normal inspections covered by this basic inspection fee include 1) drainage inspection, 2) gravel inspection, 3) inspection of paving binder course, 4) inspection of paving finish course and 5) final inspection for roadways and parking areas, as well as other site development, including landscaping and surface drainage patterns around buildings, but exclusive of buildings or wastewater treatment facilities. A \$100 re-inspection fee will be charged for additional inspections beyond those listed above that are made necessary due to unsatisfactory materials or construction that lead to a failure to pass the original inspection.
9. Prior to signature of this special permit decision by the Board, the applicant shall obtain from the Town Clerk a single street address for the building and determine a scheme for unit numbers or letters for tenant spaces. A copy of said information shall be provided to the Board prior to signature.

PRIOR TO BUILDING PERMIT APPLICATION

10. Applicant shall submit a copy of this special permit decision as recorded at the Barnstable County Registry of Deeds, including an indication as to the book and page at which it was recorded.

PRIOR TO ISSUANCE OF BUILDING PERMIT

11. Prior to issuance of any building permit for the main building, the Applicant shall submit a working set of drawings with building and fire code analysis reflecting actual proposed uses and areas of said building. Any sprinkler and/or standpipe system design shall require approval by the Mashpee Fire Department.

PRIOR TO ISSUANCE OF OCCUPANCY PERMITS

12. The stormwater treatment area shall be completed and vegetation established prior to any paving on the site. Appropriate measures shall also be taken to protect the area from sediment buildup or damage after it has been completed.
13. Prior to issuance of any occupancy permit for the proposed buildings, the driveway, parking areas and drainage facilities shall be constructed, and be inspected following the 5 step inspection process identified in Condition #8, and approved by the Planning Board's Consulting Engineer as being in accordance with this decision, the Mashpee Zoning By-law and proper engineering practice.
14. Prior to issuance of any occupancy permit for the proposed buildings, the Applicant shall submit to the Board three copies of as-built plans of all underground utilities, including drainage structures, fire hydrants, water supply lines (including sizing, material and location of gate valves), irrigation wells, gas, electrical and telephone services.
15. Prior to issuance of any occupancy permit for the proposed buildings, all project landscaping as shown on the approved plans shall be properly installed, as certified by the Town Planner or his

designee after an inspection of the site, unless a landscape performance bond is provided in an amount and form satisfactory to the Planning Board.

16. Initial landscape installation and maintenance for three years thereafter shall be in conformance with the provisions of the "Mashpee 130 Shoppes Landscape Installation and Maintenance Process" document attached herewith as Attachment A, and said provisions shall be included, at a minimum, in a maintenance contract for said landscaping, one copy of which shall be provided to the Board and to the Building Inspector prior to the issuance of any occupancy permit for the proposed buildings. Nothing therein shall prevent the applicant from employing an alternate landscape contractor, provided that said contractor shall be subject to the same contract provisions.

17. Each new tenant will need approval from the Building and Health Departments.

STORMWATER DRAINAGE

18. All roof drains are to be connected to the parking area drainage system and are not to be directed to dry wells. To the maximum extent feasible, other minor sources of runoff that are not connected to the parking area drainage system shall have drainage directed to grassed areas having a minimum depth of 6 inches of topsoil, consisting of sandy loam with 10-20% organic matter and no more than 20% clay.
19. The applicant shall install temporary landscape materials or other means of preventing erosion on any areas disturbed for more than four months but not yet developed with structures. A plan for said landscape materials or other means shall be presented to the Board for approval prior to installation, and installation shall be completed within sixty days of said approval.
20. Stormwater facilities shall be maintained in accordance with the source control best management practices, schedule of inspection and maintenance of stormwater management system and emergency spill cleanup plans identified in the "Stormwater Operations And Maintenance Plan, Mashpee 130 Shoppes" attached herewith as Attachment B. The Planning Board reserves the right to inspect, as a Board or through its agents, all stormwater facilities on an ongoing basis.

LANDSCAPING

21. A permanent irrigation system shall be installed in all landscaped areas and landscaping shall be properly maintained. If maintenance is determined to be inadequate by the Planning Board, the applicant shall cooperate with the Board to amend the maintenance process. It should be noted that the Mashpee Water District does not allow connection of landscape irrigation facilities to its water supply system.
22. It is a requirement of this permit that only organic fertilizers may be used within the development and any pesticides used shall be of a type approved by the Town of Mashpee Board of Health and applied by licensed applicators. Use of fertilizers and pesticides shall be minimized and the use of natural pest control methods should be encouraged. The applicant shall provide the Mashpee Board of Health with a complete list of any such fertilizers or pesticides used on the property and their method of storage on the site.

FIRE PROTECTION

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23. The project shall include a fire protective signaling system approved by the Mashpee Fire Department.

C O P Y

C O P Y

GENERAL CONDITIONS

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24. It shall be a condition of this permit that the project shall be developed in conformance with all applicable local and state regulations.
25. The applicant, his heirs and assigns, including any condominium or other association to which the applicant transfers ownership of common facilities within the project site, shall be responsible for all costs associated with the operation, maintenance, upgrade and other management activities related both to the wastewater collection, treatment and disposal facilities and the stormwater collection, treatment and disposal facilities, including maintenance of vegetation in the proposed stormwater infiltration facilities and all other activities called for under the stormwater operations and maintenance plan contained in Attachment B. Any deeds, declaration of covenants, conditions and restrictions, association bylaws, rules and regulations transmitted to buyers of property or units within the project site shall contain a notice of said responsibility and of the fact that failure to properly conduct said activities shall be considered a violation of this special permit enforceable by all means available to the Town.
26. Construction activities shall not customarily take place in connection with this project (i) before 7 a.m. or after 6 p.m. Monday through Saturday, or (ii) on Sundays or holidays. There shall be no substantial deliveries of materials or unloading of heavy construction equipment on Saturdays, Sundays or holidays.
27. The applicant and all contractors, subcontractors and employees engaged by the applicant shall properly dispose of stumps, construction debris, hazardous materials and other waste and shall provide a report to the Planning Board and Board of Health, at six-month intervals beginning with the issuance of the first building permit and ending upon completion of the project, describing the amount of, and means of disposal of, such materials resulting from the construction of the project, including the approximate date and specific location at which such materials were disposed.
28. Except in the case of foreclosure by a lender, or a transfer to a related entity controlled by the Applicant, the holder of this special permit shall not transfer said permit without 90 days prior notice to the Planning Board. The Planning Board may notify the holder of any violations of the Special Permit and no transfer shall take place while any violations exist without the approval of four members of the Board.
29. Notwithstanding the provisions of condition 39 above, the owner / applicant and their heirs and assigns shall have the right to pledge and assign, as part of the mortgage collateral, its rights under this special permit to any institutional construction lender which has given written notice to the Planning Board of such assignment. Upon receipt of the written notice, said lending institution shall become a "recognized mortgagee." All such notices shall be sent to Mashpee Planning Board, Mashpee Town Hall, 16 Great Neck Road North, Mashpee, MA 02649, by certified mail, return receipt requested. In the event of a default by the applicant under the terms and conditions of this special permit, the Planning Board shall give written notice of such default by certified mail to the applicant and each recognized mortgagee. Upon receipt of the Planning Board notice, any recognized mortgagee so notified shall have one hundred twenty (120) days from the date of

receipt of such notice, to remedy any such default. The applicant's rights under this special permit may not be terminated prior to the expiration of any such 120 day cure period. Failure of the Planning Board to give such notice will only extend the cure period for the recognized mortgagee, pursuant to the provisions provided for above, and shall not constitute a waiver of any default. The Planning Board hereby approves the transfer of applicant's rights under this special permit to any recognized mortgagee that results from the default under a construction mortgage from the applicant to any recognized mortgagee. The Planning Board will not unreasonably withhold or delay its consent to a transfer of the rights under this special permit from any recognized mortgagee that has acquired rights under this special permit, to a proposed transferee reasonably acceptable to the Planning Board. The proposed transferee must be able to demonstrate to the Planning Board a reasonable ability to complete the project in accordance with the terms of this special permit.

30. The applicant shall require that all construction personnel working on the project shall be familiar with, and comply with, the provisions of Massachusetts General Law Chapter 38, Section 6(b) regarding the discovery of human remains.
31. All conditions of this special permit shall be binding not only upon the applicant but also on all successors-in-interest and assigns of the applicant.
32. No occupancy or building permits shall be issued while there exists any substantial violation of the conditions of this special permit unless the Board, by a favorable vote of 4 members at a regular meeting, should allow such issuance.
33. Until completion of the project, the Applicant shall file a written report with the Planning Board on the status of the project and compliance with the conditions of this special permit at three month intervals, counting from the date this special permit was approved. At the discretion of the Board, the Applicant may be required to attend meetings of the Board to explain the contents of said reports or the status of the project.

VI. Expiration, Extension or Modification.

Pursuant to Massachusetts General Law, Chapter 40A, Section 9 and Article IX, Subsection 174-47.C.(5) of the Mashpee Zoning Bylaw, this special permit shall lapse within 2 years, which shall not include such time required to pursue or wait the determination of any appeal from the grant hereof, if a substantial use hereof is not sooner commenced except for good cause. Initiation of construction or reconstruction of at least one of the proposed buildings shall constitute "substantial use" for these purposes.

The applicant shall require a specific determination of good cause by a favorable vote of four members of the Planning Board if claiming an extension of the 2-year period, except to wait the determination of any appeal from the grant hereof.

Any modifications of this special permit decision and accompanying plans shall require approval by the Board pursuant to the provisions of Section 174-24.C.(9) of the Zoning Bylaw.

VII. Signature and Filing.

This special permit decision document, which incorporates by reference herein all attachments and plans, has been approved on this 19th day of November, 2008. A copy of same shall be filed with the Town Clerk in accordance with applicable law.

Beverly A. Kane

N O T

Mashpee Planning Board - Duly Authorized Member

A N

A N

O F F I C I A L C O M M O N W E L T H O F M A S S A C H U S E T T S O F F I C I A L

Barnstable, ss

C O P Y

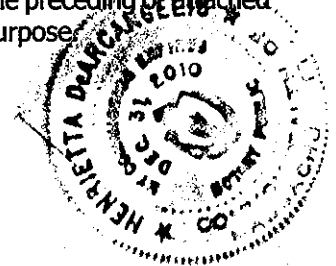
C O P Y

On this 19th day of Nov. 2008, before me, the undersigned notary public, personally appeared *Beverly A. Kane*, a member of the Mashpee Planning Board, proved to me through satisfactory evidence of identification, which were ~~known to me~~, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he/she) signed it voluntarily for its stated purpose.

Henrietta DeAngelis

 Notary Public

My Commission expires: *December 31, 2010*
 date of expiration



A copy of this decision and the accompanying plans endorsed by the Planning Board as been duly filed on *November 26, 2008* with the Town Clerk of Mashpee.

Deborah F. Dami

 Town Clerk

Notice of this decision was mailed on *11-26-08* to the applicant, to the parties interest designated in Massachusetts General Law, Chapter 48, Section 11 and all persons at the hearing who requested such notice. Any appeal should be made pursuant to Section 17 of Chapter 48 of the Massachusetts General Laws 20 days after the date of such filing.

I, Debra Dami, Town Clerk of the Town of Mashpee, hereby certify that a copy of this decision and the accompanying plans endorsed by the Planning Board were filed with the office of the Town Clerk on October 24, 2006 and that no appeal of that decision was filed within 20 days thereafter.

Deborah F. Dami

 Town Clerk
 Date: *Dec 17, 2008*

Upon expiration of the statutory appeal period with no appeal having been filed, this special permit decision has been endorsed by the undersigned members of the Mashpee Planning Board on *DECEMBER 17, 2008* and may be recorded.

J. Leonard

Dennis H. Bogan

May F. O'Neil

ATTACHMENT A

December 16, 2008

Mashpee 130 Shoppes	N O T	N O T
470 Main Street	A N	A N
Mashpee, Mass.	O F F I C I A L	O F F I C I A L
	C O P Y	C O P Y

Mashpee 130 Shoppes Landscape Installation and Maintenance Process

N O T	N O T
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Implementation of this process is required under the terms of a special permit granted on November 19, 2008 to Mashpee 130 Shoppes, Inc. by the Mashpee Planning Board for construction of 2 offices (764 and 995 SF respectively) and a rehabilitation of a 6,557 Sq Ft commercial retail store on a 48,260 Sq. Ft. site at 470 Main St (Rt. 130) in Mashpee, MA. Any violation of these provisions may be considered a violation of the terms and conditions of that Special Permit and may lead to enforcement action by the Mashpee Building Inspector, acting as the Town's zoning enforcement officer, or the rescission of the Special permit by the Mashpee Planning Board. This document shall be recorded with said special permit.

The applicant, his heirs and assigns, including any entity or other association to which the applicant transfers ownership of common facilities, within the project site, shall be responsible for all cost associated with the installation and maintenance of the proposed landscape features indicated by the plan entitled "A LANDSCAPE DEVELOPMENT PLAN FOR: RT 130 SHOPPES" revised date Sept. 19, 2008 by TAVARES LAND DESIGN Sheets 1&2 of 2, along with installation and maintenance of the vegetation within the proposed storm water treatment swale as shown on the site and referenced in Attachment B to the Special permit labeled "STORM WATER OPERATIONS AND MAINTENANCE PLAN ". Any deeds, declaration of covenants, conditions and restrictions, association bylaws, rules and regulations transmitted to buyers of property or units within the project site shall contain a notice of said responsibility and of the fact that failure to properly conduct said activities shall be considered a violation of this special permit enforceable by all means available to the Town.

Installation and maintenance Contracts for said landscape features shall provide that:

- 1) The initial term of said landscape contract shall be for a period of not less than 3 years.
- 2) A professional landscape contractor/architect shall supervise the installation of plant materials and will perform plant maintenance for a period of three (3) growing seasons as defined below.
- 3) All dead, dying, broken, or storm damaged branches from all shrub and ornamental trees shall be removed at the time of installation or during each spring growing season.
- 4) A minimum of 2" to a maximum of 4" of Pine bark/organic mulch shall be applied to the base of plants and the root flair of trees once each spring when the growing season begins. The amount of pre-existing older mulch shall be subtracted from the minimum/maximum to ascertain the new mulch amount to be added.
- 5) All trees shall be staked and guyed upon installation. All stakes and guy wires shall be adjusted as necessary to insure they do not girdle or otherwise injure trees. All stakes and guys shall be removed 1 year after installation unless there is an extenuating need for these on specific trees.
- 6) All tree wraps shall be removed at time of planting.
- 7) All grassed areas shall be reseeded/replanted until a 90% coverage is attained and established.

8) During the growing season, the landscape contractor shall inspect shrub and tree plantings, both the plants themselves and the surrounding soils, on a weekly basis between March 15th and June 15th. The inspection period shall be bi-weekly from June 16th to October 31st. Soil moisture, pest infestations, and other symptoms of stress shall be addressed through proper treatments such as irrigation modifications, pest treatments, and addition/removal of mulch. Organic, not chemical treatments shall be used at all times, except when no organic alternative is available. Recommendations from the County extension service shall be solicited for any major disease/pest infestation.

9) If any obvious erosion occurs, the landscape contractor shall immediately repair and clean-up such areas.

10) Pruning of all shrubs and trees shall be performed in early spring (to remove all broken, diseased, and crossing branches as well as to reshape the specific plant. All plants shall be monitored through the various seasons after initial spring clean-up. Spring flowering shrubs/trees shall be pruned after spring/summer flowering fades. Needle evergreens (example: White pine, red cedar) may be pruned in late winter just before bud break and, sometimes, in late spring, to control new growth. Flowering broadleaf evergreens (example: Rhododendron) may be pruned in spring after flowers fade. Most deciduous trees (example: Bradford Pear) shall be pruned in late dormant season, including maples or after flower blooms fade. Summer blooming plants and grasses shall be pruned after frost to early spring, with an eye toward shaping, general pruning, and preventing snow damage on overly extended branches.

11) All plants and grasses shall be monitored during the growing season for proper irrigation. When less than 1" of natural rainfall happens during any week during the growing season, deep root manual irrigation (or supplemented with a hose) in lieu of automatic irrigation (system). With an automatic (w/timer) system in place, bi-weekly monitoring of the irrigation clock shall be done with regards to type of season (1) May-June; 2) July-August; 3) September-October). Each season shall have different settings as to "days to run" and "hours per day" and "times per day". All vegetation not covered by the irrigation system shall also be monitored for manual supplemental watering.

12) Except as otherwise indicated, "spring growth season" shall be March 15th to June 15th in any given year. The term "growing season" shall be the entire biological growing season of March 15th to October 15th.

13) The obligation of the landscape contractor shall continue with maintenance for a minimum period of 3 years from the completion and acceptance of the planting installation of this project as substantially complete. Said maintenance obligation shall also continue from the completion of the plantings. All plantings not installed by October 31 shall be planted the following spring by April 15th.

14) Any plant material dying during this 3 year period shall be replaced, in kind, by the landscape contractor, and if substitute species are different from the former plant to be replaced, then written approval shall be requested from the Planning Board.

15) It is a requirement of this permit that only organic fertilizers be used within the confines of this site. and that pesticides of any type be approved by the Mashpee Board of Health and applied by Licensed pesticide applicators. Use of pesticides and fertilizers shall be discouraged in favor of natural pest control methods. The applicant, together with the contractor, shall provide to the Board of Health a list of all pesticide/fertilizers to be used on the site. Storage methods for such pesticides/fertilizers shall also be identified. Subsequent landscape maintenance shall be consistent with the provisions of this document with regard to Section 3, 4, 10, 11, and 12 above; and with Sec 8 on a monthly rather than a biweekly basis.

#1- Organic Fertilizing and Mowing lawn area

All lawn areas shall receive 3-4 fertilizings per year not totaling more than 1.5 lbs nitrogen per 1000 SF/year. The fertilizer shall be of organic origin and a Nitrogen (N)-Phosphate (P)-potash (K) ratio of approximately 3-1-2. The best times of the year to apply fertilizer are early spring, late spring or early summer, and fall, and definitely not in July/August. All fertilizing shall be cumulative toward the maximum of 1.5 lbs (N)/1000 SF/year. Mowing of lawns shall be done on a once to bi-weekly period during the biological growing season of April to October. Mowing equipment shall have regularly sharpened blades to make clean cuts of grass blades. Self-mulching lawn mowers may be used and finely chopped lawn residue left as mulch. This mulch shall be invisible to the naked eye. Mowing using non-mulching mowers requires that all cutting residue be removed from the site. Aeration and de-thatching should be performed bi-yearly.

#2- Irrigation

All plant and lawn areas shall be irrigated with a professional irrigation system using a natural well water source sized appropriately to the volume of water required. Lawn areas shall use pop-up or gear-driven heads and shall not over water into non-lawn areas while overlapping in the actual lawn areas. Planting areas shall have drip irrigation, tech-line, or Netafim tubing with self-draining emitters. Irrigation shall be utilized as a supplement to rainfall and shall be monitored on a weekly basis or when the lawn is mowed. A rain gauge shall be part of the irrigation system and monitored monthly. A combination of 1" of water/per week from natural and man-made systems shall be required for proper volume.

#3- Organic Fertilizing and Pruning vegetation

All plant areas shall be fertilized 1-2 times per year, not totaling more than 1.5 lbs nitrogen per 1000 SF/year. The fertilizer shall be of organic origin and a Nitrogen (N)-Phosphate (P)-potash (K) ratio of approximately 1-2-2. The best times of the year to apply fertilizer are early spring to early summer and sometimes in fall. July/August shall be avoided, if possible. Multiple fertilizing shall be cumulative toward the max of 1.5 lbs (N)/1000 SF/year. Deep root fertilizing is required of trees either by fertilizer "stakes" or drill to the lower root system to insert fertilizer. Shrub and herbaceous layers shall have all organic fertilizers incorporated in the top 3" of the soil on top of, and, surrounding the root ball. Pruning of vegetation shall be done on a once to bi-seasonal basis for the duration of the biological growing season of April to October. Pruning equipment shall have regularly sharpened blades to make clean cuts of shrub/tree branches. Evergreens are usually best pruned in fall. Spring flowering shrubs are usually best pruned immediately after flowering. Summer flowering plants are best pruned from October to May of any given year. Some, like hydrangeas require special knowledge and care. Most trees are also on a case-by-case basis with most pruning done in the dormant season. Deciduous trees should have lower branches lifted, interior of head cleared of crossing branches, pruned for shape, every 3 years.

#4- Weeding and use of pesticides

Diseases and insect control shall be on an "as-needed" basis. Letters from the maintenance contractor shall be sent to the Mashpee Planning Board and Board of Health stating the need to combat which pest and the appropriate pesticide to counter any negative effects. Organic solutions will always be better received than man-made chemicals, which shall be used as a last resort, and with the permission of the permitting authority. Weeding maintenance shall be manually done a minimum of 1 time per month from April to October, with traditional "Spring"

and "Fall" clean-ups serving as the fixed starting and ending dates of the season. No herbicides shall be used for weed control.

#5- Planting and maintenance of "RAIN GARDEN" wetland plantings.

Plantings shall be planted according to the plan and the contours of the original design. When planting on the bottom and near the sides of the Rain Garden, the contractor shall observe the wetland indicator of the species (**OBL**igate, and **FAC**Wet) are indicators of species planted in the area to be inundated and should not be planted more than 2' above the basin bottom. **FAC**ultative plants shall be planted from this contour to the top of the basin. **PRIVET** and other **UPL**and plants shall be outside the range of inundation or at the very top of the Rain Garden (see cross section -Sheet 2 of 2. All **WETLAND** plants and grasses shall be monitored during the growing season for proper survival. After 2-3 test rain storms of 1" or more of rainfall, the Rain Garden should be inspected for plant survivability and washout. A report shall be prepared and filed with the Planning Board at the end of each of the three years of required maintenance as to the success of the planting, their quantities and overall appearance. **FAC** or **UPL** Plants that are "drying out" shall be transplanted to a higher elevation than the highest flooded contour observed. Care must be used in the cutting of the erosion fabric that line the sides of the basin/garden. In the beginning, the plants shall be replaced to a survival ratio of 80% and maintained at this lowest standard.

Wayne Tavares L.A. PWS

Tavares Land Design

Landscape Architecture & Wetland Consulting

508-224-6433; 508-224-3777 Fx

wettech@tavarescapecod.net

December 12, 2008

ATTACHMENT B

Mashpee 130 Shops
 470 Main Street
 Mashpee Mass.

N O T
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 C O P Y

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Storm Water Operation & Management Plan

Overview: This Stormwater Operation & Management Plan (The Plan) is presented for the proposed redevelopment of the existing site located at 470 Main Street (Route 130). The Plan deals with the management of storm water runoff from the proposed redevelopment of the site. The standard that is met in the design is that post development peak discharge rates do not exceed pre development discharge rates. In this particular case the design reduces the 100 year event by almost one half. Both the 10 and 25 year events are contained within a bio-retention pond with the balance of the event recharged via a catch basin with sediment trap and leaching basin. All runoff from roofs, grass areas, walkways and parking areas are directed to the bio-retention areas for treatment.

Management of the paved impervious areas will consist of the following:

Parking lot sweeping. The parking lot and walkways will be swept clean of all sand at least twice within the spring season and disposed of in accordance with all local, state and federal guidelines and regulations.

Catch basin cleaning. The catch basin sediment trap shall be inspected and cleaned twice a year. All sediments shall be handled properly and disposed in accordance with local, State and federal guidelines and regulations.

Leach Pit Cleaning. The leach pit shall be inspected after every major storm for the first months to ensure proper stability and function. Thereafter it shall be inspected at least yearly and clean if required.

Snow and snowmelt management. The area in the north west corner of the parking lot has been designated as a stock pile area for snow storage and melting. Snow will not be stockpiled within the Bio-swale retention area.

Bio- Swale Management . Preventive maintenance shall be performed at least twice a year by removal of accumulated sediment. All WETLAND plants and grasses shall be monitored during the growing season for proper survival. After 2-3 test rain storms of 1" or more of rainfall, the Rain Garden shall be inspected for plant survivability and washout. Plants that are "drying out" shall be transplanted to a higher elevation than the highest flooded contour observed. Care must be used in the cutting of the erosion fabric that line the sides of the basin/garden. In the beginning, the plants shall be replaced to a survival ratio of 80% and maintained at this lowest standard.

Turf Management: See plan by Tavares Landscape entitled: Specific General Landscape Installation and Maintenance Plan Mashpee 130 Retail Shoppes @ 470 Main St & Ashumet Rd.

05-17-2000 @ 02:36



Town of Mashpee

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16 Great Neck Road North
Mashpee, Massachusetts 02649

MASHPEE ZONING BOARD OF APPEALS

Decision for a Special Permit

RE: Robert A. Lawton SP-00-21
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89 Industrial Drive
Map 88 Block 27
OFFICIAL
COPY

A Petition was filed on December 22, 1999 by Robert A. Lawton of Lincoln, Rhode Island for a Special Permit under Section 174-25.G.9 of the Zoning By-laws to allow for outside storage of waterworks materials (hydrants, pipe, fittings) on property located in an I-1 zoning district at 89 Industrial Drive (Map 88 Block 27) Mashpee, MA.

Notice was duly given to abutters in accordance with Massachusetts General Laws Chapter 40A. Notice was given by publication in The Mashpee Enterprise, a newspaper of general circulation in the Town of Mashpee, on February 4 and February 11, 2000, a copy of which is attached hereto and made a part hereof.

A Public Hearing was held on the Petition at the Mashpee Town Hall on Wednesday, February 23, 2000, at which time the following members of the Zoning Board of Appeals were present and acting throughout: Edward M. Govoni, Frederick R. Borgeson and Richard T. Guerrera.

The Mashpee Zoning Board of Appeals issues this Decision pursuant to the provisions of Massachusetts General Law, Chapter 40A, Section 9 and the Town of Mashpee Zoning By-laws.

Attorney Brian Garner of Dunning and Kirrane law firm represented the applicant and stated that the applicant is a main waterworks supplier of municipalities. Mr. Lawton also attended the meeting.

The Design Review Committee has made several recommendations for the installation of extensive landscaping.

No comments were received from abutters.

title ref 12700/125

Mashpee Zoning
Board of Appeals

Robert A. Lawton SP-00-21

2

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GENERAL FINDINGS

O F F I C I A L

O F F I C I A L

C O P Y

C O P Y

1. that the subject property is located at 89 Industrial Drive and consists of 1.38 acres.

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SPECIAL PERMIT CRITERIA

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Section 9 of Chapter 40A and Section 174-24C of the Mashpee Zoning By-law

require that the permit granting authority determine that the proposed use and development are consistent with applicable law, rules and regulations; that there will be no adverse effect on public health or safety; that there will not be an excessive demand upon community facilities created as a result of the proposal; and that there will not be a significant adverse impact on the environmental factors listed in Section 174-24.C.2.

SPECIFIC FINDINGS

1. that the subject lot is in an Industrial zoning district.
2. that the proposal is an allowed use upon the granting of a Special Permit by the Zoning Board of Appeals.
3. that the applicant has conformed to Design Review's recommendations for landscaping.
4. that there will be no adverse effect on public health or safety.
5. that there will not be an excessive demand upon community facilities created as a result of the proposal.

In view of the foregoing, the Mashpee Zoning Board of Appeals found that the applicant met the criteria necessary for the granting of a Special Permit. Upon motion duly made and seconded, the Zoning Board of Appeals voted unanimously on February 23, 2000 to grant a Special Permit. The Special Permit is conditioned upon compliance with the following:

- the applicant must submit a performance security in the amount of \$5,000 to guarantee completion of the landscaping.
- the applicant must submit two stamped and engineered plans showing the 50-foot buffer and height of the fence.
- the applicant must submit up-to-date, revised landscaping plans as agreed upon at the Design Review Committee for the Board's files.

**Mashpee Zoning
Board of Appeals**

Robert A. Lawton SP-00-21

3

TOWN OF MASHPEE



**PUBLIC
HEARING
NOTICE**

The Mashpee Zoning Board of Appeals will hold Public Hearings on Wednesday, February 23, 2000, at 7:30 P.M. at the Mashpee Town Hall, 18 Great Neck Road Road North, on the following:

Prime Homes, Inc. - Requests a Variance from Section 174-31 of the Zoning By-laws for permission to vary the sideline setback requirements to allow for construction of a single-family home on property located in an R-5 zoning district at 17 Snead Drive (Map 87 Block 40) Mashpee, MA. (Owner of record: Kenneth Marslers, et al Trustee).

Robert A. Lawton - Request a Special Permit under Section 174-25.G 9 of the Zoning By-laws to allow for outside storage of waterworks materials (hydrants, pipe, fittings) on property located in an I-1 zoning district at 89 Industrial Drive (Map 88 Block 27) Mashpee, MA.

Pauline A. Hicks - Requests a Variance from Section 174-31 of the Zoning By-laws for permission to vary the lot space requirements on property located in an R-3 zoning district at 10 Hicks Way (Map 44 Block 47) Mashpee, MA.

Pauline A. Hicks - Request a Variance from Section 174-31 of the Zoning By-laws for permission to vary the lot space requirements on property located in an R-3 zoning district at 22 Hicks Way (Map 44 Block 48) Mashpee, MA.

Pauline A. Hicks - Request a Variance from Section 174-31 of the Zoning By-laws for permission to vary the lot space requirements on property located in an R-3 zoning district at 26 Hicks Way (Map 44 Block 54) Mashpee, MA.

Pauline A. Hicks - Request a Variance from Section 174-31 of the Zoning By-laws for permission to vary the lot space requirements on property located in an R-3 zoning district at 23 Hicks Way (Map 44 Block 55) Mashpee, MA.

Binh Phu - Request a Variance from Section 174-31 of the Zoning By-laws for permission to vary the sideline setback requirements to allow for construction of a single-family home on property located in an R-5 zoning district at 25 Nobbs Road (Map 29 Block 102) Mashpee, MA.

John B. & Elaine Wilson - Request a Special Permit under Section 174-20 of the Zoning By-laws for permission to demolish an existing structure and build a single-family home on property located in an R-3 zoning district at 202 Monomoscoy Road (Map 114 Block 43A) Mashpee, MA.

John B. & Elaine Wilson - Request a Variance from Sections 174-31 and 174-33 of the Zoning By-laws for permission to vary the front setback requirements and the setback requirements to the water and wetlands to allow for construction of a single-family home on property located in an R-3 zoning district at 202 Monomoscoy Road (Map 114 Block 43A) Mashpee, MA.

Jeffrey R. & Sheila A. Eydenberg - Request a Variance from Section 174-31 of the Zoning By-laws for permission to vary the sideline setback requirements to allow

for additions to an existing dwelling on property located in an R-3 zoning district at 43 Kim Path (Map 117 Block 90) Mashpee, MA.

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BY: MASHPEE ZONING BOARD OF APPEALS

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TOWN OF MASHPEE
TOWN CLERK

IN FAVOR:

Edward M. Govoni

IN FAVOR:

Richard T. Guerrero

IN FAVOR:

Frederick R. Borgeson

This Decision has been duly filed on March 6, 2000 with the Town Clerk of Mashpee. Any appeals shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A within Twenty days after the date of said filing.

This Decision is effective when a Certified Copy is filed at the Registry of Deeds. A Certified Copy may be obtained from the Town Clerk after the expiration of the 20-day Appeal period. Special Permits shall lapse after two years and Variances and Appeals after one year, unless substantial use or construction has commenced or applications for extensions have been filed prior to the expiration date.

Jeffrey R. & Sheila A. Eydenberg - Request a Special Permit under Section 174-17 of the Zoning By-laws for permission to expand a pre-existing, non-conforming dwelling on property located in an R-3 zoning district at 43 Kim Path (Map 117 Block 90) Mashpee, MA.
J & M LLC - Request a Variance from Article IV for permission to amend the prior use Variance to allow for construction of a gasoline service station with ancillary retail sales on property located in an I-1 zoning district at 723 Falmouth Road (Map 81 Block 2) Mashpee, MA. (Owner of record: Wags Road Realty Trust).

Lloyd B. & Roberta Gainsboro - Request a Variance from Sections 174-31 and 174-33 of the Zoning By-laws for permission to vary the sideline setback and front setback requirements and the setback requirements to the water and wetlands to allow for construction of a pool on property located in an R-3 zoning district at 15 Keel Way (Map 120 Block 139) Mashpee, MA.

Per order of:
Edward M. Govoni, Chairman
Mashpee Zoning Board of Appeals

January 4, 11, 2000

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BK13014 PG265

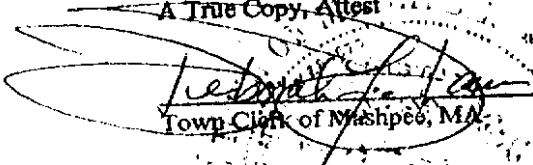
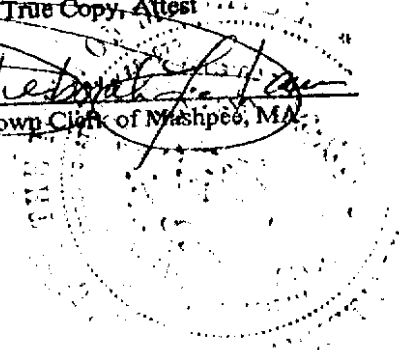
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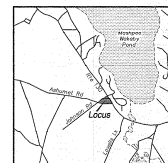
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A True Copy, Attest

Town Clerk of Mashpee, MA


I HEREBY CERTIFY THAT NO NOTICE OF APPEAL
HAS BEEN RECEIVED BY THIS OFFICE DURING
THE TWENTY DAYS FOLLOWING RECEIPT AND
RECORDING OF NOTICE FROM THE APPEALS
BOARD OF APPROVAL OF THE ATTACHED
DOCUMENT.


TOWN CLERK
DATE OF CERTIFICATION
May 12, 2000

RECEIVED AND RECORDED
MAY 18 2007
REGISTRY OF DEEDS
JOINT FEE



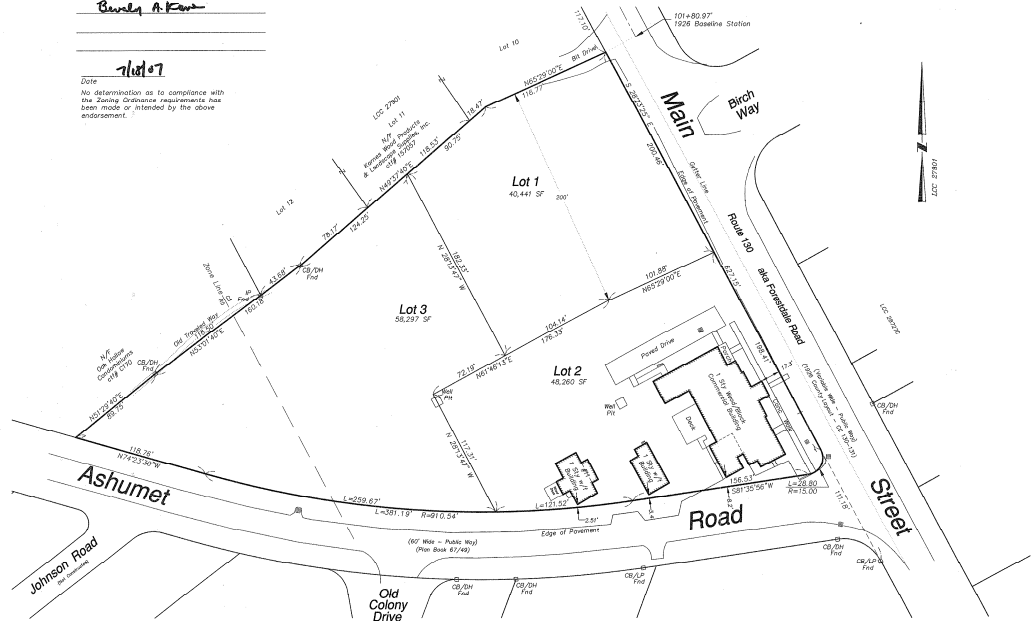
Location Map:
1"=2,000'

Approved under the Subdivision Control
Law is not required.
MASHPEE PLANNING BOARD

Bundy A. Kern

Date: 7/18/07
No determination as to compliance with
the zoning ordinance requirements has
been made or intended by the above
endorsement.

For Registry Use Only



ZONES:

C3
Area 40,000 SF
Frontage (min) 200'
Setbacks
Front 75'
Side 20'
Rear 20'

R5
Area 80,000 SF
Frontage (min) 150'
Setbacks
Front 40'
Side 25'
Rear 25'

ASSESSORS REF.:

Map 27, Part 31

OVERLAY DISTRICT:

Groundwater Protection Overlay District

FLOOD ZONE:

Zone C as per
Community Flood No.
#250009 0005 A
rev. September 15, 1978

OWNER:

Mashpee 130 Shops, Inc.
7 Industrial Park Rd.
Mashpee MA 02551

I certify that this plan has been prepared in
conformity with the rules and regulations of the
Registry of Deeds of the Commonwealth of
Massachusetts.

Robert R. Hoffmann 7/18/07

This survey was performed in compliance with the
Professional and Technical Standards for the practice
of Land Surveying in the Commonwealth of
Massachusetts (2002 CMR).



Robert R. Hoffmann 7/18/07

Notes/Revision:	PREPARED FOR: Mashpee 130 Shops, Inc. 5 Quail Run Road Norfolk MA 02056	PREPARED BY: Sullivan Engineering, Inc. PO Box 609 Osterville, MA 02655 (508)428-2344 (508)428-3113 www.sullivaneng.com	CapeSurv 7 Parker Road Osterville MA 02655 (508) 428-2844 (508) 428-2895 www.capesurv.com	Title: Plan Of Land On Main Street & Ashumet Road In Mashpee, Massachusetts	Sheet: 1 of 1
	Scale: 1"=40'	Scale: 1"=40'	Scale: 1"=40'	Scale: 1"=40'	Scale: 1"=40'



Town of Mashpee

Planning Board

Bk 23348 Pg 22 #10
01-02-2009 @ 09:09a

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16 Great Neck Road North, Mashpee, MA 02649
Telephone (508) 539-1400 ext. 520 • Fax (508) 539-0954
Email: planning@ci.mashpee.ma.us
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MASHPEE PLANNING BOARD
Special Permit Decision
Mashpee 130 Shoppes, Inc.

Lowy **470 Main Street (Route 130) Map 27, Block 21**
Development / Redevelopment of Retail and Office Buildings

I. Proposal.

This decision concerns an application by Mashpee 130 Shoppes, Inc., 5 Quail Run Road, Norfolk, MA 02056, for development / redevelopment of retail and office buildings in a C-3 zoning district, located at 470 Main Street (Route 130) at the corner of Ashumet Road. The lot is identified on the Mashpee Assessors Maps as Map 27, Block 21. The proposal includes rehabilitation and partial reconstruction of the former Melia's / Ma Glockner's / Mashpee VFW Post building for retail use and demolition and replacement of two smaller former cottages for office use.

The Project is shown on a 3-sheet set of site plans prepared by Sullivan Engineering, Inc., P.O. Box 659, Osterville, MA, 02655 dated July 30, 2007, as revised on November 19, 2008. Proposed building elevations and floor plans are shown on an 8-sheet set of plans by JB Designs, P.O. Box 285, West Barnstable, MA 02668 dated 10-28-08 and landscaping is shown on a two-sheet set of plans entitled "A Landscape Plan for Rt 130 Shops", revised date September 19, 2008, by Tavares land Design, P.O. Box 1135, Plymouth, MA 02360. The applicant submitted an impact statement and a number of additional materials describing the project and addressing water quality, traffic and stormwater management issues.

II. Jurisdiction.

The application was made and this decision has been issued by the Mashpee Planning Board pursuant to Section 174-24.C. and other provisions of the Mashpee Zoning By-Laws as they existed on November 19, 2008, the date on which this special permit was approved. Where reference is made herein to the Mashpee Zoning By-Law, it shall refer to the provisions thereof as they existed on November 19, 2008.

III. Chronology.

Application for this Special Permit was made with the Town Clerk on July 8, 2008. A hearing was opened before the Mashpee Planning Board at the Mashpee Town Hall, 16 Great Neck Road North, Mashpee, Massachusetts on September 3, 2008 at 7:45 p.m. Notice was duly given to abutters in accordance with Massachusetts General Laws Chapter 40A. Notice was also given by publication in the Mashpee Enterprise, a newspaper of general circulation in the town of Mashpee on August 15 and 22, 2008. The hearing was continued on October 15, November 5, and November 19, 2008.

On August 28, 2008, the applicant met with the Design Review and Plan Review Committees.

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The Project is subject to approval by the Mashpee Historic District Commission. The applicant met with the Commission on October 15, November 5, and November 19, 2008, on which date the project was approved 4-0 by the Commission.

On November 19, 2008, the Planning Board closed the public hearing and voted to make the following findings and grant a special permit authorizing the project, with the conditions enumerated below. The members of the Planning Board were recorded as follows: Members Beverly A. Kane, Dennis H. Balzarini, Thomas O'Hara, Joseph Mullen and James Leonard were recorded as voting in favor of the decision. No members were recorded as voting against.

IV. Findings.

1. The Property is located in the C-3 Zone as depicted on the Town of Mashpee Zoning Map. The applicable zoning on the date this permit was approved allowed the proposed uses in the C-3 district subject to special permit approval by the Planning Board.
2. The project satisfies the requirements of Massachusetts General Law Chapter 40A, in that it complies with the general purposes and intent of the Mashpee Zoning By-Law on the applicable date.
3. The project is not located within any area mapped as Priority Habitat of Rare Species under the Mass. Endangered Species Act Regulations (321 CMR 10) or Estimated Habitat of Rare Wildlife under the Mass. Wetland Protection Act Regulations (310 CMR 10).
4. The proposed development complies with the lot area and dimensional requirements set forth in the Zoning By-law, except that setbacks do not meet current requirements. As the main building is only proposed to be rehabilitated, its existing setbacks are grandfathered (the building predates the adoption of zoning in Mashpee by more than 20 years). The two smaller buildings are proposed to be demolished and reconstructed on the same footprint and have received approval of findings by the Zoning Board of Appeals under Section 174-17 that the proposed reconstruction will not be substantially more detrimental to the neighborhood than the existing nonconforming structures.
5. The proposed project requires 51 parking spaces, while 52 spaces are provided. The excess parking area will be designated as a loading zone, as the Zoning by-law prohibits parking in excess of zoning requirements. If the adjacent parcels are developed, the lot is designed to allow for interconnection with parking facilities on those parcels. The parking area otherwise meets the Zoning By-law's requirements for space and aisle size, 3 foot separation from vertical objects, required parking field landscaping, handicapped parking spaces and other standards.
6. A water quality report, dated June 23, 2008 by Tetra Tech Rizzo, was provided under the provisions of Section 174-27 of the Mashpee Zoning By-laws. The project is located in a Zone II public water supply well recharge area and a Groundwater Protection District under Mashpee Zoning. Within Groundwater Protection Districts, impervious surface coverage is limited to no more than 15% unless approved by the Board based on the provision of a system of drainage which provides for the artificial recharge of precipitation to groundwater through site design that incorporates natural drainage patterns and vegetation and through the use of constructed (stormwater) wetlands, wet (retention) ponds, water quality swales, sand filters, organic filters or similar site-appropriate best management practices capable of removing nitrogen and other contaminants from stormwater. The applicant has proposed that all stormwater from the site be

treated in a bioretention swale which the Board finds meets these requirements. The Board therefore finds that the project may exceed 15% impervious surface coverage under the provisions of Section 174-82.A.(4) of the Zoning By-Law. The project, as proposed, includes approximately 56% impervious surface coverage, including 16% rooftops, 36% parking and 4% walkways.

7. The existing septic system and grease trap will be removed from the property, as restaurant use is no longer proposed, reducing total Title 5 wastewater flow to 478 gpd, which is proposed to be treated using a standard Title V septic system with a 1500 gallon septic tank shared by all three buildings, with leaching chambers under the paved parking area. [The Board of health has approved the septic system plans. As the project, along with two adjacent parcels under the same ownership, are in a Zone II, total wastewater flow on the three parcels will be limited to that previously approved for the restaurant and other uses previously located on the site. According to the Health Agent, development on the two other parcels will require use of a denitrifying wastewater treatment system under the Board of Health's "600 gallon" rule.
8. The project site, architectural and landscape plans were reviewed at a joint Design Review / Plan Review Committee meeting on August 28, 2008. A number of amendments to the plan were suggested which have since been incorporated into the current set of plans. The applicant was told to return to the Design Review Committee for approval of proposed signage.
9. Various versions of the project plans were reviewed by the Board's Consulting Engineer, Charles Rowley, who provided comment letters dated November 5 and November 19, 2008. The plans have been revised to reflect Mr. Rowley's recommendations.
10. The applicant has received written waivers from the abutting lot owners allowing the Board to reduce the required 10 foot vegetated buffer areas required at the side and rear of the property. The Board hereby waives the buffer requirement where required in order to accommodate the proposed parking area and dumpster locations as shown on the proposed site plan.
11. In conformance with the provisions of Article VI, Section 174-24.C.(2) of the Zoning Bylaw, the Planning Board finds that the proposal will not adversely affect public health or safety, will not cause excessive demand on community facilities, will not significantly decrease surface or ground water quality or air quality, will not have significant adverse impact on wildlife habitat, estuarine systems, traffic flow, traffic safety, waterways, fisheries, public lands or neighboring properties, will not cause excessive levels of noise, vibration, electrical disturbance, radioactivity or glare, will not destroy or disrupt any species listed as rare, endangered or threatened by the Massachusetts Natural Heritage program or any known historic or archaeological site, will not produce amounts of trash, refuse or debris in excess of the town's landfill and waste disposal capacities, will properly dispose of stumps, construction debris, hazardous materials and other wastes, will provide adequate off street parking, will not cause excessive erosion or cause increase runoff into neighboring properties or into any natural river, stream, pond or water body and will not otherwise be detrimental to the town or the area.

V. Conditions.

APPROVED PLANS

1. Construction of this Project shall be done only in conformance with the following plans, which have been approved by the Planning Board:

3-sheet set of site plans prepared by Sullivan Engineering, Inc., P.O. Box 659, Osterville, MA, 02655 dated July 30, 2007, as revised on November 19, 2008.

Proposed building elevations and floor plans as shown on an 8-sheet set of plans by JB Designs, P.O. Box 285, West Barnstable, MA 02668 dated 10-28-08.

Landscaping as shown on a two-sheet set of plans entitled "A Landscape Plan for Rt 130 Shops", revised date September 19, 2008, by Tavares Land Design, P.O. Box 1135, Plymouth, MA 02360.

Exterior lighting fixtures, including parking lot lights and those mounted on the buildings, shall be downlit shaded fixtures on curved "gooseneck" mounting arms as approved by the Historic District Commission.

8'x5' site identification sign located as shown on the site plan and depicted at a scale of $\frac{3}{4}"=1'$ on Attachment C1, by Plymouth Sign Co., along with two 12"x60" building mounted signs to be located on the two smaller buildings facing the parking lot, also at a scale of $\frac{3}{4}"=1'$ on Attachment C2, by Plymouth Sign Co. These signs have also been approved by the Historic District Commission.

2. Curbing and berms around planting islands shall be of sufficient height above any areas covered with mulch or wood chips to contain them during heavy rains.
3. Cardboard recycling containers shall be provided adjacent to the proposed dumpsters. Dumpsters shall be provided with locks as recommended by the Mashpee Police Department and shall be enclosed by a solid fence.

ALLOWED USES

4. The Board approves the following uses as listed in the Mashpee Zoning By-law Section 174-25 Table of Uses:

Within the main building, retail uses as permitted under Section 174-25.E.(12).

Within the two smaller buildings, office uses permitted under Section 174-25.D.(1)

5. Under no circumstances shall there be outdoor storage of objects or materials of any sort, including motor vehicles, trailers, containers or boats. No more than three motor vehicles may be parked on the property overnight.

SIGNAGE

6. Any new free standing signage, other than that specifically approved above, shall require review by the Design Review Committee and approval by the Planning Board prior to installation.
7. Building signage, other than that specifically approved above, shall require review and approval by the Design Review Committee prior to installation, with a notice of any such approval and approved designs forwarded to the Planning Board.

PRIOR TO SIGNATURE OF SPECIAL PERMIT

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8. Prior to signature of this special permit decision by the Board, the required inspection fee (\$250 + \$.02 per sq. ft. of impervious surface coverage or $\$250 + \$.02 \times 25,974 \text{ sq. ft.} = \769.48) shall be submitted to the Board in care of the Town Planner's Office. Normal inspections covered by this basic inspection fee include 1) drainage inspection, 2) gravel inspection, 3) inspection of paving binder course, 4) inspection of paving finish course and 5) final inspection for roadways and parking areas, as well as other site development, including landscaping and surface drainage patterns around buildings, but exclusive of buildings or wastewater treatment facilities. A \$100 re-inspection fee will be charged for additional inspections beyond those listed above that are made necessary due to unsatisfactory materials or construction that lead to a failure to pass the original inspection.
9. Prior to signature of this special permit decision by the Board, the applicant shall obtain from the Town Clerk a single street address for the building and determine a scheme for unit numbers or letters for tenant spaces. A copy of said information shall be provided to the Board prior to signature.

PRIOR TO BUILDING PERMIT APPLICATION

10. Applicant shall submit a copy of this special permit decision as recorded at the Barnstable County Registry of Deeds, including an indication as to the book and page at which it was recorded.

PRIOR TO ISSUANCE OF BUILDING PERMIT

11. Prior to issuance of any building permit for the main building, the Applicant shall submit a working set of drawings with building and fire code analysis reflecting actual proposed uses and areas of said building. Any sprinkler and/or standpipe system design shall require approval by the Mashpee Fire Department.

PRIOR TO ISSUANCE OF OCCUPANCY PERMITS

12. The stormwater treatment area shall be completed and vegetation established prior to any paving on the site. Appropriate measures shall also be taken to protect the area from sediment buildup or damage after it has been completed.
13. Prior to issuance of any occupancy permit for the proposed buildings, the driveway, parking areas and drainage facilities shall be constructed, and be inspected following the 5 step inspection process identified in Condition #8, and approved by the Planning Board's Consulting Engineer as being in accordance with this decision, the Mashpee Zoning By-law and proper engineering practice.
14. Prior to issuance of any occupancy permit for the proposed buildings, the Applicant shall submit to the Board three copies of as-built plans of all underground utilities, including drainage structures, fire hydrants, water supply lines (including sizing, material and location of gate valves), irrigation wells, gas, electrical and telephone services.
15. Prior to issuance of any occupancy permit for the proposed buildings, all project landscaping as shown on the approved plans shall be properly installed, as certified by the Town Planner or his

designee after an inspection of the site, unless a landscape performance bond is provided in an amount and form satisfactory to the Planning Board.

16. Initial landscape installation and maintenance for three years thereafter shall be in conformance with the provisions of the "Mashpee 130 Shoppes Landscape Installation and Maintenance Process" document attached herewith as Attachment A, and said provisions shall be included, at a minimum, in a maintenance contract for said landscaping, one copy of which shall be provided to the Board and to the Building Inspector prior to the issuance of any occupancy permit for the proposed buildings. Nothing therein shall prevent the applicant from employing an alternate landscape contractor, provided that said contractor shall be subject to the same contract provisions.

17. Each new tenant will need approval from the Building and Health Departments.

STORMWATER DRAINAGE

18. All roof drains are to be connected to the parking area drainage system and are not to be directed to dry wells. To the maximum extent feasible, other minor sources of runoff that are not connected to the parking area drainage system shall have drainage directed to grassed areas having a minimum depth of 6 inches of topsoil, consisting of sandy loam with 10-20% organic matter and no more than 20% clay.
19. The applicant shall install temporary landscape materials or other means of preventing erosion on any areas disturbed for more than four months but not yet developed with structures. A plan for said landscape materials or other means shall be presented to the Board for approval prior to installation, and installation shall be completed within sixty days of said approval.
20. Stormwater facilities shall be maintained in accordance with the source control best management practices, schedule of inspection and maintenance of stormwater management system and emergency spill cleanup plans identified in the "Stormwater Operations And Maintenance Plan, Mashpee 130 Shoppes" attached herewith as Attachment B. The Planning Board reserves the right to inspect, as a Board or through its agents, all stormwater facilities on an ongoing basis.

LANDSCAPING

21. A permanent irrigation system shall be installed in all landscaped areas and landscaping shall be properly maintained. If maintenance is determined to be inadequate by the Planning Board, the applicant shall cooperate with the Board to amend the maintenance process. It should be noted that the Mashpee Water District does not allow connection of landscape irrigation facilities to its water supply system.
22. It is a requirement of this permit that only organic fertilizers may be used within the development and any pesticides used shall be of a type approved by the Town of Mashpee Board of Health and applied by licensed applicators. Use of fertilizers and pesticides shall be minimized and the use of natural pest control methods should be encouraged. The applicant shall provide the Mashpee Board of Health with a complete list of any such fertilizers or pesticides used on the property and their method of storage on the site.

FIRE PROTECTION

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23. The project shall include a fire protective signaling system approved by the Mashpee Fire Department.

C O P Y

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GENERAL CONDITIONS

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24. It shall be a condition of this permit that the project shall be developed in conformance with all applicable local and state regulations.
25. The applicant, his heirs and assigns, including any condominium or other association to which the applicant transfers ownership of common facilities within the project site, shall be responsible for all costs associated with the operation, maintenance, upgrade and other management activities related both to the wastewater collection, treatment and disposal facilities and the stormwater collection, treatment and disposal facilities, including maintenance of vegetation in the proposed stormwater infiltration facilities and all other activities called for under the stormwater operations and maintenance plan contained in Attachment B. Any deeds, declaration of covenants, conditions and restrictions, association bylaws, rules and regulations transmitted to buyers of property or units within the project site shall contain a notice of said responsibility and of the fact that failure to properly conduct said activities shall be considered a violation of this special permit enforceable by all means available to the Town.
26. Construction activities shall not customarily take place in connection with this project (i) before 7 a.m. or after 6 p.m. Monday through Saturday, or (ii) on Sundays or holidays. There shall be no substantial deliveries of materials or unloading of heavy construction equipment on Saturdays, Sundays or holidays.
27. The applicant and all contractors, subcontractors and employees engaged by the applicant shall properly dispose of stumps, construction debris, hazardous materials and other waste and shall provide a report to the Planning Board and Board of Health, at six-month intervals beginning with the issuance of the first building permit and ending upon completion of the project, describing the amount of, and means of disposal of, such materials resulting from the construction of the project, including the approximate date and specific location at which such materials were disposed.
28. Except in the case of foreclosure by a lender, or a transfer to a related entity controlled by the Applicant, the holder of this special permit shall not transfer said permit without 90 days prior notice to the Planning Board. The Planning Board may notify the holder of any violations of the Special Permit and no transfer shall take place while any violations exist without the approval of four members of the Board.
29. Notwithstanding the provisions of condition 39 above, the owner / applicant and their heirs and assigns shall have the right to pledge and assign, as part of the mortgage collateral, its rights under this special permit to any institutional construction lender which has given written notice to the Planning Board of such assignment. Upon receipt of the written notice, said lending institution shall become a "recognized mortgagee." All such notices shall be sent to Mashpee Planning Board, Mashpee Town Hall, 16 Great Neck Road North, Mashpee, MA 02649, by certified mail, return receipt requested. In the event of a default by the applicant under the terms and conditions of this special permit, the Planning Board shall give written notice of such default by certified mail to the applicant and each recognized mortgagee. Upon receipt of the Planning Board notice, any recognized mortgagee so notified shall have one hundred twenty (120) days from the date of

receipt of such notice, to remedy any such default. The applicant's rights under this special permit may not be terminated prior to the expiration of any such 120 day cure period. Failure of the Planning Board to give such notice will only extend the cure period for the recognized mortgagee, pursuant to the provisions provided for above, and shall not constitute a waiver of any default. The Planning Board hereby approves the transfer of applicant's rights under this special permit to any recognized mortgagee that results from the default under a construction mortgage from the applicant to any recognized mortgagee. The Planning Board will not unreasonably withhold or delay its consent to a transfer of the rights under this special permit from any recognized mortgagee that has acquired rights under this special permit, to a proposed transferee reasonably acceptable to the Planning Board. The proposed transferee must be able to demonstrate to the Planning Board a reasonable ability to complete the project in accordance with the terms of this special permit.

30. The applicant shall require that all construction personnel working on the project shall be familiar with, and comply with, the provisions of Massachusetts General Law Chapter 38, Section 6(b) regarding the discovery of human remains.
31. All conditions of this special permit shall be binding not only upon the applicant but also on all successors-in-interest and assigns of the applicant.
32. No occupancy or building permits shall be issued while there exists any substantial violation of the conditions of this special permit unless the Board, by a favorable vote of 4 members at a regular meeting, should allow such issuance.
33. Until completion of the project, the Applicant shall file a written report with the Planning Board on the status of the project and compliance with the conditions of this special permit at three month intervals, counting from the date this special permit was approved. At the discretion of the Board, the Applicant may be required to attend meetings of the Board to explain the contents of said reports or the status of the project.

VI. Expiration, Extension or Modification.

Pursuant to Massachusetts General Law, Chapter 40A, Section 9 and Article IX, Subsection 174-47.C.(5) of the Mashpee Zoning Bylaw, this special permit shall lapse within 2 years, which shall not include such time required to pursue or wait the determination of any appeal from the grant hereof, if a substantial use hereof is not sooner commenced except for good cause. Initiation of construction or reconstruction of at least one of the proposed buildings shall constitute "substantial use" for these purposes.

The applicant shall require a specific determination of good cause by a favorable vote of four members of the Planning Board if claiming an extension of the 2-year period, except to wait the determination of any appeal from the grant hereof.

Any modifications of this special permit decision and accompanying plans shall require approval by the Board pursuant to the provisions of Section 174-24.C.(9) of the Zoning Bylaw.

VII. Signature and Filing.

This special permit decision document, which incorporates by reference herein all attachments and plans, has been approved on this 19th day of November, 2008. A copy of same shall be filed with the Town Clerk in accordance with applicable law.

Beverly A. Kane

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Mashpee Planning Board - Duly Authorized Member

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O F F I C I A L C O M M O N W E L T H O F M A S S A C H U S E T T S O F F I C I A L

Barnstable, ss

C O P Y

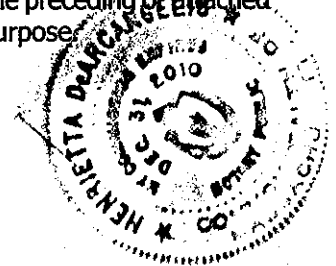
C O P Y

On this 19th day of Nov. 2008, before me, the undersigned notary public, personally appeared *Beverly A. Kane*, a member of the Mashpee Planning Board, proved to me through satisfactory evidence of identification, which were ~~known to me~~, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he/she) signed it voluntarily for its stated purpose.

Henrietta DeAngelis

 Notary Public

My Commission expires: *December 31, 2010*
 date of expiration



A copy of this decision and the accompanying plans endorsed by the Planning Board as been duly filed on *November 26, 2008* with the Town Clerk of Mashpee.

Deborah F. Dami

 Town Clerk

Notice of this decision was mailed on *11-26-08* to the applicant, to the parties interest designated in Massachusetts General Law, Chapter 48, Section 11 and all persons at the hearing who requested such notice. Any appeal should be made pursuant to Section 17 of Chapter 48 of the Massachusetts General Laws 20 days after the date of such filing.

I, Debra Dami, Town Clerk of the Town of Mashpee, hereby certify that a copy of this decision and the accompanying plans endorsed by the Planning Board were filed with the office of the Town Clerk on October 24, 2006 and that no appeal of that decision was filed within 20 days thereafter.

Deborah F. Dami

 Town Clerk
 Date: *Dec 17, 2008*

Upon expiration of the statutory appeal period with no appeal having been filed, this special permit decision has been endorsed by the undersigned members of the Mashpee Planning Board on *DECEMBER 17, 2008* and may be recorded.

J. Leonard

Dennis H. Bogan

May F. O'Neil

ATTACHMENT A

December 16, 2008

Mashpee 130 Shoppes	N O T	N O T
470 Main Street	A N	A N
Mashpee, Mass.	O F F I C I A L	O F F I C I A L
	C O P Y	C O P Y

Mashpee 130 Shoppes Landscape Installation and Maintenance Process

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Implementation of this process is required under the terms of a special permit granted on November 19, 2008 to Mashpee 130 Shoppes, Inc. by the Mashpee Planning Board for construction of 2 offices (764 and 995 SF respectively) and a rehabilitation of a 6,557 Sq Ft commercial retail store on a 48,260 Sq. Ft. site at 470 Main St (Rt. 130) in Mashpee, MA. Any violation of these provisions may be considered a violation of the terms and conditions of that Special Permit and may lead to enforcement action by the Mashpee Building Inspector, acting as the Town's zoning enforcement officer, or the rescission of the Special permit by the Mashpee Planning Board. This document shall be recorded with said special permit.

The applicant, his heirs and assigns, including any entity or other association to which the applicant transfers ownership of common facilities, within the project site, shall be responsible for all cost associated with the installation and maintenance of the proposed landscape features indicated by the plan entitled "A LANDSCAPE DEVELOPMENT PLAN FOR: RT 130 SHOPPES" revised date Sept. 19, 2008 by TAVARES LAND DESIGN Sheets 1&2 of 2, along with installation and maintenance of the vegetation within the proposed storm water treatment swale as shown on the site and referenced in Attachment B to the Special permit labeled "STORM WATER OPERATIONS AND MAINTENANCE PLAN ". Any deeds, declaration of covenants, conditions and restrictions, association bylaws, rules and regulations transmitted to buyers of property or units within the project site shall contain a notice of said responsibility and of the fact that failure to properly conduct said activities shall be considered a violation of this special permit enforceable by all means available to the Town.

Installation and maintenance Contracts for said landscape features shall provide that:

- 1) The initial term of said landscape contract shall be for a period of not less than 3 years.
- 2) A professional landscape contractor/architect shall supervise the installation of plant materials and will perform plant maintenance for a period of three (3) growing seasons as defined below.
- 3) All dead, dying, broken, or storm damaged branches from all shrub and ornamental trees shall be removed at the time of installation or during each spring growing season.
- 4) A minimum of 2" to a maximum of 4" of Pine bark/organic mulch shall be applied to the base of plants and the root flair of trees once each spring when the growing season begins. The amount of pre-existing older mulch shall be subtracted from the minimum/maximum to ascertain the new mulch amount to be added.
- 5) All trees shall be staked and guyed upon installation. All stakes and guy wires shall be adjusted as necessary to insure they do not girdle or otherwise injure trees. All stakes and guys shall be removed 1 year after installation unless there is an extenuating need for these on specific trees.
- 6) All tree wraps shall be removed at time of planting.
- 7) All grassed areas shall be reseeded/replanted until a 90% coverage is attained and established.

8) During the growing season, the landscape contractor shall inspect shrub and tree plantings, both the plants themselves and the surrounding soils, on a weekly basis between March 15th and June 15th. The inspection period shall be bi-weekly from June 16th to October 31st. Soil moisture, pest infestations, and other symptoms of stress shall be addressed through proper treatments such as irrigation modifications, pest treatments, and addition/removal of mulch. Organic, not chemical treatments shall be used at all times, except when no organic alternative is available. Recommendations from the County extension service shall be solicited for any major disease/pest infestation.

9) If any obvious erosion occurs, the landscape contractor shall immediately repair and clean-up such areas.

10) Pruning of all shrubs and trees shall be performed in early spring (to remove all broken, diseased, and crossing branches as well as to reshape the specific plant. All plants shall be monitored through the various seasons after initial spring clean-up. Spring flowering shrubs/trees shall be pruned after spring/summer flowering fades. Needle evergreens (example: White pine, red cedar) may be pruned in late winter just before bud break and, sometimes, in late spring, to control new growth. Flowering broadleaf evergreens (example: Rhododendron) may be pruned in spring after flowers fade. Most deciduous trees (example: Bradford Pear) shall be pruned in late dormant season, including maples or after flower blooms fade. Summer blooming plants and grasses shall be pruned after frost to early spring, with an eye toward shaping, general pruning, and preventing snow damage on overly extended branches.

11) All plants and grasses shall be monitored during the growing season for proper irrigation. When less than 1" of natural rainfall happens during any week during the growing season, deep root manual irrigation (or supplemented with a hose) in lieu of automatic irrigation (system). With an automatic (w/timer) system in place, bi-weekly monitoring of the irrigation clock shall be done with regards to type of season (1) May-June; 2) July-August; 3) September-October). Each season shall have different settings as to "days to run" and "hours per day" and "times per day". All vegetation not covered by the irrigation system shall also be monitored for manual supplemental watering.

12) Except as otherwise indicated, "spring growth season" shall be March 15th to June 15th in any given year. The term "growing season" shall be the entire biological growing season of March 15th to October 15th.

13) The obligation of the landscape contractor shall continue with maintenance for a minimum period of 3 years from the completion and acceptance of the planting installation of this project as substantially complete. Said maintenance obligation shall also continue from the completion of the plantings. All plantings not installed by October 31 shall be planted the following spring by April 15th.

14) Any plant material dying during this 3 year period shall be replaced, in kind, by the landscape contractor, and if substitute species are different from the former plant to be replaced, then written approval shall be requested from the Planning Board.

15) It is a requirement of this permit that only organic fertilizers be used within the confines of this site. and that pesticides of any type be approved by the Mashpee Board of Health and applied by Licensed pesticide applicators. Use of pesticides and fertilizers shall be discouraged in favor of natural pest control methods. The applicant, together with the contractor, shall provide to the Board of Health a list of all pesticide/fertilizers to be used on the site. Storage methods for such pesticides/fertilizers shall also be identified. Subsequent landscape maintenance shall be consistent with the provisions of this document with regard to Section 3, 4, 10, 11, and 12 above; and with Sec 8 on a monthly rather than a biweekly basis.

#1- Organic Fertilizing and Mowing lawn area

All lawn areas shall receive 3-4 fertilizings per year not totaling more than 1.5 lbs nitrogen per 1000 SF/year. The fertilizer shall be of organic origin and a Nitrogen (N)-Phosphate (P)-potash (K) ratio of approximately 3-1-2. The best times of the year to apply fertilizer are early spring, late spring or early summer, and fall, and definitely not in July/August. All fertilizing shall be cumulative toward the maximum of 1.5 lbs (N)/1000 SF/year. Mowing of lawns shall be done on a once to bi-weekly period during the biological growing season of April to October. Mowing equipment shall have regularly sharpened blades to make clean cuts of grass blades. Self-mulching lawn mowers may be used and finely chopped lawn residue left as mulch. This mulch shall be invisible to the naked eye. Mowing using non-mulching mowers requires that all cutting residue be removed from the site. Aeration and de-thatching should be performed bi-yearly.

#2- Irrigation

All plant and lawn areas shall be irrigated with a professional irrigation system using a natural well water source sized appropriately to the volume of water required. Lawn areas shall use pop-up or gear-driven heads and shall not over water into non-lawn areas while overlapping in the actual lawn areas. Planting areas shall have drip irrigation, tech-line, or Netafim tubing with self-draining emitters. Irrigation shall be utilized as a supplement to rainfall and shall be monitored on a weekly basis or when the lawn is mowed. A rain gauge shall be part of the irrigation system and monitored monthly. A combination of 1" of water/per week from natural and man-made systems shall be required for proper volume.

#3- Organic Fertilizing and Pruning vegetation

All plant areas shall be fertilized 1-2 times per year, not totaling more than 1.5 lbs nitrogen per 1000 SF/year. The fertilizer shall be of organic origin and a Nitrogen (N)-Phosphate (P)-potash (K) ratio of approximately 1-2-2. The best times of the year to apply fertilizer are early spring to early summer and sometimes in fall. July/August shall be avoided, if possible. Multiple fertilizing shall be cumulative toward the max of 1.5 lbs (N)/1000 SF/year. Deep root fertilizing is required of trees either by fertilizer "stakes" or drill to the lower root system to insert fertilizer. Shrub and herbaceous layers shall have all organic fertilizers incorporated in the top 3" of the soil on top of, and, surrounding the root ball. Pruning of vegetation shall be done on a once to bi-seasonal basis for the duration of the biological growing season of April to October. Pruning equipment shall have regularly sharpened blades to make clean cuts of shrub/tree branches. Evergreens are usually best pruned in fall. Spring flowering shrubs are usually best pruned immediately after flowering. Summer flowering plants are best pruned from October to May of any given year. Some, like hydrangeas require special knowledge and care. Most trees are also on a case-by-case basis with most pruning done in the dormant season. Deciduous trees should have lower branches lifted, interior of head cleared of crossing branches, pruned for shape, every 3 years.

#4- Weeding and use of pesticides

Diseases and insect control shall be on an "as-needed" basis. Letters from the maintenance contractor shall be sent to the Mashpee Planning Board and Board of Health stating the need to combat which pest and the appropriate pesticide to counter any negative effects. Organic solutions will always be better received than man-made chemicals, which shall be used as a last resort, and with the permission of the permitting authority. Weeding maintenance shall be manually done a minimum of 1 time per month from April to October, with traditional "Spring"

and "Fall" clean-ups serving as the fixed starting and ending dates of the season. No herbicides shall be used for weed control.

#5- Planting and maintenance of "RAIN GARDEN" wetland plantings.

Plantings shall be planted according to the plan and the contours of the original design. When planting on the bottom and near the sides of the Rain Garden, the contractor shall observe the wetland indicator of the species (OBLigate, and FACWet) are indicators of species planted in the area to be inundated and should not be planted more than 2' above the basin bottom. FACultative plants shall be planted from this contour to the top of the basin. PRIVET and other UPLand plants shall be outside the range of inundation or at the very top of the Rain Garden (see cross section -Sheet 2 of 2. All WETLAND plants and grasses shall be monitored during the growing season for proper survival. After 2-3 test rain storms of 1" or more of rainfall, the Rain Garden should be inspected for plant survivability and washout. A report shall be prepared and filed with the Planning Board at the end of each of the three years of required maintenance as to the success of the planting, their quantities and overall appearance. FAC or UPL Plants that are "drying out" shall be transplanted to a higher elevation than the highest flooded contour observed. Care must be used in the cutting of the erosion fabric that line the sides of the basin/garden. In the beginning, the plants shall be replaced to a survival ratio of 80% and maintained at this lowest standard.

Wayne Tavares L.A. PWS

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December 12, 2008

ATTACHMENT B

Mashpee 130 Shops
 470 Main Street
 Mashpee Mass.

N O T
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 C O P Y

N O T
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Storm Water Operation & Management Plan

Overview: This Stormwater Operation & Management Plan (The Plan) is presented for the proposed redevelopment of the existing site located at 470 Main Street (Route 130). The Plan deals with the management of storm water runoff from the proposed redevelopment of the site. The standard that is met in the design is that post development peak discharge rates do not exceed pre development discharge rates. In this particular case the design reduces the 100 year event by almost one half. Both the 10 and 25 year events are contained within a bio-retention pond with the balance of the event recharged via a catch basin with sediment trap and leaching basin. All runoff from roofs, grass areas, walkways and parking areas are directed to the bio-retention areas for treatment.

Management of the paved impervious areas will consist of the following:

Parking lot sweeping. The parking lot and walkways will be swept clean of all sand at least twice within the spring season and disposed of in accordance with all local, state and federal guidelines and regulations.

Catch basin cleaning. The catch basin sediment trap shall be inspected and cleaned twice a year. All sediments shall be handled properly and disposed in accordance with local, State and federal guidelines and regulations.

Leach Pit Cleaning. The leach pit shall be inspected after every major storm for the first months to ensure proper stability and function. Thereafter it shall be inspected at least yearly and clean if required.

Snow and snowmelt management. The area in the north west corner of the parking lot has been designated as a stock pile area for snow storage and melting. Snow will not be stockpiled within the Bio-swale retention area.

Bio- Swale Management . Preventive maintenance shall be performed at least twice a year by removal of accumulated sediment. All WETLAND plants and grasses shall be monitored during the growing season for proper survival. After 2-3 test rain storms of 1" or more of rainfall, the Rain Garden shall be inspected for plant survivability and washout. Plants that are "drying out" shall be transplanted to a higher elevation than the highest flooded contour observed. Care must be used in the cutting of the erosion fabric that line the sides of the basin/garden. In the beginning, the plants shall be replaced to a survival ratio of 80% and maintained at this lowest standard.

Turf Management: See plan by Tavares Landscape entitled: Specific General Landscape Installation and Maintenance Plan Mashpee 130 Retail Shoppes @ 470 Main St & Ashumet Rd.