



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, MA 02649

Meeting of the Mashpee Planning Board - REVISED

Wednesday, February 7, 2024; 7:00 PM

Mashpee Town Hall - Waquoit Meeting Room

16 Great Neck Road North, Mashpee, MA 02649

Broadcast Live on Local Channel 8

Streamed Live on the Town of Mashpee Website: <https://www.mashpeema.gov/channel-8>

Call Meeting to Order

- Pledge of Allegiance

Approval of Minutes

- Review of Meeting Minutes from January 3, 2024 and January 17, 2024

Public Comment

Approval Not Required (ANR)

Applicant: New Seabury Homes, LLC

Location: 17 Azalea Lane Maps/Parcels: 116-74-00 and 110-8-0

Request: Re-endorsement of a Plan previously accepted by the Planning Board as "Approval Not Required". The Land Court has requested that certain information be added to the ANR Plan such as Plan Title change, new lot numbers, reference to the Land Court Plan Number of all abutting lots, showing the opposite side of Red Brook Road, certain dimensional criteria, labels, and updates of the Field Survey Date. Additionally Land Court has requested setting bounds in two locations.

New Business

- Review of Draft Zoning Article Intended to Authorize Indoor Recreation Facilities in the I-1 Zoning District and Possible Vote to Submit to the Select Board for Consideration on the May 2024 Town meeting Warrant
- Request to Release the Performance Guarantee Securing Construction Completion for the Projects Referred to as The Cottages at New Seabury – Phase III and OceanFront Subdivision and also Reduce the Performance Bond for The Cottages at New Seabury – Phase IV

Old Business

- Continue review of draft implementation table of the Local Comprehensive Plan Update

Board Engineer Report

- Project Reviews and Inspections

Chairwoman's Report

- Water Quality Issues

Town Planner Report

- Harbor Management Planning Committee Update
- Housing Production Plan Update
- October 2023 Zoning/General Bylaw Approval From Attorney General

MASHPEE TOWN CLERK
FEB 5 '24 PM 3:56



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, MA 02649

Board Member Committee Reports

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

Correspondence

- Childs River Culvert on Rte. 151 adjacent to the intersection of Rte. 151 and Old Brickyard Road, Childs River MassDEP Waterways License Application No. 23-WW01-0115-APP
- December 2023 Discharge Monitoring Report for South Cape Village – N = 4.1
- Cape Cod Commission's Award of District Local Technical Assistance (DLTA) Funds
- Notices for Towns of Falmouth and Sandwich

Additional Topics (not reasonably anticipated by Chair)

Adjournment

MASHPEE TOWN CLERK
FEB 5 '24 PM 3:56



Town of Mashpee

Planning Board

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Mashpee Planning Board

Minutes of Meeting

Wednesday, January 03, 2023 at 7:00PM

Mashpee Town Hall - Waquoit Meeting Room

16 Great Neck Road North

Mashpee, Ma 02649

Broadcast Live on Local Channel 8

Call-in Conference Number: (508)-539-1400 x 8585

Streamed Live on the Town of Mashpee website

<https://www.mashpeema.gov/channel-8>

Present: Chair Karen Faulkner, Mary Waygan, Dennis Balzarini, Mike Richardson, Dale Oakley, Robert (Rob) Hansen

Also Present: Evan Lehrer – Town Planner, Alexis Lanzillotta – Barrett Consulting Group

CALL TO ORDER

Chairwoman Faulkner called the meeting of the Planning Board to order at 7:00PM. The Pledge of Allegiance was recited.

APPROVAL OF MEETING MINUTES – December 20, 2023

Mr. Lehrer had a question relative to the motion made for approving Ockway Highlands Special Permit. He is not certain that the list provided for the as built plan was totally captured. He also omitted that as a condition in the draft. He will correct and Board Secretary will review motion and update the Board to be able to finalize for next time.

It should read:

MOTION:

Ms. Waygan made a motion to waive the requirement on the condition the Board receives a limited as built plan of record showing lots, location of concrete bounds, surface location of catch basins and drain manholes, entrances to driveways, common mailbox, telephone poles, edge of pavements, edge of slope of detention basins, existing structures (where visible), and inlets to retention basins. Seconded by Mr. Richardson. All in favor.

PUBLIC COMMENT

Glenn McCarthy- Ms. Faulkner read a submission from Mr. McCarthy, he would like to consider adding a statement to facilitate the accurate provision of drainage and sewage and protect existing. Consider changing the sentence to forbid the extension of existing non-conformities. It should read no extension or non-conformity should be issued without a



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

variance from the Zoning Board of Appeals for all properties, except those in floodplain. Pond neighborhoods should be eliminated and make a stricter standard for the entire town.

Subsection A, consider defining increasing intensity of a setback more clearly. The second group is for all properties within the floodplain zone and Poppy Overlay. Consider forbidding the continuing or extending or altering preexisting nonconformities when rebuilding. This was the standard for decades until it was changed to enable development. If expansions of non-conformities will be allowed in the floodplain or in Poppy Overlay, then consider more clearly defining the increases in the sizes of the buildings footprint. Consider language where a complete rebuild triggers coming into compliance.

Ms. Faulkner shared from others, as several people called her about this, asking that the bylaw be simplified to a third grade level. She is going to ask the Town Planner and will refer back to this later.

Marjorie Hecht- There is a flaw in an otherwise good proposal. While giving more protection to ocean front, it does nothing to address severe environmental overbuilding on lakes, ponds, marshes, and other wetlands. Explicitly include the necessity to protect all Mashpee's waters. Going into the next phase of sewer, there is no sense to move forward with a bylaw that would allow an increase in pollution. It has been a burden on tax payers to clean up the waters. Stricter standards to Poppy should go to the other ends of town. Having two standards makes no sense, also speaks to simplifying. All areas around water bodies need protection. Water quality is already fragile in our ponds. Aside from town wide sewer, no present septic system technology avoids adding to the pollution problem. Instituting one Raze and Replace standard will make the bylaw simpler and fair. We need to protect the middle income majority population, protect the summer tourism, if our waters are polluted people won't come to swim, and we need to protect the history, and small town character.

Lynne Barbee- She has spent hours attending ZBA meetings, where they accommodate builders not the neighborhoods. She recalled the Board and one attorney talking about bylaws to make building easier. We need a new and restrictive bylaw. The Zoning Board has too much discretion to approve. The term 'not substantially detrimental' currently rests in the opinion of the ZBA and attorneys. With the goal of reducing non-conforming structures, having two sets of standards for different parts of town makes no sense. We witness what has become of our town. The town deserves better zoning regulations.

Colton Atkinson- He would like to explore zoning changes to be inclusive of duplexes and multi-unit houses. Some key points are duplexes and multifamily residences can reduce land usage, have less tree area clear cutting, and preserve the environment of surrounding buildings. An increase in density helps reduce costs of sewer per person. The missing middle would have slightly higher density. Consider adding language that allows zoning changes in



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

areas that have received sewer, instead of increasing septic. Also consider eliminating parking minimums in residential areas in its entirety and increasing impervious surfaces.

Ms. Faulkner asked the Town Planner if he would consider giving an example of each paragraph written so people can understand the Raze and Replace. Illustrations help. The last point was to put penalties on people who are not following. It was answered that any zoning violation is \$300.00 a day every day the violation exists.

Mr. Lehrer said a diagram is easily implemented, what is challenging is simplifying land use specific jargon to something that is understood and already defined in the bylaw via the terminology section. That proves complicated when trying to use language consistent with zoning act itself. He can produce a diagram to demonstrate what each section is contemplating.

NEW BUSINESS

Ockway Highlands

Deferred to next meeting to ensure the decision is correct. The Board has 90 days to file this decision.

Continue Review and Discussion of Draft Housing Production Plan

Mr. Lehrer will arrange a follow up meeting with the Select Board. Each zoning strategy was contemplated and developed by the Affordable Housing Committee, staff, and consultants. His takeaways from the LCP engagement and HPP was a desire for housing diversity, reuse existing buildings and housing stock, and accommodate a diversity of housing typologies within wastewater limitations. It must contemplate zoning strategies. It is important to understand what the primary issues are and relate them to specific findings, refine or remove, or add strategies around vision for housing development. We are confronted with wastewater and nutrient pollution, challenged by the housing market, with variable impacts across the local economy. We need to strike a balance between these realities. We are limited in our abilities to produce housing bound by density contemplated in that water shed plan. These strategies in place are already restricted.

Ms. Waygan answered it is not our place to change the CWNP, as this is a five year plan. Since we have just started implementing the nitrogen management plan, we cannot also change the clean water actions when we just started them. We are not sure they are going to work. It will take time to see if these sewers will work, we won't know right away.

Mr. Balzarini commented it takes 20 years for nitrogen to leach out after a sewer is installed. We might not see any reduction for 15 years. He would like to hold off on some of these items and refer back to two years after the sewer is implemented.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Ms. Waygan noted our LCP survey had water as the most concerning topic.

Ms. Faulkner delved into survey results with the most serious problem facing Mashpee according to residents. The first problem at 87% is water quality, next was traffic, cost of living was 71%, climate change ranked 67%, housing concerned 62%, and 68% chose loss of open space. We shouldn't be tinkering with the plan, there are just too many unknowns. If we keep the existing bylaw with multi units, 40,000 s.f. for two units with two bedrooms. There can be a variance if someone wants to add a bedroom.

Mr. Lehrer stated they issue variances, however, absent of a variance, the density prescribed in the bylaw is for 4 bedrooms with 40,000s.f. by right. You cannot have 5 or 6 bedrooms without the issue of a variance. Hardships are defined.

HPP consultant Alexis Lanzillotta stated the Sewer Commission has a provision for how to issue a variance. The BOH has not updated their current regulations for septic online. Title 5 updates will be brought online with the needs of sewer and current capacities within sewer. Prioritizing affordable housing in consideration of variances in tandem with sewer. That is one thing that could be done within sewer regulation.

Ms. Waygan is not advocating for changing the CWNP at this time. For affordable housing, we would like variances to consider affordable housing as a means for a variance. That would cover a Ch. 40B development.

Mr. Lehrer stated the Sewer Commission's plan is to provide future amendments. We should consider a conversation relative to affordable housing goals and the ability or desire.

Ms. Faulkner noted the HPP goes beyond affordable housing. She found number 7 to be upsetting, with the taking out of the two family home by right in residential districts. We need to explore different zoning mechanisms. First bullet, establish overlay areas that would allow town houses. Recommendations for proposed changes include a form based code overlay if desired, in areas with suitable wastewater or planned infrastructure. This is commonly identified as building types in the missing middle.

Ms. Waygan mentioned the priority lies within properties located in areas that don't allow housing, such as commercial.

Mr. Lehrer noted the scale would be larger. If there is a desire for smaller housing typologies, there currently are no overlays proposed, we need to evaluate the potential across town.



Town of Mashpee

Planning Board

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

Ms. Faulkner added if there is no sewer in certain areas we would not consider increasing density.

Ms. Waygan stated in cities there are apartments, single family homes, small four unit buildings, and it's all building types that aren't cottage court or ADU. The word she is looking for is infill. Hyannis has used this for properties that have nothing there, allowing for missing middle living, triplexes and quadplexes. Design and architecture allows it to look nice. Ms. Waygan likes combining strategies 1 and 2, people are going to look to where we are sewerage and commercially developed. This concept cannot be in the heart of a single family home neighborhood, an ideal area would be Rt. 130.

Ms. Lanzillotta clarified the term striking the bylaw was misplaced and is intended to go under strategy 14 with OSID.

Ms. Faulkner commented about number 3, allowing existing single family homes to be turned into small multifamily homes by permit. The concept of converting existing buildings. It would have to be a big home in order to succeed.

Mr. Lehrer stated a 7 bedroom house could consider converting that existing house to 7 one bedroom apartments. We could operate within the confines and use existing stock to create that typology.

Ms. Lanzillotta gave an example of a beautiful captain's home that was converted into 6 condos. This addressed a missing type of housing, which is also what the HPP is intended to create, other housing needs, while also keeping in mind the 10% goal.

Ms. Waygan would like to add some type of parking control.

Mr. Lehrer stated this all depends on existing conditions of that specific lot. He would not recommend removing this as a potential strategy. All construction would need to adhere to modern building codes.

Ms. Faulkner stated we need to allow two family homes in residential districts. Ms. Waygan does not like strategy 4, we have the ADU bylaw, we should stick with that and see what that produces. Four is being stricken for now.

Ms. Faulkner commented strategy five needs to be amended to allow existing residential beyond what is allowed in current zoning.



Town of Mashpee

Planning Board

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

Ms. Lanzillotta elaborated the only way that can be accomplished is through the open space incentive, or cluster development. If you take some of those allowances back, like under OSID or under cluster, it makes it easier.

Mr. Lehrer stated OSID and cluster each have a minimum provision of open space, at 50% land area. OSID can only be done with 20 acres or more, open space is 5 acres or more. Open space is on or off sight. This considers building types that would be allowed to benefit from a cluster. This could be accomplished by pairing a housing diversity goal with a special permit.

Ms. Waygan commented we need to be able to hand off this approved plan to the building department and they follow the plans and look at the buildings. We have reviewed infrastructure and roads, if we don't do that under special permit we have to have someone do it. The benefit to a special permit is that staff are not doing reviews, it is done by a public board, abutters comment, and an engineer helps. The applicant also pays for the engineer. If we make it by right we are having the town pay.

Ms. Lanzillotta commented OSID could take place anywhere. Cluster is not allowed across residential but within cluster development project.

Ms. Faulkner is thinking of Tudor Terrace. If 3 town houses were built there, how could they achieve aesthetics in that neighborhood?

Mr. Lehrer reminded anything 5 acres or more requires clusters. Why not take advantage of building types while maintaining the open space recreation component. We should not remove the potential without looking at requirements or seeing all options. He often refers to cottage courts, a lovely building typology. We need to be able to generate much more units at the same density while meeting a need for housing units. Strategy one is establishing unique overlays. Cluster is residential building so it would be variable across R3 and R5, wherever cluster subdivisions are allowed.

Ms. Lanzillotta agreed, it would be evaluating what would be compatible.

Ms. Faulkner moved onto strategy 6, more buildable starter homes, smaller lot sizes, and diversifying stock by not increasing single family home production.

Ms. Waygan stated it would be beneficial to do a survey of undersized lots to see if we could introduce an affordable housing bylaw. This would need to wait until sewer came online. She would be in support of an affordable bylaw.



Town of Mashpee

Planning Board

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

Ms. Lanzillotta commented the original strategy was reducing dimensional requirements. They looked to see where this would make sense.

Mr. Oakley noted a starter home is diversifying the stock. That could look like a different type of home, starter homes target young families or a young couple.

Ms. Waygan rephrased her desire for the affordable bylaw by adding starter homes as well. We should conduct an analysis of residential lots, for an affordable or starter home bylaw.

Mr. Lehrer commented the cluster subdivision bylaw, lot size is what the board sees as appropriate in an effort to maximize open space.

Ms. Lanzillotta stated for strategy five, small affordable lots on unbuildable lots, the first step is doing that analysis of unbuildable land. A developer still has to have 'x' amount of land to preserve open space.

Ms. Waygan noted we just need to do the study. It may produce 10 lots. We don't even know the magnitude of the impact.

Mr. Lehrer stated we cannot exceed zoning, on 2 acre zoning if you have 6 acres you are not getting more than 3 dwellings, regardless of lot size. We consider the initiative to allow additional lots for open space. It would have to be paired to an incentive for additional units. His age group is stuck, with no mobility in the current market. We create housing types with existing stock of single family starter homes, people have nowhere to go. If we focus on strategies that reignite some mobility, it opens up more opportunities.

Ms. Waygan stated the affordable bylaw targeted these lots, subdivisions where people bought two lots so they could put a backyard and build. We should try and allow the homeowner to build on the next lot to be able to sell to someone in their family or sell to low or moderate income households.

Mr. Lehrer reminded that affordability will unlikely change without stock. Over the years he has received many phone calls from families who inherited lots and are interested in selling the lot. He has to break the news that with zoning changes the lot has merged and it's not worth anything.

Ms. Waygan restated the desire to conduct an analysis of small or unbuildable lots in town to explore the potential for an affordable lot bylaw or starter home lot bylaw.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Ms. Lanzillotta commented solely based on assessors records not looking at wetlands, there are 371 undevelopable lots.

Mr. Lehrer can definitively say, the assessor's records do not consider mergers, so that number is likely larger.

Ms. Waygan would like to see a list of lots, but it needs to be used for year round housing, modestly sized, and priced reasonably, by special permit to add all special things.

Mr. Lehrer discussed inclusionary zoning, if any strategies are implemented, it should be coupled and some portion of the market rate has to be restricted and included. We have goals to improve pedestrian mobility in this town.

Ms. Waygan stated Barnstable County Home Consortium has representatives for each town. They get an entitlement with select projects to fund. LeClair Village got a sum of money.

Ms. Waygan continued that strategy 14 should be replaced with transfer of development bylaw involving open space. It needs to be rewritten, the transfer of development bylaw but with open space. She loves the idea of getting open space, and we multiply your development rights on that piece of open space, into that development.

Ms. Lanzillotta stated a replace with a transfer by right open space town wide. Any conversation about water quality and housing needs to happen now, a strategy about engaging in conversations with these other entities. Prioritize affordable housing development with respect to water.

Ms. Waygan stated community preservation money can be used in other towns. She is fine with that as long as the host town officially votes to approve incoming funds. There are specific towns that the state is looking at. The pathway involves community preservation money and spending their 10% by giving it to the Affordable Housing Trust. These are communities that do not want affordable housing in their town, so what's to stop them from spending it in another town? We need to put something in there where we can pool CPA money. We gave money to the development in Dennis for provision of disabled adults.

Ms. Waygan commented strategy 21, we need to remain up to date on state and regional funding opportunities. DHCD became an executive office. Strategy 22, varies by household size, right now there are not subsidies to support that. The workforce housing program offers a certain amount per unit. In order to fund projects or ownership at 150% there are no funding sources, but there is a clear need. It is not eligible for subsidies but we are meeting a community need, while we would also need to establish a funding source



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Ms. Lanzillotta stated Chatham has a home petition to establish another housing trust that is for community housing. It is not authorized under Mass Law and will fund projects up to 200% of AMI approved at state level. The Governor's Housing Bond Bill for seasonal communities will have more flexibility and more opportunities for seasonal communities to establish funding streams for different income levels. Would Mashpee want to establish such a fund? Median income does not come close to touching median housing price.

Ms. Waygan said this can be funded with a tax for properties that sell over \$2Million dollars.

Mr. Oakley suggested a program that would assist with the down payment and closing costs, as that tends to be a barrier.

Mr. Lehrer commented so many of these programs are limited to the production of affordable. The credit programs incentivize developers because many affordable units are providing a significant cost burden. There is a growing affordability gap in excess of AMI, cannot afford to enter or stay, and do not qualify for affordable.

Ms. Waygan has a couple comments for page 28, where it lists the complexes like Sea Oaks, Sandalwood, Pheasant Run, and Hollow Woods, etc. List apartments for affordable and note those are all affordable, but there are also staggering apartments in Mashpee Commons that are market rate that are the original, not Ch. 40B. We do have some diversity so people can go and drive to these places and see what it feels like. Page 38, barriers are listed for affordable, lack of developable land needs to be noted. We have very limited developable land, 14% of land region wide is left for development or the preservation of open space. There are also major environmental constraints. We don't have clean water in town, it's a huge barrier to all development. Our water bodies are polluted and we are going to be asking people for money to build infrastructure?

Ms. Lanzillotta noted in theory it could require a recalculation, but beyond the scope of this, advocating for these conversations with water protection and land use need to commence.

Ms. Faulkner commented this will not be possible until sewer and that will be happening for years.

Ms. Waygan stated environmental conditions are bad. We decided we are not going to build out. Regarding the HPP, we know we need it, but this is important for the state to know that our environmental conditions are in there. When she attends state wide meetings it is hard for them to grasp why the Cape is so behind on this effort. Our environment is so fragile and we are trying to protect it.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Ms. Lanzillotta noted mitigations, but it really is about engaging in conversations about prioritizing for affordable with variances.

Ms. Waygan stated there is a nitrogen plan that is catching up to all this pollution that was caused by residential building. That needs to be documented for the state level as some of their expectations are aggressive.

Mr. Lehrer commented the analysis relative to existing cost burdened homes is in excess of 1,000 units. That's the real need, but the 10% is 347 units. We need to consider the language we utilize and the magnitude of the environmental and housing problems. He doesn't want to minimize either one, as each issue is huge. He would hate to have ignored this issue for too long and end up with a completely unsustainable economy.

Ms. Waygan discussed page 57, and following the December meeting it was stated the draft will go out to the public, for example, the footnote about the number of unbuildable lots. More information is coming before we take a formal vote.

Mr. Lehrer submitted a draft plan Saturday to the Cape Cod Commission. That draft will be provided in its totality, before you have to vote, and it is going out for public comment.

Ms. Waygan stated the survey information helped.

Mr. Lehrer commented the joint meeting with the Select Board will be Monday January 8th at 6:00 or 6:30p.m., he will follow up once confirmed.

OLD BUSINESS

Continue review of draft implementation of the Local Comprehensive Plan Update

January 17th there will be a 5:30p.m. start time for the Planning Board meeting.

Topics to be discussed will include Economic Development, Housing, and Municipal Buildings.

CHAIRWOMANS REPORT

Water Quality Report

Ms. Faulkner passed around a document explaining how long it takes the environment to disposal certain items, such as cigarettes or diapers.

TOWN PLANNER REPORT

Status of LCP Draft Chapters

Mr. Lehrer is starting to get draft chapters. The existing conditions chapter is inclusive of policies and conditions, there were some comments pertaining to information that has changed. He has given it out to members to read and go over and he would like to go over the



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

implementation table and edit this document together. Ms. Faulkner informed everyone to hold onto these items.

Mr. Lehrer had a formatting question under Transportation, there was odd spacing because of maps, if he were to fix spacing the results for the maps would not end up on the same page. He is looking for feedback for that as well.

BOARD COMMITTEE REPORTS

Cape Cod Commission-

A draft on the Regional Housing Strategy has been issued. They are looking for comments by Jan. 19th. She is going to ask for a formal Public Comment of no less than 30 days. She was given the link to the strategy and was told to give to anyone for comment.

Charter Review Committee- Community Preservation

No Meeting

Committee-

No Meeting

Design Review-

No Meeting

Plan Review-

No Meeting

Environmental Oversight

Committee-

No Meeting

Historic District Commission-

No Meeting

ADJOURNMENT

MOTION:

Mr. Balzarini made a motion to adjourn the meeting of the Planning Board at 9:23p.m.

Seconded by Ms. Waygan. All in favor.

Next Meeting: Wednesday, January 17, 2023 @ 5:30p.m.

Respectfully Submitted,

Christine M. MacDonald
Board Secretary



Town of Mashpee

Planning Board

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

LIST OF DOCUMENTS

Additional documents may be available in the Planning Department.

- November 2023 Discharge Monitoring Report for South Cape Village – N = 1.4
- 33 Sturgis Lane MassDEP Waterways License Application No. 23-WW-PRE-0073-APP
- Town of Barnstable Notices
- Town of Falmouth Notices
- Town of Sandwich Notices

DRAFT



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Present: Chair Karen Faulkner, Mary Waygan, Dennis Balzarini, Mike Richardson, Dale Oakley, Robert (Rob) Hansen

Also Present: Evan Lehrer – Town Planner, Jack McElhinney – Attorney for Willowbend

Present via Zoom: Donald Pinto – Civil Zoning Litigator for Willowbend, Matthew Eddy – Baxter Nye Engineering & Surveying, Patrick Costello – Mashpee Town Counsel

CALL TO ORDER

Chairwoman Faulkner called the meeting of the Planning Board to order at 5:30PM. The Pledge of Allegiance was recited.

LOCAL COMPREHENSIVE PLAN UPDATE

Continue Review and Discussion of Draft Implementation Table

Mr. Lehrer encouraged the Board to keep reviewing the implementation table, it was not able to be discussed this evening but will be at a further date.

Review and Discussion of the Most Recently Updated Draft Elements

Housing

Ms. Waygan noted it's not necessarily affordable, unlike the HPP. She looked back in the current LCP and HPP, as well as survey results and public comments. She redlined and added items to be discussed this evening. There are goals, policies, and actions. Every action should tie back to a policy and every policy should tie back to a goal.

Goals:

1. Ensure Mashpee residents have access to safe, decent, affordable housing, and diverse housing options.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

2. Ensure that sustainable and environmentally sensitive practices are integrated into all housing development decisions to create a safer, more resilient, and healthier housing stock and populous.
3. Ensure fair and equal opportunity in housing.
4. Create affordable housing to meet the states 10% mandate.
5. Create housing that maintains Mashpee's small town character.

Ms. Waygan stated actions H19 and H20 didn't have a goal, so she made one to match those actions.

Mr. Richardson asked how one defines small town character. How do readers interpret that? We don't want to make ourselves insignificant. Ms. Waygan stated the term goes back and forth between the terms rural and small town, and we settled on small town. It is also used in the vision statement so it's consistent.

Mr. Lehrer commented that the housing strategies identified comes down to building types like scale and density.

Mr. Balzarini thinks the 10% is a fairy tale, unreachable. Mr. Lehrer believes it can be achieved. Under CH. 40B, 370 units isn't too far outside of what is possible through the potential pipeline of town projects. Ms. Waygan said the denominator changes only every ten years because it runs off of the census. Ms. Waygan provided Falmouth as an example where they are looking to add 900 units on Sandwich Rd.

Policies:

1. Promote redevelopment of stripped developments and underutilized properties (gray fields) into compact, walkable, village center style, and pedestrian friendly mixed use neighborhoods that provide a variety of housing types.
2. Maximize the town's potential to provide SHI (Subsidized Housing Inventory) eligible, deed restricted, affordable units by using town owned property.
3. Expand the diversity of housing types to provide all residents with appropriate shelter.
4. (Moved to Action). Diligently and efficiently monitor and enforce inclusionary zoning requirements, provide professional oversight for any locally run housing programs, and nurture relationships with the community.
5. Incentivize the production of ADUs.
6. Implement sustainable building practices for all construction and redevelopment.
7. Minimize housing vulnerabilities to climate change and natural disasters.
8. Preserve existing housing stock for year round use.
9. Create work force housing, primarily linked to support Mashpee based businesses.
10. Prevent evictions, relocation, and housing loss of Mashpee residents.



Town of Mashpee

Planning Board

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

11. Minimize or mitigate the impacts of seasonal and short term rentals on the local housing market.
12. Regularly audit the Mashpee Zoning Bylaw to ensure land use regulations are not in conflict with the patterns of development and redevelopment desired by the community.
13. Encourage joint housing efforts with the Mashpee Wampanoag Tribe.
14. Increase the town's capacity to create affordable housing.
15. Create year round housing.
16. Work to resolve conflicts between housing needs and the degradation of groundwater, drinking water, and open water.

Ms. Faulkner asked what was meant by single use in the original language. Mr. Lehrer explained no mixture of uses, only commercial or only housing. Ms. Waygan noted a gray field is developed and run down, it could range from shabby to vacant to condemnable. The state is trying to coin the word.

Mr. Lehrer noted there are specific actions that support specific policies, in speaking of the goal of 10%, actions would be defined as a traffic study that then leads to a feasibility study.

Ms. Faulkner would like a reminder on inclusionary zoning requirements. Mr. Lehrer stated it's a policy to set aside units that are restricted amongst other market rate houses. In a cluster subdivision, for every 10 lots created, one lot must be affordable. That is an inclusionary zoning, basically different levels of income.

Ms. Waygan said sustainable means energy efficiency. Mr. Lehrer noted the different between H6 is about energy and H7 is about structural resilience.

Ms. Faulkner asked about preserving housing stock. Ms. Waygan stated there could be a tax break given to people who rent their house year round. There could be a mortgage assistance program. In Mashpee, 70% of units are used year round, we try to maintain that percentage.

Mr. Lehrer changed H9 to incorporate the word support when discussing the employer being the creator of affordable or workforce housing. Employer created housing is becoming more popular in this market but he doesn't want to limit the onus on the employer. He doesn't want to only prioritize this if the employer is the creator. We want workforce housing to support our local economy. Many are evaluating, but it does pose a challenge. We should have the policy be very clear we want to support the businesses but won't expect them to be producers.

Ms. Waygan stated if we had town owned land and develop a site, maybe phase one is 100% affordable, but maybe phase two should be 25% affordable and 75% market rate. The town



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

could put a local preference to Mashpee work force. Those market rate houses do not get added to the SHI.

Mr. Lehrer stated there are actions to support H10. We support local agencies that provide services, or with rental or heating assistance.

Ms. Waygan noted H14 relates to the action of having a town position or staff person.

Mr. Hansen stated regarding the need for affordable, should there be something in the HPP that states let's not promote single family housing, lets minimize it. There is a way of controlling that numerator.

Mr. Lehrer stated we are saturated with single family homes. Policies and actions are focusing on primarily building single family. We are not saying you cannot build, but we are incentivizing the creation of something else. We could establish a policy to discourage the growth of single family production. All zoning strategies are intended to affect change to the identified issue. We are placing a lot of weight behind inspiring the production of missing middle. We need to create mobility in the market place.

Ms. Waygan stated it's always been to promote housing diversity rather than prohibit. A lot of businesses and trades depend on single family homes. She wouldn't want to stop Habitat for Humanity from coming and building lots through tax earnings.

Actions:

1. Conduct a visual preference study or other suitable engagement studies to determine types and styles of housing (architecture and site design standards) that is supported by the community.
2. Procure a consultant to assist with community engagement and facilitate charrettes to support our development, architectural, and site design standards.
3. Explore and potentially develop, adopt, and implement architectural and site design standards, or form based code, town wide, or in the form of an overlay district, with a priority for infill development and redevelopment of gray fields.
4. Develop and adopt an inclusionary zoning bylaw that requires a minimum contribution of SHI eligible affordable units in exchange for bonus density.
5. Change zoning to allow missing middle housing typologies in appropriate residential areas with the possibility of establishing new zoning districts to encourage development or redevelopment of these areas, encouraging where it is desirable, and discouraging where it is unsuitable.
6. Regularly fund the Affordable Housing Trust to take advantage of opportunities that are consistent with the framework developed in the Housing Production Plan.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

7. Update and adopt a Housing Production Plan with a focus on developing a road map and implementation plan for the development of the towns identified sites for affordable and workforce housing.
8. Implement the Housing Production Plan strategies.
9. Implement mechanisms to create year round rental housing such as financial assistance or donation of town owned land.
10. Implement a mechanism to create affordable senior housing.
11. Create a new position titled Affordable Housing Coordinator to implement the Housing Production Plan.
12. Conduct regular workshops to inform property owners of the permitting process for ADUs.
13. Assess ways for the private sector to contribute to ADUs.
14. Establish a revolving loan fund to construct ADUs.
15. Identify suitable sites for infill development outside of flood zones.
16. Determine and address the housing needs of propriety demographics such as elderly, veterans, and disabled residents via a needs assessment.
17. Coordinate with the Mashpee Wampanoag Tribe and the Tribal Housing Department, to develop a local preference policy that would set aside any affordable dwelling units created by the town for Tribal members.
18. (Moved to Policy) Require that large housing developments provide proffers to maintain the town's small town character, such as open space. (Supported by H28)
19. Identify mechanisms to create housing that serves Mashpee's workforce or is linked to Mashpee based businesses.
20. Clearly define all housing terms i.e. affordable housing, missing middle, infill, workforce housing, etc.
21. Reestablish housing services such as financial assistance with rent, utilities, mortgage arrears, and first/last month's payment for rental units, and other mechanisms to prevent homelessness.
22. Evaluate engineering best practices pertaining to low impact development strategies and other nutrient removing storm water management mechanisms.
23. Monitor the production of ADUs under current zoning to see if the units address the need for year round housing and seasonal employee housing.
24. Use HPP Strategy for OSID [here](#).
25. Develop affordable housing standards for CH. 40B developments that are friendly and approved via the states local initiative program.
26. Provide financial and technical assistance to the developers of affordable year round housing.
27. Identify town owned land or acquired land that is suitable for the development of affordable housing eligible for the SHI.
28. Establish a short term rental zoning bylaw to protect year round housing.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Mr. Lehrer noted the action of the visual study is intended to focus on certain areas, like C2.

Ms. Waygan does not want it limited to redevelopment areas.

Mr. Lehrer stated he would love to see form based code but it is not the only mechanism, we can educate the community, but leave the door open to different approaches. With form based code, design standards become the regulatory mechanism. As we consider overlay, if site design criteria's are adequate enough, we can achieve a similar outcome.

Mr. Lehrer stated the HPP contemplates amending cluster subdivisions to allow housing types and a re-evaluation of OSID, both requiring open space.

Ms. Waygan asked how we preserve small town character, and stated in larger developments we would ask for proffers such as open space. She thinks open space and a lot of trees represents small town character. There are zoning recommendations in the HPP, she will note to put the HPP action steps into the LCP.

Ms. Waygan commented regarding the prospective Affordable Housing Coordinator that this person will have some policies and affordable housing standards, and that's where these terms can be defined.

Ms. Waygan moved on to the Flow Neutral Bylaw that will be enforced. This action was removed. Mr. Lehrer stated there will be further discussions on this bylaw. It does not need to be introduced by way of our report.

Mr. Lehrer connected the goal of safe and sustainable environmentally sensitive practices to the policy of implementing sustainable building practices and minimizing vulnerabilities. The action would be monitor the efficacy or evaluate best practices of existing low impact to bolster those requirements as they evolve.

Ms. Waygan noted there are two avenues for Chapter 40B. One avenue you go through Mass Housing and get the project eligibility letter and go to the ZBA. The other type you go to the local initiative program at the state level and they pre-approve the plan. Then it goes to the Affordable Housing Committee and gets pre-approved, then the Select Board pre-approves, and then the Zoning Board of Appeals. Friendly 40B you get into negotiations, and the developer only wants one bedrooms but the state wants 10% to have 3 bedrooms. If the town is in favor of one bedrooms, the town could advocate and it can be waived. We have standards to hand to the state that say this is what the town is looking for.

Mr. Lehrer offered one more proposed action. He noted case law is growing clearer that towns should be zoning for short term rentals, we may want to establish a short term rental overlay



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

district. We can limit them to certain districts or make it town wide. There have been appeals in the appellate court that note short term rentals in the use table, and we do not, but we should.

Economic Development

Ms. Faulkner noted Board members have the documents and can follow along and read at their leisure.

Goals:

1. Ensure a prosperous local economy that supports financial independence for all residents while ensuring Mashpee's environmental quality, town character, and cultural heritage.
2. Bolster support for local businesses, local agriculture, and emerging economic sectors such as the blue economy.
3. Produce a stable and adequate local work force with education and affordable living.
4. Meet or exceed the best available technological resources and infrastructure to ensure Mashpee is economically competitive in the region and state.

Ms. Faulkner elaborated that there are five supports, one being open a small business office, but can the town afford that? In supporting local farmers, if some wanted they could become larger entities. Blue economy is the sustainable use of ocean resources for economic growth and improved livelihood, but we need to clean our waters. Mr. Lehrer noted the shellfish aquaculture is one mechanism currently being used.

Ms. Faulkner elaborated a stable local work force in ED3 includes, childcare, transportation, affordable/attainable housing, education, and recreation. There are employers now that can afford this concept, such as Willowbend, allowing the attraction and retention of workers. She referenced a good article about choosing the right technology to support your municipality. If you have great infrastructure you create jobs and wealth.

Policies:

1. Provide financial and policy based support for local fishers and businesses.
2. Work to minimize homelessness.
3. Explore grant funding opportunities for projects that support Mashpee's Economic Development goals.
4. Prioritize economic development that creates jobs with a livable wage.
5. Promote joint economic development effort with the Mashpee Wampanoag Tribe.
6. Develop a Municipal Broadband Service.
7. Leverage the assets of economic development in the industrial corporation to better meet the needs of the local economy.
8. Minimize or remove barriers of entry for new startups or small businesses. (The rest of this proposed policy became two separate actions).
9. Increase access to childcare for Mashpee's workforce.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Mr. Lehrer noted financial support would mean access to funding, such as providing revolving loans for storefront or signage improvements. That would be an action. Policy based would be to create a regulatory environment that is more streamlined or affordable. Many local businesses asked for by right zoning. That would be one such policy based support.

Ms. Faulkner read the Cape Cod homeless population is consistent from year to year, in 2019 it was 371, though that number seems small. She defined livable wage as being a socially acceptable level of income that provides adequate coverage for basic necessities such as food, shelter, child services, and healthcare, without reliance on outside assistance.

Ms. Faulkner noted there is an effort to bring affordable high speed internet to the municipalities and everyone in Massachusetts.

Mr. Lehrer elaborated that Falmouth is conducting a Feasibility Study to engage in a municipal broadband effort. This of course threatens the companies that offer this service. He has heard negative advertisements on the radio deterring this idea. Nashville has the fastest internet in the country and they are involved in municipal broadband. This policy was asked for by the Mashpee Cable and Advanced Technology Advisory Board.

Ms. Faulkner would like to know if Mashpee is a labor surplus area. What are things that EDIC can do? Mr. Lehrer will come back with an answer in totality. Ms. Faulkner inquired how they have money. He believes they acquired their funds through a land disposition, where the town sold property. They have roughly \$500,000. They should be leveraging those assets by conducting marketing campaigns that attract businesses to our town.

Mr. Lehrer stated an action for Policy ED8 would be to streamline policies and the permitting process and consideration of by right zoning should also be an action.

Mr. Lehrer noted an example of someone speaking in favor of by right is the owner of Andy's Market. He owns an establishment in Mashpee, Falmouth, and now Sandwich. Andy's Market in Sandwich is by right zoning, which the town prescribes, and he testified that it saved him time and money and he would desire that incentive here. Mr. Lehrer referenced the use table, 'Y' is seen for churches and single family homes, and everything else is SP. A permit granting authority such as the Planning Board or ZBA will specify a certain use, and if that use were to change, would be at the discretion of that SPGA. He ask the Board to consider the uses in the use table, Special Permit really is just about cosst. If we are trying to streamline the process and save businesses or potential entrepreneurs some money, this would be an avenue to do so.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Ms. Faulkner commented that Kids Klub is town owned. How would we increase it? They are maxed out and have a large waiting list. Mr. Lehrer stated there is an action that states expand Kids Klub, it could also mean getting more providers in Mashpee and having incentives to start these facilities, or certification costs to acquire licensing. Ms. Faulkner noted training courses for home based daycares.

Actions:

To be continued at the following meeting.

APPROVAL OF MEETING MINUTES – January 03, 2024

Deferred to the following meeting.

PUBLIC COMMENT

PUBLIC HEARINGS

7:30PM (Continued from 08/02/2023)

Applicant: Southworth Mashpee Properties LLC
Location: 275 Quinaquisset Avenue (Map 69 Parcel 32)
Request: Applicant proposes to modify the Willowbend Country Club Special Permit to construct a 14- unit single family cottage community immediately contiguous to the Willowbend Golf Course. With these changes the total unit count for the Willowbend project would be increased to 287 if the Board authorizes the annexation of 275 Quinaquisset into the Willowbend Special Permit as allowed. 287 dwelling units is the maximum number of dwelling units authorized under the Special Permit. All units will be connected to and served by the existing privately owned wastewater treatment plant which serves the entire Willowbend project.

Attorney Jack McElhinney is present this evening for Southworth Mashpee. Virtually present is Matt Eddy the engineer and Don Pinto, their zoning counsel. Before jumping into the matters at Cranberry Point he wants to briefly update the public of how we got here and suggest a path forward. On December 6th he withdrew the separate modification request to modify the bedroom count without prejudice. At that time there was a motion to close the public hearing. Some members made it clear that they did not want to entertain any deliberation among members or conduct any votes before the hearing was closed. With the hearing closed, the Board would then deliberate and inhibit and cap any existing vacant lot within Willowbend or the remaining 14 units, mostly allocated at Cranberry Point. That would put Willowbend in an unfortunate position, as well as the town. They would have to bring a judicial appeal of that decision to protect the interest of the third parties to whom lots were sold. That is not in anyone's interest, since that condition should be considered enforceable at this time, given



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

deed policy adopted in 1991. Going into tonight, the goal remains to have a discussion about the Boards view on Cranberry Point. The bedroom count has become a mountain from a molehill and has made no progress in these 6 months of discussion for the real substance of the application. He does not see why they can't discuss and modify bedroom count as part of the Cranberry Point application. It is functionally and legally no different than the condition in the original Special Permit that called for a 100ft. buffer, which we are considering a modification for. If we can modify one, we can modify the other. The reason the bedroom count was brought as a separate item was that it came up midway through a series of hearings on Cranberry Point, and thought it prudent to continue on parallel tracks. There are detriments here. We are looking for feedback from the Board, there have been a number of changes made to this application since it started. Originally the proposal called for 14 units now it's down to 12, the road was widened for fire access, there will be reduced wetland impacts, they engaged in peer review of wetland impacts, widened the buffer to 70 ft., and also indicated they are prepared to enhance the mitigation efforts. That would involve 2.5 acres or address other issues such as affordable housing through an in kind or monetary donation. They are hoping to get some feedback.

Pat Costello, Town Counsel is here to answer any questions the Board has in this matter procedurally speaking. Mr. Costello does not feel it is appropriate at this time to enter into an executive session. There has been a threat of litigation within certain correspondence which would prompt an executive session, but since the Board is currently engaged in a Special Permit modification it's discussable. The Board's deliberations and discussions that he would answer should be entertained in open session. Legal threat has to be imminent to enter executive session. It has been alluded to potentially, but was done so in a manner that indicated the applicant's intent in avoiding that. He would prefer any and all questions relative to the application here in open session.

Ms. Faulkner noted people have sent questions to Mr. Costello, and asked if he wouldn't mind answering them. During public hearing the Board is open to advisory council in an advisory capacity.

Ms. Waygan is calling for a point of process, she has sent Town Counsel 7 questions and she would like to hear from Town Counsel the answers, not the applicant. If Town Counsel is uncomfortable to answer, just say so.

Mr. Costello dove right into Ms. Waygan's questions.

She asked if the land parcel at 275 Quinaquisset was a buildable lot. He has not conducted a detailed analysis, but in reviewing several submissions and being familiar with the bylaw, it would be buildable under current zoning as three single family homes.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Next, she asked what year of the zoning bylaw is this parcel buildable. He answered that would be determined on 2023/24 bylaw.

Next, if the Special Permit granting authority modifies under jurisdiction, how does the SPGA confirm existing SP conditions, if any, from original or previous modifications that have been met. He replied that compliance with special conditions is done through the town's Building Commissioner, the acting zoning enforcement who is authorized to enforce provisions of the bylaw. An applicant at application time will note if the property is compliant with existing Special Permit requirements or conditions. The simple answer: legally the Building Commissioner or Zoning Enforcement Officer would determine compliance with Special Permit conditions.

Next, if conditions of Special Permit or modifications have not been met, and the project is under construction without meeting the conditions, what recourse does the town have to enforce meeting these conditions? He responded the enforcement officer is authorized to enforce the zoning bylaw and regulate permits. Enforcement could undertake action if a violation was determined. Enforcement action would commence with a cease and desist, they could forbid any activity, and take court action.

Next, what protections does the town or SPGA have to deny a request for a Special Permit modification when and if there are unmet SP conditions/modifications? Can SPGA place new conditions faulting project until met, or can it deny. He stated the zoning bylaw relative to SP provides this particular situation with a modification to a permit. A Special Permit may be issued only following specific general law and approved only if the determined proposed use is consistent with applicable state and town regulations, statutes, bylaws, and plans. He would construe existing permits that govern or permit particular uses of a parcel to be a local regulation or permit. He believes compliance should be considered by the Planning Board in its consideration of the Special Permit. If there was noncompliance with conditions, that could be considered in deliberations or modifications to Special Permit. You could order new or additional conditions relative to the alleged noncompliance. You could take a number of actions. He advised to look to provisions of the zoning bylaw, 174-24C that identifies criteria applicable to Special Permits. In his view compliance would be with the existing conditions in a current Special Permit.

Next question, is the SPGA allowed to have Town Counsel present so that SPGA can discuss with counsel. Mr. Costello explained that executive sessions can only be convened set forth by Ch30A and the 10 allowable items described. Discussion with counsel in a confidential setting relative to ongoing deliberations or impending decisions would not be appropriate. It would be appropriate when there is potential for litigation and it is threatened or imminent.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Last question, are there any sections in the conditions of the Special Permits for Willowbend granted in 1985 zoning which are not enforceable by the town or are currently not met. He stated that is a broad question. He knows there's multiple modifications (22) that serve to alter terms and conditions over time. To his knowledge, after that SP has been modified, any permit condition that has not been released or modified by the Board would still be binding.

Ms. Faulkner posed some questions as well that Counsel will go over at this time. First question, can the Planning Board legally authorize the annexation of 275 Quinaquisset into the Willowbend SP? He stated the bylaw does provide for expansion of land area within a SP so he does think that is permissible as with any SP modification, the Board would have the right to grant, deny, or allow with conditions.

Next question, did Willowbend violate the 1991 SP decision by exceeding the bedroom count of 853? He cannot answer that because he is unaware of any contractual information that specific Board may have made relative to bedroom number. He has heard based on discussions that there have been more bedrooms developed within the permit area in excess of 853 set forth as a limit in the 1991 modification. Hypothetically, if there are more than 853 bedrooms within the development SP area, it could be deemed a violation of condition 29 adopted in the 1991 amendment.

Next, what are the exact steps one must take to modify a special permit and decision? He answered a modification requires a Public Hearing and approval by four or five Planning Board members and an application of criteria set forth in the zoning bylaw. The Board's duty or obligation with respect to modification is similar to that of granting the initial SP. Criteria similar to Subsection 9 will govern the Board's decision.

Next, what are the arguments to modify amending a SP decision? Mr. Costello understands what has been asserted during the course of the hearing and correspondence. The applicant is asserting it has satisfied requirements and he has further seen allegations or assertions that they have adopted a position by virtue of lack of enforcement, over a lengthy period of time, and the town has stopped its equity in enforcement. He doesn't understand it to be the principal argument in favor of the modification being a game over.

Next question, what are arguments for denying the amendment for the Special Permit modification? It was answered that lack of compliance with the terms of the existing SP as previously alluded to could be a basis for denial. Also a lack of compliance with current zoning, if they are seeking to expand land, could be a basis for denial. Certainly any of the failures with criteria set forth in Section 174 would constitute a denial.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Next, on page 3 of the 1991 SP decision, it states the Board finds the development modified to be constructed with compliance of original Special Permit and proposed modifications will reduce overall density from original permit. By executing the 1991 SP decision, was it the intent to limit density by limiting the number of units? He cannot speak to the intent of the 1991 Planning Board as he has been with the town for a long time, it has not been that long. Density was considered of the Planning Board when it issued that modification in support. He would refer the Board to language on page 2 of modification of SP which indicated consistent with OSID provisions of current bylaw the Board interprets the bedroom limit as a density limit, intended to establish a max number of bedrooms in the development when applied in conjunction with maximum units. Density is a valid consideration when discussing the SP. It does appear the Planning Board at that time considered density as a relevant factor in this decision.

Lastly, is the proponent's argument valid that the Planning Board limited bedrooms to 953 and units to 287 based on their sewage capacity of treatment plant? Mr. Costello stated the sewage capacity was absolutely a consideration when talking about multi units, as he alluded to earlier, density regulation also seemed to be a consideration. It was then and it remains to be.

Ms. Faulkner asked Mr. McElhinney, if the Board were to agree to modify, has he considered some conditions? She noted he previously mentioned mitigating with affordable or some donations. In addition, if they were to deny the modification, these people could not build on those lots.

Mr. McElhinney stated yes, as he understands it, the Board's position would deem those lots unbuildable.

Ms. Waygan commented whether this application is denied or approved, it's the Zoning Enforcement Officer who would deal with that question. Mr. Lehrer agreed with that statement. He continued to say if they are buildable is not up to the Planning Board, the Building Commissioner makes that determination.

Mr. Costello said the Building Commissioner would review all Special Permits and he would make an independent judgement to see if there was a violation. The process, once in his capacity, issues that finding, and he may then deny building permits. The property owner could then appeal with the ZBA and ZBA would render its independent determination.

Mr. Lehrer stated when the bedroom max was established, and arose a potential conflict, it was not the Board. Mr. Lehrer gave the advice to the applicant to pursue a separate modification of that Special Permit because the application itself did not contemplate a request



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

to the Board to modify that provision. Given the magnitude he felt it prudent to issue notice to people of interest under a separate proceeding. Mr. McElhinney mentioned the reduction of the buffer, as he reviewed plans for Cranberry Point, abutters notified, as it indicated a buffer from Quinaquisset. That was less than 100 ft. as contemplated in the 1987 decision. That was specific to development plans proposed. The applicant has withdrawn modifying the 853 bedroom count. Is it reasonable to authorize an amendment of this Special Permit absent a Public Hearing that specifically notices people of interest of that consideration?

Ms. Costello stated the decision should be subsequent to a Public Hearing. Would that issue of the buffer be within the scope of issues raised in the initial application? If reasonably within the scope of what was applied for, and it did arise during the course of discussions, he thinks it is okay for that determination to be made. If that issue was not noted in the application, thus notices as something that would be discussed, a new application with subsequent notice and hearing should be conveyed.

Mr. Balzarini stated major modifications have to be Public Hearings vs. minor modifications, and it is up to the Planning Board to decide. If the Board had decided this was a minor modification for bedroom count, there would be no Public Hearing.

Mr. Costello said minor changes to site plans of a committed project with listed details of what that includes, may be approved by SPGA, and provided it does not violate the zoning bylaw.

Ms. Waygan stated Ms. Faulkner's first question was about the annexation of new land into the SP, but there are certain requirements that have to apply.

Mr. Costello read Subsection 9G: A modification under B or C above may expand the land area covered by said SP, provided that all uses, dimensions, and other aspects of proposed development within the expanded area are in performance of provisions of zoning bylaw applicable to the land at the time of approval of said modification, and provided the original SPGA has the ability to approve said proposed uses under provisions of zoning bylaw applicable to expanded land area at time of approval of said modification, except cluster subdivision or a multifamily development previously approved by the Board. The Board may approve a modification expanding land area under provisions of zoning applicable to original special permit approval, provided there are no increase in units allowed by SP nor a decrease in area of protected open space.

Mr. Lehrer stated the last sentence is what would authorize Willowbend or any other multifamily at the time of original SP. Ms. Faulkner asked which year that would be and it was answered 1985 zoning bylaw.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Ms. Waygan asked if they were to close the Public Hearing and go into deliberation, who would help them write the decision. Mr. Costello stated boards in their practices with assistance from Town Counsel or Mr. Lehrer in his capacity as Town Planner. It would clearly establish on the record the findings and its bases for its decision and rational, that is what will be incorporated into the written decision. He would be happy to assist if needed. Ms. Waygan clarified findings can be made after the closing as well as any conditions subsequent to findings.

Ms. Faulkner asked if now would be a good time to discuss conditions with the applicant. Mr. Costello assured that now would be an appropriate time to engage in that conversation.

Mr. McElhinney noted they have over 2.5 acres on Quaker Run and mitigation to the original river qualities for wetland impacts associated with the work at Cranberry Point. There is a willingness to consider expanding and increasing that acreage from 2.5 acres. They are looking for feedback from this Board. They have also indicated a willingness to commit to affordable housing, such as a monetary contribution. There is open acreage adjacent to the Santuit Inn. This is all part of a separate discussion that has been prevented from being discussed due to this hurdle. The Board has the ability to get us beyond this bedroom issue, what would it take to do that?

Mr. Balzarini stated there is nothing we can do now about the bedrooms, we aren't going to rip them out. Last meeting he was willing to give something to get something. He would like to see the Quaker Run cleaned up, whatever is on the property of Willowbend. Where the hotel is, the top could be made into an addition for Mashpee residents. We could get a couple affordable housing units. There could be a monetary payment for each bedroom they are over the 853. He has been on the board since 1993, 22 modifications and not once did he ever get denied.

Mr. McElhinney says he has a good relationship with this Board and he hopes to continue that and come up with a project that is a win for everyone and find some common ground.

Mr. Richardson commented he has been satisfied with their response to everything that has been asked from the Board, he has mentioned this before. Bedrooms are there, he thinks the offer for open space is important to the town and if they are willing to expand acreage, he thinks it would be great.

Ms. Waygan argued the concept that we have been taking our time here, when in fact we have been receiving request after request to continue the Public Hearings, and we have been honoring those requests. She doesn't accept that the Planning Board has not acted in a timely manner in any way. She appreciates Mr. Richardson's sentiment that the applicant has



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

responded to questions, all except one. How many bedrooms are there now, how many are being built, and how many are they planning to build?

Mr. McElhinney has answered this question. He has stated previously precisely computing how many exist, is not regulated. What someone does with the interior of their home once they build the lot is not up to them. We look at capacity to treat sewer and we get it approved by DEP. We do not regulate specific homes in those terms, if someone wishes to do an interior renovation and hire a contractor is their prerogative. He and Mr. Lehrer have spent a number of hours trying to reconcile numbers, and the figures are within 5% of one another.

Ms. Waygan asked if they are a condominium association. He answered some of them are, not all. She followed up with when they report to DEP you would have an application to them with the number of units for a project. In which Mr. McElhinney answered they have provided all of that to the Board in July. She would like to know what number of bedrooms is on that document. He stated it was provided and the Board has that number and he can provide it to the Board again, he does not have it in front of him.

Ms. Waygan had a question regarding the LEC letter.

Ms. Faulkner inquired about the Santuit Inn housing Mashpee residents. Mr. McElhinney responded that they have more of a need for workforce housing, it's a site that screams to be utilized and is physically contiguous with their internal roads and cart paths. The acreage on Santuit is 3 acres all on septic. They hope to connect to the plant and it would be possible. He is currently trying to see what would get them over this hump. He would be happy to start conversations regarding proffers. The bedroom issue is a nothing burger to him. He understands others don't agree but in regards to impact all that wastewater is treated and comes out as drinking water. Regardless of whether there are 855 or 882, it doesn't make much difference to the impact to the groundwater. It does not change impact to neighbors and this site is very insulated and surrounded by 400 acres of Willowbend property. In the Board's mind this is a density issue but environmentally the difference is null.

Ms. Waygan has a letter from LEC, under the Section BVW, which stands for Bordering Vegetative Wetlands, it states it is their understanding and experience that the BVD filling must be mitigated with wetland replication under WPA (Wetland Protection Act) and that there is no regulatory pathway for the commission to accept other forms of mitigation. Do you have any response to that?

Matthew Eddy responded he is not in total agreement with that statement but will be determined once it goes through Conservation. It does allow restoration or replication. If they say they have to do it by replication, they simply take a piece of land and expand the wetlands



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

footprint. They have had schematic dialogue along those lines with Conservation. Restoration allows for a 1:1 ratio, the bog wetland impact is 6,000 sq. feet. So if they had to restore, they create new wetland in addition to the bog, replicate 6,600 s.f. along the main system adjacent to interior wetlands, carve out 6,600 s.f.. It's achievable and it's a matter of will we have to do this alongside LEC and Conservation, but very doable.

Ms. Faulkner asked how it's replicated. Mr. Eddy explained you fill in 6,000 s.f. of wetland, as the WPA requires a 1:1 mitigation. They use a parcel adjacent to the wetland, go in and excavate and remove earth, lower that into the wetland elevation and incorporate ground water, shape and plant with vegetation, replace in a different area, now expanded a new 6,000s.f. and created more wetlands for no net loss. They are commenting that the wetlands is restoration.

Ms. Waygan is having a problem with the term no regulatory pathway, how can they comply with town regulations when there are no regulatory pathways? Under today's zoning we would get 3 homes. These homes and how they are situated are physically in wetlands. The impact in the jurisdiction of conservation is excessive. It's impacting the wetlands, there's no regulatory pathway for the town consultant or Conservation to approve. That can be reduced by the number of units, not bedrooms, proposed on this site, which far exceeds anything in zoning. Previous zoning is allowed because of our old bylaw with Special Permits. They are not in compliance with the Special Permit, it makes this whole thing undoable. When you're talking about negotiating, that's more of a development agreement not this permit mechanism. It will fail if we don't have a regulatory pathway and the project doesn't comply with the Special Permit.

Mr. Eddy commented he can easily follow up with Drew McManus in Conservation as well as LEC to obtain a clearer clarification on their language. Any project requires process, revisions, and modifications. He noted when they say regulatory pathway, their reference is to the WPA, for wetlands proposed we need replication not restoration that will be a modification to the plan. He will get clarification and confirm this is in line with what he is saying, LEC even noted the replication solution.

Ms. Waygan inquired if the replication parcel has to happen on that site. He stated no, but regardless the 6,000 s.f. would be on the east side that Quaker Run runs through, or partially around the existing wetland system on the interior of the site, labeled Wetland A. That replication would occur on site but it wouldn't be a requirement.

Mr. McElhinney followed up that this is a preliminary report and he would like to let that process play out to completion. Early on this Board stated they did not feel qualified to make findings of environmental impact until Conservation completes it's own review. He suggests



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

they simply let them finish and once complete he can share it with the Board. With that will be some give and take which will then change the plans here.

Ms. Waygan mentioned the summary of wetland impacts, the second sentence is where she got the impression they had to provide the work on the site. Matt Eddy stated that is not the case. It's a state act not a town act, if we have to do a replication, it may be less than that, what's called isolated vegetative wetland, which is IVW, and bordering which is BVW. IVW doesn't require mitigation. Conservation and LEC is interpretative of what is isolated or bordered. We are working on this plan and if it stays IVW it will be 2-3000 s.f. or replication, but BVW will increase to 6000 s.f. The restoration would occur on site.

Ms. Faulkner noted we will wait until we get the final report from Conservation.

Mr. McElhinney noted until this Board tells them to stop they intend to see the process through. LEC has said this project is a significant environmental benefit that has major value. Their undertaking is to demonstrate that this mitigation is significant and a significant element to the project that should be considered. It will take some additional time. He will defer to Mr. Eddy for a timeline.

Mr. Eddy stated it will be a process with Conservation and LEC internally, once they are on the same page he will follow-up with the state. The hearing with Conservation was continued to Feb 15th. A month after that he will possibly have a new draft, his hope is mid-March.

Ms. Waygan is not hearing enough tonight and Ms. Faulkner agreed. Ms. Waygan is taking what Town Counsel said about a determination by Building Commissioner whether this project is in compliance. It will take resources for the enforcement officer and it may require they acquire an attorney. It is not reasonable to go forward if there is suspect that the project is not in compliance with Special Permit.

Mr. Costello stated the building enforcement officer has the authority for zoning determinations. It's not uncommon for applicants to meet with other town staff and the Board can consider what interpretation of evidence it wants, but an official determination and input from the Building Commissioner is most official.

Ms. Faulkner asked Mr. Costello about the unbuilt properties, if he says no to issue a building permit what is the next step for those prospective owners?

Mr. Costello stated the applicant can appeal to ZBA. He stated it's not uncommon for the Commissioner to offer testimony at a Board meeting and offer his opinion, in an expert capacity, for building codes and bylaw. She also asked if the Board could take the testament of



Town of Mashpee

Planning Board

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

the Town Planner as well, which he agreed. Municipal planners, engineers, developers, and building commissioners are considered experts.

Ms. Waygan stated it may be a simpler process to have the Building Commissioner come and provide a testimony before the Board.

Ms. Faulkner would like a MEMO from Drew McManus and Ms. Waygan would like to invite the Building Commissioner before the Board. Mr. McManus can have the option to write or appear.

Ms. Waygan stated for the purpose of determining if the project is in compliance, as well as Ms. Faulkner's concern about the unbuilt lots.

Mr. Lehrer noted it's been well established the bedrooms are in excess of 853. There is potential subsequent to a determination that is this will not be advantageous to the property owners just mentioned. Do they want to officially receive that? They have the authority to mitigate impacts created by alleged noncompliance by way of new conditions in a subsequent modification. Impacts are mitigated and we don't aggrieve those property owners. It is his understanding the Board is not interested in removing developing rights. He would invite the Building Commissioner for a conversation, but a formal notation may impact those existing property owners.

Mr. Lehrer continued regardless of bedrooms, if the Commissioner makes a determination the project is out of compliance, he would be compelled to no longer issue permits to those property owners in the Special Permit area, until the Board modifies or corrects. Through deliberations of Cranberry Point, we would need to make a finding relative to the Special Permit conditions. If the Board decides on a vote to modify, the finding made relative to noncompliance should be a condition to correct or mitigate impacts.

Mr. McElhinney stated that determination renders those permits \$0 value, abatement, and tax revenue of \$50,000 or more to the town. We are talking about starting a fight we don't need to have that will take multiple years and hundreds of thousands of dollars. We have acknowledged the bedrooms are over, this Board and its predecessors have not enforced this for 31 years.

Mr. Lehrer noted as the original states, bedroom count was related to density. The applicant has proposed mitigation measures such as increasing bog restoration or donating affordable housing. As conditions to mitigate, there is a recognition that the bedrooms are in excess and to resolve impacts of that problem we are going to expect X, Y, or Z in return. It was also stated we cannot regulate interior space of single family dwellings.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

He continued that Willowbend is only allowed 13 more units. Currently there are 274 and they are entitled 287. Within that number bedrooms can only grow by a finite number. It isn't infinitely expandable. Permits that have yet to be pulled at Willow Circle, those that have not yet completed construction, and any units in cranberry point, that number could be contemplated. You could establish a new maximum. If evaluating Cranberry Point or future projects for the 13 units, you could prescribe a new maximum.

Mr. Lehrer asked about the limitation under the zoning act for towns to regulate interior space of single family dwellings, should the Board impose a condition that limits number of bedrooms in any future dwellings to 4 per unit, or is that in conflict with prohibition on regulation of interior space?

Mr. Costello explained the general criteria for a Special Permit can only be used in harmony with the general purposes of the bylaw. You can establish conditions or specific provisions which Mashpee has done. The bylaw can provide special permits authorizing increases in density or a particular use in the proposed development. When the Planning Board issued the SP in 1987 and modified it in 1991, it focused on a condition in the bylaw related to density. This is a modification of a Special Permit issued over 30 years. The Board does have discretion for certain improvements that would mitigate excessive density or increased bedrooms. There is room for discussion and negotiation.

Ms. Waygan asked if the whole cap on bedrooms could be removed, or modified. Mr. Costello answered it could modify its existing terms, that was one of the original modifications. If the Board was to consider an amendment to number of bedrooms, look for modifications to the permit that would improve the site to mitigate any density impact resulting from bedroom count. That's what being talked about here, wetland and affordable housing. Those are amenities that can be offered in exchange for density consideration in the SP.

Mr. McElhinney asked about specific mitigation enhancements, he can't promise they will do everything but he would ask for another couple weeks to work on this and see what his team is willing to negotiate. It will take him a little bit to have a good handle on costs and what the Board has proposed.

Ms. Faulkner would like mitigation of the bog and restoration enhancements to Quaker Run that sits on the property. Mr. McElhinney interjected that is close to 13 acres, he plans on focusing on areas that are much more critical, contiguous to the Quaker Run channel. She exclaimed to her that is most important. She also noted the affordable need is 37 units for 10 years, these are things to consider, or cash. Ms. Waygan added the possibility of donating to a partner like HAC, we could see if they had their eye on anything in Mashpee.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Mr. Richardson commented expanding acreage of mitigation relative to the bog is fine, or open space as people feel strongly about that item. He doesn't find the bedroom count to be a large issue.

Mr. Balzarini would like to see what Mr. McElhinney comes back to offer. He also doesn't believe the bedroom count to be a big deal.

Mr. Oakley noted he would look forward to a total restoration or very near total restoration of Quaker Run. He is thinking bigger picture, the restoration of one system that has all-encompassing effects on the entire system..

Mr. Hansen stated for mitigation he is opposed, he sees the bedroom count as a violation. No form of mitigation could resolve that. There is a legal instrument for number of bedrooms that was previously approved and it looks like it has been violated. They need to resolve not through mitigation, but why would we increase density when it has been exceeded by 15% over the permitted amount. He is also opposed to Cranberry Point as it aggravates the non-lawful situation. He equates this to a stop sign, a legal enforcement. He has been guilty of not stopping and not getting in trouble. He now gets in trouble and violates, now he has to pay a fine. He broke the law, he is guilty. He isn't going to go back and violate again and again, that's his logic here.

Ms. Faulkner commented the Board also has to consider how long for Willowbend to appeal. It will go on for a while, she knows there's defenses. If they have good mitigation, she understands exactly what he is saying, we have to look at a balance. Do we want to fight this to the death and spend X amount of town money and lose, or possibly prevail.

Ms. Waygan has concerns about the 100 foot buffer and the structures in the wetlands. She is not going to reject this but she is hoping her Board members are being listened to.

Mr. Oakley commented we should also be aware of the precedent we set with this determination. If this project is out of compliance, how do we move forward with that? How can we move past an out of compliance party, who after the fact wants to make an adjustment to the Special Permit, what precedent are we setting for ourselves and the town?

Ms. Faulkner asked how the bedroom cape was even legal in the first place.

Mr. McElhinney does not know, he thinks this dates back to 1985 during the environmental report with MEPA and they identify elements of project as well as impacts. They identify size, number of units, construction, and capacity of the wastewater treatment facility. During that time of inspection, the number 853 bedrooms was related to treatment capacity. That then was



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

carried through, saying no matter how many units, we will not exceed capacity of that plant. Over time, the capacity of the plant grew and is now responsible for those bedrooms, all of Cotuit Bay and Shoestring Bay, 10 homes on Pleasant Park, all not in the permit area. The plant still runs at 60-70% capacity in peak summer months. There is no purpose or basis for enforcement because it no longer serves as a realistic figure.

Mr. Lehrer answered to Ms. Faulkner's point of the legal basis, it is a condition in the permit that was accepted by the applicant in 1991 and was then not appealed in 1991, whether it had a legal basis then or not is irrelevant.

Mr. Oakley asked when the bedroom count was set, was there any mechanism to keep accountability on that limit? For example, say we accept modification and set a new bedroom limit, what's in place to prevent them from going over the bedroom limit again 30 years from now?

Mr. Lehrer stated we are in the pickle now. It is incumbent on the zoning enforcement office to track. Every decision has referenced units, no decisions have contemplated bedrooms. Absent to decision tracking, it should have been incumbent for the building department to track that figure as permits came in. If modified, same expectation would apply. Zoning should be monitoring conditions issued by SPGA.

Ms. Waygan noted we are near the end of the permit. If you read 1985 zoning, it talks about bedroom limits per unit. It's reasonable for SPGA to ask if permits are compliant. There would be no indication to the Planning Board that there in fact was an overage in bedrooms. It was not their responsibility for them to ask every step of the way. Some permits require reporting every 6-12 months. That is also true if the property were to sell, the new owner will need to come before the Board and state that they have read the SP conditions. We have learned to add safe guards, especially for a multiyear project. The Building Commissioner is enforcement but we as a Board can put things in for reporting purposes. If this ever goes forward, there will absolutely be reporting requirements to certify our conditions have been met.

MOTION:

Mr. Balzarini made a motion to continue this Public Hearing to February 21, 2023 at 7:10PM. Seconded by Mr. Richardson. All in favor.

Ask Building Commissioner and Conservation Agent to attend or a write a MEMO in response to Conservation efforts, mitigations, and compliance/violations with SP

NEW BUSINESS



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Request to release the Performance Guarantee securing construction completion for the project referred to as Sherwin Williams

Mr. Lehrer was expecting the Consulting Engineer to report on this matter, but he can attest and affirm via an email from said engineer that this project is satisfactory and has recommended the reduction of the performance guarantee that totals \$21,300 for Sherwin Williams to zero. Construction has been completed.

Ms. Faulkner asked about the certificate of occupancy. Mr. Lehrer explained the date of the accepted performance bond is the date this property is eligible for occupancy. Cash is accepted in exchange for the guarantee to complete and the occupancy certificate is given.

Release of Performance Guarantee was signed by Board members.

MOTION:

Mr. Balzarini made a motion to release the \$21,300 performance guarantee to Sherwin Williams. Seconded by Mr. Balzarini. All in favor.

Consideration of a request made by Mr. William Russell, CEO, Cape Pickle, LLC to allow indoor recreational facilities in the I-1 Zoning District. Currently indoor recreational facilities are only allowed in commercial districts by special permit.

Mr. Lehrer received a phone call about a month ago inquiring about the potential to establish an indoor recreation facility for pickle ball and other onsite amenities in the I1 zoning district, which currently restricts recreation facilities. It is allowed in C1, C2, and C3. He is proposing a large facility on Evergreen Circle. He was notified to proceed with the development plan but a zoning change would need to transpire in order to allow this in that specific district. Building in excess of 10,000s.f. is also subject to a referral to the Cape Cod Commission, and the applicant has been in contact with regulatory staff relative to their process. Mr. Lehrer was asked to add this as an agenda item subsequent to those conversations. His interest in developing remains steadfast and he has a proposal packet for his business. Mr. Lehrer reminded the Board that Warrant Articles are due soon, with that being said, he wanted to allow time to make the Board aware of his request relative to rezoning, and the allowance of recreation facilities in the I1.

Mr. Lehrer noted the town can modify zoning bylaws by way of Town Meeting. Anyone seeking to establish an indoor recreation facility would be allowed, with an application to this Board. If it contemplates criteria that mandates a referral, just like a cell tower, at the opening of a Public Hearing, we would then immediately refer to the Cape Cod Commission.

William Russell is present this evening to explain his involvement in perusing this endeavor a year ago. He acknowledged a significant number of towns that are banning or seeking



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

restrictions on outdoor play due to noise, with that being said there is also a rapidly growing popularity in this sport. The fastest growing pickle ball enthusiasts age from 18-30 year olds. He specifically looked for this location and found this property that was previously part of a DRI. He has an offer to purchase which he is proceeding with said purchase of this property, in the anticipation of successfully navigating town processes and Commission processes. He is hoping this will be endorsed to be on the warrant for allowing said use on premises. The facility would have 10 indoor courts, 8 indoor golf simulator stations, a pro shop, a small restaurant and bar, and significant league play to cover high school age, to town play, and member activities. Membership will be part of the profit stream. He and his wife presently own a café and catering called Pineapple Caper. He is familiar with running food establishments, management, and possessing a full liquor license. Things he doesn't know about are details around pickle ball, but that's where his investors have knowledge. He is confident in his model and what it represents for the town, it is an ideal location, aside from zoning requirements, and he is hopeful for a positive outcome.

Mr. Balzarini said he is very much in favor of this. Mr. Richardson agreed. Mr. Balzarini continued it is gaining a large following and it continues to remain popular.

Ms. Waygan likes the idea, and asked what else is in that development. Mr. Lehrer noted there is a dog daycare, Cape Cod coffee, a liquor store, contractor bays, landscaping companies, and Gutter Monkeys, etc. Is this the last lot available, one currently permitting under construction? She wanted to ensure no boatyard or recycling or scraping paint. He explained this is in the groundwater protection district and cannot ever be approved. She recalled the front two lots fell onto special bylaw. Light industrial overlay, which contemplates such uses being proposed like mini golf and food service. That overlay is in entirety of I1 and C3. If it was submitted the article will ask town meeting to insert SP under I1 which would allow for recreation.

Ms. Faulkner is for it, she thought of a couple items such as a traffic study.

Mr. Lehrer reminded her that first it will go to Town Meeting for adoption. Then by way of the mandatory referral to the Commission, there will be a traffic study during the DRI process. He is not in a position to suggest traffic counts, it would come back under a special permit. At this time we focus on the article change.

Ms. Waygan would also like to discuss noise abatement at that time. She asked if the Town Planner has composed a draft bylaw for this yet. Mr. Lehrer stated he will write one for next meeting for submission to the Select Board.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Everyone is in favor of giving the Town Planner direction to write a draft submission for the Select Board prior to approval.

OLD BUSINESS

Review and Execute the Special Permit Modification #2 Decision for the Cluster Subdivision referred to as Ockway Highlands

Mr. Lehrer needed to affirm that the condition to the as built was consistent with the vote, no other items in the permit decision have been modified. Conditions are inclusive of everything desired. He does not have the draft that requires signature. If the Board is comfortable, the Board can authorize one member to sign.

Mr. Balzarini is the designated signer, he will go to the Planning Department on 1/18/23 to sign.

MOTION:

Ms. Waygan made a motion to approve the Special Permit Modification #2 decision. Seconded by Mr. Balzarini. All in favor.

Continue Review and Discussion of updated draft Raze and Replace Bylaw

Mr. Lehrer has made no amendments to the bylaw. He was asked to look at functionality, he does not have the update. There was a newspaper article relative to this, and he has had multiple residents from Popponesset call his office, some of which who are present this evening. He explained how the draft is designed to function. Many are interested in expressing opinions on this topic as it is brought forth through this deliberation.

Daniel and Ellie Lynch- They wrote to inquire about the proposed changes to the development regulations that arbitrarily apply to Popponesset. They have been property owners in Poppy for almost 20 years. Mashpee has seen high growth and this is intelligent and will benefit all residents in the community. We should all be in favor of appropriate restrictions of any development. It has been shared that any future development would be restricted and limited to size, specific to Popponesset. This would diminish and affect property values. He would ask the Planning Department to share goals when determining how this is appropriate. As a tax payer, they ask and hope for a consideration with a better solution and tasteful development.

Marianne Coffey- It has come to her attention the Planning Board would impose regulations to restrict renovations to expand in Popponesset. They are a family of four that has lived in Poppy since 1995. Their original square footage was 624 s.f. It is their dream and they have been saving to retire. Their plans include renovating in order to accommodate substantial first floor living as they age. Restrictions being proposed would prohibit this renovation. They have



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

always planned to stay within those setbacks. She fully supports restrictions to prevent McMansion style redevelopment. She is asking the Board to delay and allow more time for Poppy citizens to be able to discuss goals and concerns that everyone supports.

Bob Morrissey- He is president of the PBA. They just learned about this so most of his residents have called and asked how it will affect them and the development, and what to do if they wanted to expand to retire or become full time. In his past life he was a zoning attorney. This would have a dramatic effect on how residents live and expand. As a board we pass information to members and allow the opportunity to talk with the community. He would invite the Town Planner to do a presentation for his community. In the winter there are 20% of the residents, most won't know this is coming unless a letter is sent. They hold June and September meetings. He loves the idea of having examples, showing non-conformities, it's a great way to explain to residents. His concerns are why just the floodplain, why Popponesset? It also seems to say pervious materials need to be replaced with impervious. If someone has a patio, do we have to rip that patio out? He has been dealing with many drainage issues, as the Board is aware. With the water table they don't need any more paved driveways. His other problem is May Town Meeting and most of his residents won't even be around to discuss. They would like to know what is driving this and have an opportunity to comment. Some do vote in Mashpee, some do not. He recently became a full time resident but he hasn't changed his voting registration. This is going to have a severe impact. A lot of people have aged and need one floor living to make arrangements for growing old here. He wants to be able to advise his residents accordingly.

Ms. Faulkner assured him this would not be going to May Town Meeting.

Ms. Waygan noted the deadline for October's is July.

Mr. Balzarini agrees that too many people are not here, he already discussed this as an issue with the Planner.

Mr. Lehrer noted presumably we need to have a well thought out and completed draft before the June meeting to articulate impacts, and engagement with the neighborhood would be prudent. He is trying to evaluate the most productive engagement.

Ms. Waygan would like to start a webpage, as this started in 2018. The most current action is the citizen petition. She advised Mr. Morrissey to read it and that it passed majority but not 2/3. Several residents made Public Comment on that as well. Some of the issues brought forth were addressed. She also noted correspondence from Glenn McCarthy, the petitioner.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Mr. Lehrer stated in addition to the website he would like to hold a workshop in March with whatever draft and members of the PBA that are here, as well as whoever would like to virtually participate. This will transpire alongside members of the Board to allow for a constructive dialogue. He is intending to work on visual aids. The residents who are proposing making changes soon could be used as properties used for visuals.

John Malloy- He and Mr. Morrissey have spent some time preparing for this meeting. He has worked closely with the town for the last 10 years. He is on the board to save Popponesset Bay. He led the effort to redesign, re-permit, and rebuild the spit. He provided an update to the Planning Board two years ago. The reason he speaks to this is because of the effort that they went through and his experience with the town has been incredibly positive. The spit 10 years ago was a sandbar that was one storm away from being under water. We have raised \$5 Million and most was community driven. A lot of people affected are a lot of the ones writing these checks. He and Mr. Lehrer were chatting about the future of the spit and goals for the town, a huge part of achieving these goals is having the Poppy Spit. The bay would get crushed if it wasn't there. It is the most important infrastructure that doesn't get talked about. Popponesset Bay just keeps taking care of it, he jokingly stated don't ask questions if you don't want to get in the middle. They are screaming loud, it's been quite a process to get to this point. There are 8 people doing this, and these 8 people are about ready to collapse. They are meeting to talk about the strategy for the next 5 years. The Harbor Management Plan is being developed. There needs to be more conversations about working together and even closer, to protect the bay, the spit, and water quality. We are very close to having permits for a longer, wider, deeper channel project. This will generate 40,000 cubic yards of sand all on Poppy beaches. He would like to depend more on grants funding these efforts. Mr. Lehrer made it clear there will be resources to help there. Mr. Malloy was asked to come in quarterly and provide updates. He would hope to engage more around how to think and plan for the long term commitment. He is willing to provide these updates. There is an incredible opportunity to partner with the Poppy community regarding the new proposed Raze and Replace bylaw. He has been in there since 1992, and his in-laws since 1948. They have 9-10 homes in Poppy between him and his wife's family. The average age of homeowners range from 64-91, there is nobody young buying these properties, as they cannot afford them. The aging population is the vast majority that buy with the intentions to retire, himself included. You buy a camp, cottage, dumpy old house, and fix it up. You save and retire and now you need to rebuild. It's very different from other parts of Mashpee. Poppy residents have been paying taxes with the belief they can renovate. Some get more involved than others, some people you don't even know are there. They buy in Poppy because it's their happy place. Some of these places you don't even want to live in, some are 600-700 s.f. and the majority of houses are in flood plain. There will need to be an awful lot of education in order to do something significant and have the town support this. The town passed the property tax structure that allows the town to tax the people who don't live full time in Poppy more than other people in town. Many people don't even know



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

that happened. There needs to be an education process. The sewer program, people have no idea why Poppy isn't included. There needs to be communication with the neighborhood. There are 588 properties, there is a lot of people down there. He looked at the first draft of the bylaw, things like increasing height, how many people can argue with that one. You just have to make sure building height adjusts for height of foundation. Pervious vs. impervious, what does that mean? Does it mean the driveway has to go? People would be supportive, obviously wheelchairs and walkers pose an issue here, which probably needs to be looked into further. This bylaw needs to address the aging community. Does his neighbor have to pull out a fire pit or patio? This is where we need to decide what is important and what is not, and how hard you are asking the community to bend. Telling the community, all of Popponesset, they cannot expand is fundamentally a disaster. They did not speak to many neighbors ahead of time, otherwise there would've been 100 people in this room. People who owned those homes and sat there for decades with hopes to retire and expand, they will not stay. They also wasted all that time. The neighborhood will be destroyed if people cannot expand.

Mike Halloran- He was lucky enough as a kid to come to Popponesset in 1952, and has been back every summer since 1952. He bought his mother in laws house in 2008, he and his wife have lived there year round since 2011. He read in the Mashpee paper casually what was going on, and it gave the example of a 1,200 s.f. with a 200 s.f. shed, and there was something voted on last year that got a 60% but not 2/3 vote. The idea that you are falling back or somebody is thinking about falling back and not making it for the whole town, but isolating Poppy, doesn't seem reasonable. Whatever you do in Popponesset you have to do in the entire town. He has a large family, he is old, he had both knees replaced, and a wife with heart issues that cannot do stairs. There are two bedrooms on the first floor they are going to turn into a master suite. He intends to replace that bedroom with a bedroom over a two car garage, with a ramp in the garage for his wife to get in and out of the car easier. All the things he is planning to design he has an architect and is within the footprint of his property. He has a ¼ of an acre and side setbacks are 15 ft., street to house or garage is supposed to be 25ft. He isn't building a mansion but this will be necessary for his wife and him to live comfortably in his home in Popponesset. He has been here since 7PM and is impressed with the work the folks are doing here. A lot of people have a long history here, love Mashpee, and want to stay.

Alan Clapp- He has lived in Popponesset full time for 12 years, and his wife's family since 1950s. His career has been civil engineering as a land developer for a long time. He would like to volunteer to be a part of meetings and workshops regarding this endeavor. He has been a consultant, seen different boards and regulations, and has been a land owner in developing property. Seeing where a footprint cannot be expanded with current zoning is concerning and there are a lot of ways to minimize McMansions, that is what they are striving for.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

TOWN PLANNER REPORT

Harbor Management Planning Committee Update

No Update.

Housing Production Plan Update

Mr. Lehrer stated the AHC is happy with the plan thus far. They would like to see an executive summary frontloaded on the plan to communicate to readers the major points of concern and strategies in a few pages. The committee discussed in length the vote by each Board to strike, relative to discussions with agencies on watershed management strategies, assumptions made some of the members concerned and they voted to draft a memorandum to submit to Select and Planning Boards to innumerate their opinion on that particular subject.

Some questions posed: How will the Flow Neutral Bylaw interact with housing? How does the comprehensive water management plan interact with housing? What limits does that put forward on housing? How is the town going to deal with that?

Mr. Lehrer noted there are variance provisions in the Flow Neutral Bylaw and it can be waived on CH40B permit. The Chairman of the Affordable Housing Committee fears without a clear path forward this may impose a certain amount of risk to developers and they may not want to participate, thus making RFPs less advantageous. Mr. Isbitz, Chair of AHC, will write the memo to John Cotton, Chairman of the Select Board. The executive summary and HPP will be voted on by both regulatory boards, but we want to make sure we resolve this problem.

Mr. Lehrer noted the agreement with the consultant has been amended until June. They will write the executive summary and this problem will be resolved collaboratively. It will be submitted for Public Comment prior to adoption. Ms. Waygan understands the prospective memo coming from the AHC will be a request for the Select Board, Planning Board, and she will suggest Sewer Commission, to convene and discuss this one strategy. The Sewer Commission is the experts on Flow Neutral Bylaw.

MassDEP Proposed Modification to Wetlands Protection Regulations and the 401 Water Quality Storm Flow Standards and Updated Stormwater Management Standards

Mr. Lehrer stated their public comment period is open. They are proposing changes to wetlands protection, which will impact land subject to coastal storm flow, the 100 year flood plain. The proposed amendments, if adopted, would prevent existing single family dwellings from expanding their footprint. The state is contemplating this within its state regulations. He did ask Conservation Commission to provide a MEMO for the Board. He just wanted to acknowledge this effort was underway from MassDEP and a link to submit public comment will for such will be provided by Mr. Lehrer. It's a substantial deviation, so he is asking members to



Town of Mashpee

Planning Board

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

review. He will provide a follow up at the next meeting, and he will also follow up with Conservation about the impact of the Popponesset spit.

Draft Regional Housing Strategy Invitation for Comment – Planning Department intending to submit comments

Mr. Lehrer commented the draft Regional Housing Strategy was provided to stakeholders for comment. He heard from a few and noted that it contemplates or recommends various zoning. Some recommended strategies are in conflict with strategies prioritized by this Board and Select Board. He put together a draft memo to innumerate what those conflicts were, not to change anything, but they will have the final draft of the HPP, and the current regulatory board's conflicts in comparison to their stance.

Ms. Faulkner asked if the CCC has any jurisdiction over this. Mr. Lehrer stated no, this is a state program.

Ms. Waygan suggested a town wide inclusionary zoning bylaw that would allow mixed use by right in commercial, or allow duplexes and triplexes by right in residential. That third bullet was also contemplated by this Board and was denied. That needs to be reported on. We in fact struck it from our own HPP. They should put in what we want for our zoning recommendations.

Ms. Faulkner stated we are telling them what have contemplated in the update. This is what we talked about and what the Select Board and Planning Board both agreed to. Ms. Waygan referenced the entire one page for Mashpee zoning and that they should use what we are recommending.

Mr. Lehrer explained that the Commission's obligation is to address regional needs. They specify zoning strategies to address regional needs. If he is a professional planner at a regional agency making recommendations, it would be consistent on engagement and a needs assessment. He wants to note how the Planning Board voted, identify conflicts, but it would not be appropriate to ask them to modify because we have different opinions.

Ms. Waygan disagreed because they are asking for Public Comment. We should report that the town rejected one of these bullet points for zoning. We can pick the ones we approve, but they are looking for comments! If we don't make public comment they are going to think we agree. One point matches perfectly, and one we outright rejected, the other is by right, and we would probably like it by Special Permit.

Ms. Waygan went on to say the Commission could influence their LCP, they work for us. They have an entire page devoted to Mashpee. They worked really hard on this. They deserve to know we read it, thought about it, and feel differently about some items.



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Mr. Lehrer commented this is his memo from his department and if the Board wants it modified to let him know. Ms. Waygan said he needs to report what was voted on by the boards. Four zoning recommendations in their plan jive with ours. He included a statement about how the Board wanted to make the Commission aware some of these strategies are not feasible at this time and suggest that the Commission amend page 82 to be consistent with the zoning strategies enumerated in the Mashpee Housing Production Plan update.

Ms. Faulkner noted the LCP topics for next meeting. Mr. Richardson will speak on Municipal Facilities and Mr. Oakley can do Natural Resources. There will be a normal start time for the next meeting.

BOARD MEMBER COMMITTEE REPORTS

Cape Cod Commission –

No Report

Charter Review Committee-

No Report

Community Preservation

Committee -

No Report

Design Review-

Fast Signs, on Evergreen Circle, looks good.

Plan Review-

The building is designed and built at 7,500 s.f. threshold for sprinklers, the Fire Department will follow up if building will require sprinklers.

Environmental Oversight

Committee-

No Report

Historic District Commission-

No Report

ADJOURNMENT

MOTION:

Mr. Balzarini made a motion to adjourn the meeting of the Planning Board at 10:29PM.

Seconded by Ms. Waygan. All in favor.

Next Meeting: Wednesday, February 7, 2024 @ 7:00PM

Respectfully Submitted,

Christine MacDonald
Board Secretary



Town of Mashpee

Planning Board

*16 Great Neck Road North
Mashpee, Massachusetts 02649*

LIST OF DOCUMENTS

Additional documents may be available in the Planning Department.

- Town of Barnstable Notices
- Town of Falmouth Notices

DRAFT

APPROVAL NOT REQUIRED

February 1, 2024

Mashpee Planning Board
16 Great Neck Road North
Mashpee, MA 02649

Attn: Evan Lehrer

Re: Azalea Lane New Seabury ANR Plan
Updated Mylar for Land Court
BSC file 4-6431.14

Members of the Board,

After a Prefile Review, Land Court has requested edits to the plan to clarify the mathematics on the plan and install two bounds. The edits have not changed the layout, dimensions, or areas of any of the lots.

Land Court requested that the following information be added to the ANR plan.

1. Change the Plan title to reflect case # 11408-219.
2. Make lot numbers 1947, 1948 and 1950.
3. Add reference to the LC Plan number of all abutting lots.
4. Show the opposite side of Red Brook Road.
5. Add the chords with bearings for each lots' curve segment along Azalea Lane.
7. Label the "easement" as proposed "Proposed Easement".
9. Set bounds in two locations.
10. Update the date of the field survey.

If you have any questions or comments, please do not hesitate to contact me directly.

Based on discussions with Evan Lehrer, this re-endorsement does not require a new application form or application fee.

Please feel free to call if you have any questions.

Very truly yours,
BSC Group Inc.



David J Crispin PE, PLS
Sr. Associate 617 680 3506

Engineers

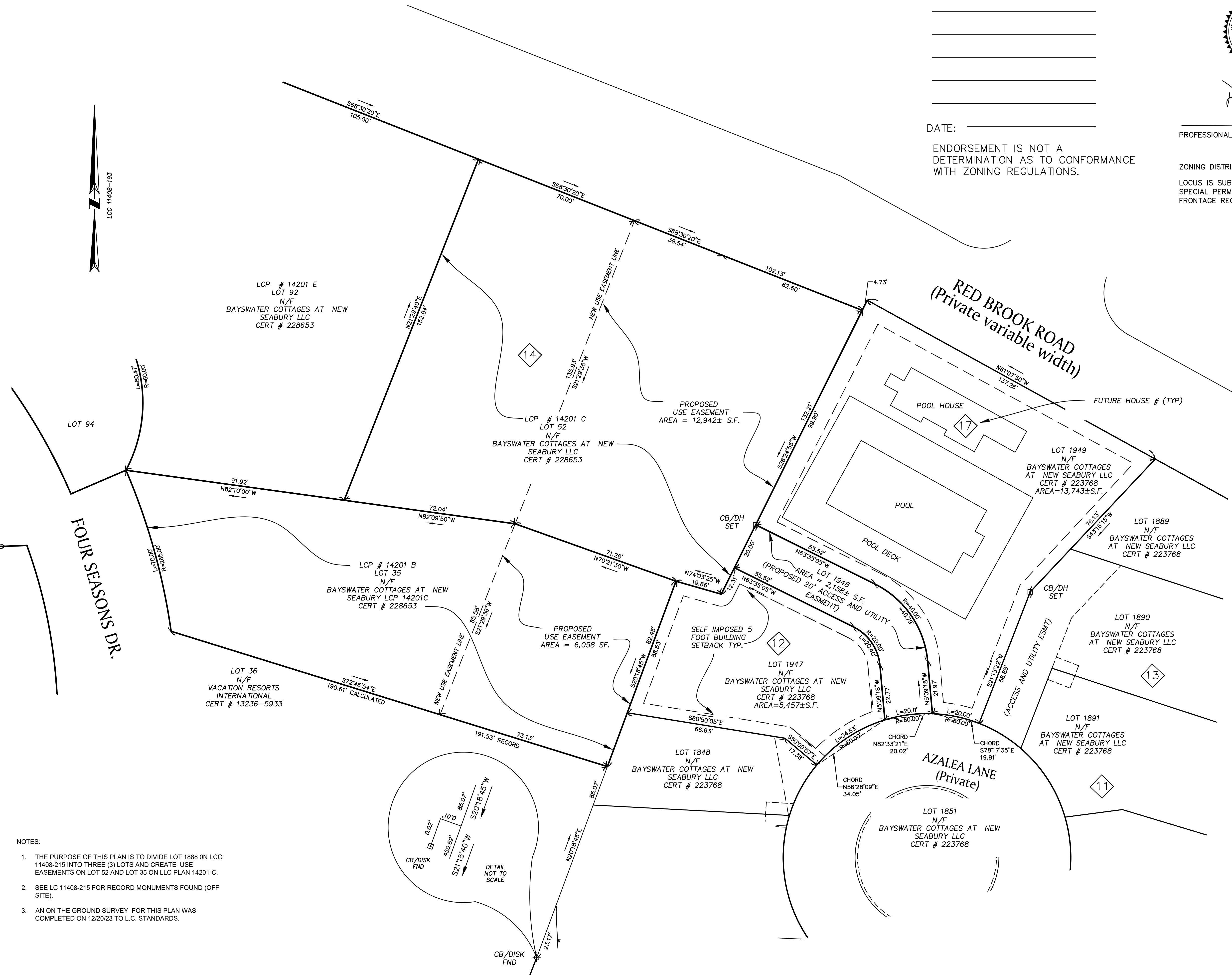
Environmental
Scientists

Custom Software
Developers

Landscape
Architects

Planners

Surveyors



- NOTES:
1. THE PURPOSE OF THIS PLAN IS TO DIVIDE LOT 1888 ON LCC 11408-215 INTO THREE (3) LOTS AND CREATE USE EASEMENTS ON LOT 52 AND LOT 35 ON LLC PLAN 14201-C.
 2. SEE LC 11408-215 FOR RECORD MONUMENTS FOUND (OFF SITE).
 3. AN ON THE GROUND SURVEY FOR THIS PLAN WAS COMPLETED ON 12/20/23 TO L.C. STANDARDS.

MASHPEE PLANNING BOARD
APPROVAL UNDER THE SUBDIVISION
CONTROL LAW NOT REQUIRED

DATE: _____

ENDORSEMENT IS NOT A
DETERMINATION AS TO CONFORMANCE
WITH ZONING REGULATIONS.

I CERTIFY THAT THIS PLAN WAS DRAWN FROM
AN ACTUAL SURVEY MADE ON THE GROUND IN
ACCORDANCE WITH THE LAND COURT INSTRUCTIONS
OF 2006 BETWEEN JANUARY 6, 2020, AND
DECEMBER 29, 2020

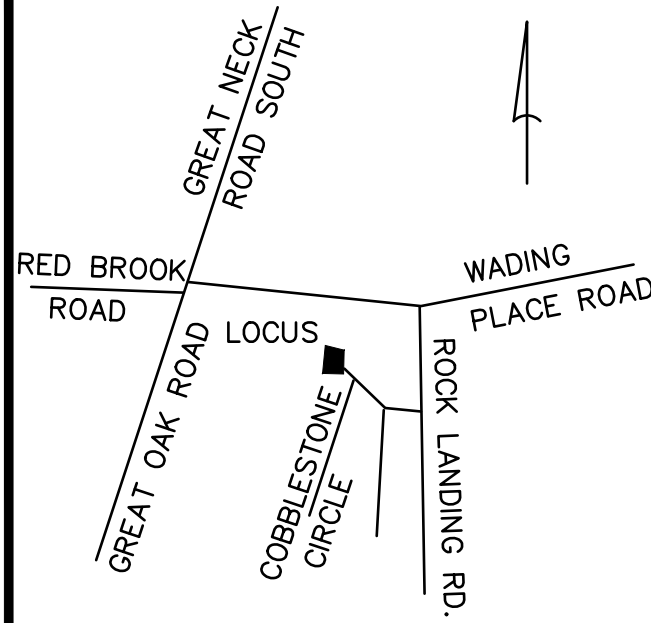


1-15-24

PROFESSIONAL LAND SURVEYOR

ZONING DISTRICT: R3

LOCUS IS SUBJECT TO THE NEW SEABURY
SPECIAL PERMIT (NO MINIMUM LOT AREA OR
FRONTAGE REGULATION)



LOCUS MAP: NOT TO SCALE

SUBDIVISION
PLAN OF LAND
NEW SEABURY

LOT 1888
LCP 11408-219
ASSESSOR'S PARCEL
MAP 110 LOT 99

AZALEA LANE
IN
MASHPEE
MASSACHUSETTS
(BARNSTABLE COUNTY)

BEING A SUBDIVISION
OF LCP 11408-219
LOT 1888

October 5, 2023

REVISIONS:

NO.	DATE	DESC.
1.	1/15/24	L.C. EDITS

PREPARED FOR:

New Seabury Homes, LLC
33 Seaneast Drive
Mashpee, MA 02649



803 Summer Street
Boston, Massachusetts
02127

617 896 4300

© 2024 BSC Group, Inc.

SCALE: 1" = 20'

0 10 20 40 FEET

FILE: Civil_Drawings\4643109-PLP11.dwg

DWG.: SHEET 1 OF 1

JOB. NO: 4-6431.14

NEW BUSINESS

Warrant Article ____ :

To see if the Town will vote to amend Section 174-25 (B)(18) of the Mashpee Zoning Bylaw Table of Use regulations by adding the letters "SP" in the column identified as I-1 as follows:

(18)	Indoor recreation facilities such as bowling alleys, miniature golf, batting cages, computerized golf or similar simulated sports, video games, billiards, aerobics, health clubs, dance or gymnastics studios, skating rinks, indoor go kart facilities, swimming pools, tennis or racquet clubs etc. by Special Permit from the Planning Board.	Residential		Commercial			Industrial
		R-3	R-5	C-1	C-2	C-3	I-1
		---	---	SP	SP	SP	SP

Explanation:

This Article would authorize Indoor Recreational Facilities in the I-1 Zoning District by Special Permit. Currently, indoor recreation facilities are authorized in only the Commercial Zoning Districts.

RE: Bond Release**Tamara Joyce** <tjoyce@newseaburydevelopment.com>


Tue 2/6/2024 9:36 AM

To: Evan Lehrer <ELehrer@mashpeeema.gov>; Edward Pesce <ed@pesceeng.com>

Cc: Nick Galanis <ngalanis@newseaburydevelopment.com>; Karyn Leslie <kleslie@mashpeeema.gov>

 4 attachments (558 KB)

CottagesPhaseIII_BondAmount instruction by town.pdf; Cottage Ph III Bond Deposit.pdf; Cottages - PhIV Bond CHECK AND RECEIPT.pdf; Performance Bond Reduction Request 02052024.pdf;

You don't often get email from tjoyce@newseaburydevelopment.com. [Learn why this is important](#)**Attention!:** : Links contained herein may not be what they appear to be. . Please verify the link before clicking! Ask IT if you're not sure.

Dear Evan,

Hope the attached Performance Bond Reduction Request and supporting documents are a lot clearer.

Please don't hesitate to contact me with questions.

Tamara

Oceanfront:

\$65,024 is currently bond amount being held by town: this remaining balance is what we want released in its entirety. We completed both of the last 2 tasks: paving new roadway \$40,099 and installing bounds \$3,250 with a total of $\$43,349 \times 1.5 = \$65,024$.

Phase III:

The Cottages Phase III total scope was $\$673,080 + \$336,540$ (additional 50% contingency) = \$1,009,620. Deposit check attached. All the contracted work was completed, inspected, approved and therefore we ask for the total \$1,009,620 to be released in its entirety. The breakdown was sent to Evan Lehrer on 11/5/2019 but our email server changed and only have your corresponding instruction by town.

Phase IV:

The Cottages Phase IV all tasks have been completed except for: Top paving \$115,000 and the cleaning of the 16 drainage grates at \$2,400; which bring the total of OPEN Items: $\$172,500 + 3,600 +$ additional 50% contingency = \$176,100 which we ask to be held back by the Town.

The existing bond was based on \$945,520 plus additional 50% contingency; therefore of our \$1,418,280 bond minus the \$176,100 to be held back. We ask for the board to approve the return of \$1,242,180.

Tamara Joyce • Development Manager**New Seabury Homes, LLC**

33 Seaneast Drive • Mashpee, MA 02649

p 774-602-5489 • c 508-274-8908

tjoyce@newseaburydevelopment.comwww.NewSeaburyHomesCapeCod.com



February 1, 2024

Karen D. Faulkner as Chairman
Mashpee Planning Board
c/o Evan Lehrer, Town Planner
Mashpee Town Hall
16 Great Neck Road North
Mashpee, MA 02649

RE: "THE COTTAGES AT NEW SEABURY – PHASE III"

Dear Ms. Faulkner:

New Seabury Homes, LLC respectfully requests that the performance bond amount of \$1,009,620 specific to The Cottages at New Seabury Phase III be released in its entirety. Please advise if this request can be considered by the Board at your next available meeting.

Regards,

Nicholas Galanis, Vice President of Construction
New Seabury Homes, LLC

Completed Work in The Cottages at New Seabury Phase III

Site Prep:

(\$25,000.00) Complete

- Create Construction Entrance
- Filterstock Existing Basins
- Cut and clear all trees and brush
- Uproot and dispose of stumps
- Strip existing topsoil in roadway area, and Stockpile on site

Cut & Fills:

(\$27,000.00) Complete

- Mass Cuts and Fills
- Construct temporary Sediment Basins
- Subgrade
- Rough grading of roadway profile

Pump Station:

(\$40,110) Complete

- F&I Pump Chamber
- F&I Valve Pit
- F&I Pumps Controls
- F&I Generator

Water Main:

(\$57,800.00) Complete

- Furnish and Install approx 760 linear feet of 8" ductile Water Main, Hydrant Assemblies, Tapping Sleeves, Valves and Associated Fittings, Furnish and Install Service Taps to Each Unit (Corporation, Curb Stop and Box, 1" Poly Pipe)

Drainage System:

(\$70,000.00) Complete

- Furnish and Install Catch Basins, Drain Manholes, Leaching Areas and Collection Piping

Sewer Service:

(\$62,000.00) Complete

- Furnish and Install the Gravity Sewer Collection System Comprised of Sewer Manholes, Piping

Restoration:

(\$11,400) Complete

- Screen Stockpiled loam
- Rake & Seed
- Excavate Bio retention areas
- Furnish and Place Bio retention soils

Gravel Base/Fine Grade & Binder:

(\$86,852.70) Complete

- Furnish and Install compacted gravel base
- Pulverize Existing Road
- Fine grade and pave 2.25" binder
- Pave pump station Driveway
- Pave waterways



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

John Falacci
Project Manager
Bayswater Development
22 Seapest Drive
Mashpee, MA 02649

Re: Bond Amount for the Cottages – Phase III

November 8, 2019

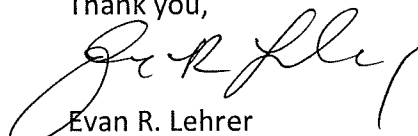
Dear Mr. Falacci,

At its meeting of November 6, 2019 the Mashpee Planning Board voted to set a bond amount of \$1,009,620 for the subdivision known as The Cottages – Phase III. The bond amount was established Based on the provided quotes from Pastore Excavation dated November 6, 2019, Gade Masonry & Landscaping dated November 6, 2019, and from New Seabury regarding street signs and road monuments dated November 6, 2019. The accepted estimates justifying the established bond amount are as follows:

Pastore Excavation -	\$635,000
Gade Landscaping and Masonry -	\$27,030
New Seabury -	\$6,300
	\$4,750
Sub-Total:	\$673,080
	+\$336,540 (additional 50% contingency)
Total:	\$1,009,620

Please contact my office should you have any additional questions.

Thank you,


Evan R. Lehrer
Town Planner

CHECK # 19755 - DATE 11132019 - TOWN OF MASHPEE - \$1,009,620.00

Invoice #	Invoice Date	PO #	Job #	Sub #	Total	Net Amount
2019-COTPH3	Nov 8, 2019				\$1,009,620.00	\$1,009,620.00

TO VERIFY AUTHENTICITY, SEE REVERSE SIDE FOR DESCRIPTION OF THE 13 SECURITY FEATURES

New Seabury Properties, LLC
22 Seaneest Drive
Mashpee, MA 02649

Rockland Trust Co.
288 Union St.
Rockland, MA 02370
53-447/113

19755

*****One Million, Nine Thousand, Six Hundred Twenty Dollars and Zero cents ***

PAY TO THE ORDER OF

Nov 13, 2019

\$1,009,620.00

TOWN OF MASHPEE
16 GREAT NECK RD NORTH
MASHPEE, MA 02649

Per Per 

⑈ 19755 ⑈ ⑆ 011304478 ⑆ 2948002361 ⑈

MASHPEE PLANNING BOARD
RECORD OF SUBDIVISION PERFORMANCE GUARANTEE
SUBMITTED IN EXCHANGE FOR RELEASE OF ROAD COVENANT

Subdivision The Cottages - Phase III File/Plan Number _____
Date plan endorsed 5/16/16 Covenant date 5/16/16 Recorded at Book _____ Page _____ Covenant Release date 11/6/2019

Form of guarantee: ☒ Cash Deposit ☐ Bond ☐ Other (explain) _____
Attach copy of check or other documents

Amount of guarantee \$1,009,620 Name of guarantor (if not cash) _____

Submitted by Bayswater Development Address 22 Seavest Dr, Mashpee Phone 539-8228

Guarantee received by: Evan R Lehrer Date: 11/13/2019
For Mashpee Planning Board

Town Treasurer

Cash deposited to: Bank _____ Account type _____ Account # _____

Other Security held by _____ in _____

Construction to be completed by _____ Date (if any) _____ Performance guarantee to expire on _____ Date (if any) _____

REDUCTION OF PERFORMANCE GUARANTEE

At its meeting of _____ the Planning Board voted to reduce the above guarantee amount to \$ _____

_____ *Must be signed by a majority of the Planning Board*

Released funds returned to: _____
Signature of Owner/Applicant/Guarantor _____ Date _____

At its meeting of _____ the Planning Board voted to further reduce the above guarantee amount to \$ _____

_____ *Must be signed by a majority of the Planning Board*

Released funds returned to: _____
Signature of Owner/Applicant/Guarantor _____ Date _____

At its meeting of _____ the Planning Board voted to further reduce the above guarantee amount to \$ _____

_____ *Must be signed by a majority of the Planning Board*

Released funds returned to: _____
Signature of Owner/Applicant/Guarantor _____ Date _____

Note: Attach copy of expense vouchers for released funds

RELEASE OF PERFORMANCE GUARANTEE

Pursuant to the provisions of Mass. General Laws Chapter 41, Section 81-U, the applicant (the person who has submitted the performance guarantee) shall, upon completion of the construction of ways and the installation of municipal services in a subdivision in accordance with the rules and regulations of the Planning Board, shall send by registered (or certified) mail to the Town Clerk and to the Planning Board a written statement that the said construction or installation secured by the performance guarantee has been completed in accordance with said rules and regulations ("Statement of Completion"), such statement to contain the address of the applicant.

Date Statement by Registered Mail from Applicant that Construction has been completed:

Received by Town Clerk _____ Town Clerk Signature _____ Date _____

Received by Planning Board _____ Authorized Planning Board Representative Signature _____ Date _____

The Planning Board shall make a determination of completion and notify the applicant by registered (or certified) mail within 45 days of receipt of the Statement of Completion by the Town Clerk. If construction is determined not to be complete, it shall specify in its notice the details wherein said construction fails to comply with its rules and regulations. In the event that said 45-day period expires without such specification, or without the release and return of the bond or return of the deposit, all obligations under the bond shall terminate and any deposit shall be returned. The Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

Date statement issued by Town Clerk _____ Signature of Town Clerk _____

Planning Board Consulting Engineer's Certification that Construction has been completed:

Consulting Engineer Signature

Based on the representations of the applicant's Statement of Completion and the certification of the Board's Consulting Engineer, the Mashpee Planning Board voted to release any remaining performance guarantee for this subdivision at its meeting of _____
Date

Must be signed by a majority of the Planning Board

Date of submission of final expense voucher _____ *Must be signed and attached for release of deposits of money*

Remaining guarantee returned by Treasurer _____ Town Treasurer _____ Date _____

Guarantee received by _____
Owner/Applicant/Guarantor Signature _____ Date _____



November 13, 2019

Evan Lehrer, Town Planner
Mashpee Town Hall
16 Great Neck Road North
Mashpee, MA 02649

RE: "THE COTTAGES AT NEW SEABURY – PHASE III"

Dear Mr. Lehrer,

The attached check # 19755 payable to the Town of Mashpee in the amount of \$1,009,620.00 serves as a performance bond for The Cottages at New Seabury Phase III as voted at the November 6, 2019 meeting by the Mashpee Planning Board.

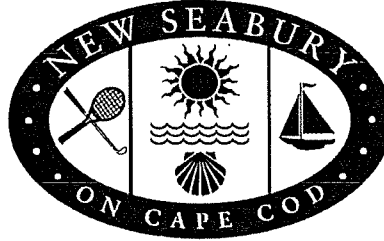
Regards,

John Falacci, Project Manager
Bayswater Development, LLC

Check received by:

Evan Lehrer, Town Planner

11/13/2019
Date



November 6, 2019

Mary Elaine Waygan, Chair
c/o Evan Lehrer, Town Planner
Mashpee Town Hall
16 Great Neck Road North
Mashpee, MA 02649

RE: "THE COTTAGES AT NEW SEABURY – PHASE III"

Dear Ms. Waygan,

Bayswater Development, LLC has estimated the cost for street signs to be approximately \$4,750 based on previous projects. The setting of the monuments to be \$6,300 for 63 at \$100 each.

Please feel free to contact me with any questions.

Regards,

John Falacci, Project Manager
Bayswater Development, LLC

CC: Charles Rowley, Consulting Engineer



GADE MASONRY & LANDSCAPING

Attn. John Falacci

Proposal Date
11/6/2019

Proposal Great Oak Rd, Mashpee MA *Entrance Walls at Great Oak Road*

Fieldstone Retaining Walls and Pillars	\$ 32,710.00
Install 30' long x 24" tall fieldstone retaining wall Install 35' long x 24" tall fieldstone retaining wall Install (4) 36"x2 4"x48" pillars Walls and pillars will be capped with 2" thick bluestone with thermal top and sides Signs between pillars to be furnished and installed by others	
Initial Here to Approve _____	

Boulder Retaining Walls	\$ 22,000.00
Install 125' long by 3' average height boulder retaining wall Install 100' long by 3' average height boulder retaining wall	
Initial Here to Approve _____	

Option - Block Retaining Walls Instead of Boulder Walls	\$ 27,030.00
Install 125' long wall by 4 course average height retaining wall using Allan Block Classic wall block Install 100' long wall by 4 course average height retaining wall using Allan Block Classic wall block	
Initial Here to Approve _____	

Drawings Reflected	
Drawing Date: Rev. 3 - 7/7/16	Addenda Reflected: None
Pages Reflected: 12 of 12, Job No 46431.04	Specs: None
Drawing Author: BSC Group	

Terms and Conditions
Pricing valid for 30 days from date of proposal One (1) mobilization is included. Each additional mobilization is subject to \$500 surcharge All work to be completed during normal business hours (Monday - Friday, 7:00am to 3:00pm) All pricing for masonry work is dependent upon customer provided water supply at a location convenient to the work Gade Masonry and Landscaping will contact the appropriate Utility Locate Service for the project area and have all major utilities located prior to start of our work. The customer will be responsible for locating any private utilities on the property such as irrigation or site lighting.

Gade Masonry and Landscaping will not be responsible for damages to, or resulting from, undisclosed subsurface utilities and structures that are not properly identified. If hand digging is required to avoid utilities, Gade Masonry and Landscaping will notify the customer immediately and will bill the additional costs on a time and materials basis

Proposal is based on all work areas being free of major subsurface obstructions such as rock, hardpan, clay, water, contaminated soils, and miscellaneous construction-debris that conflict with the completion or schedule for our work. If hidden obstruction are encountered, Gade Masonry and Landscaping will notify the customer immediately and will bill the additional costs on a time and materials basis.

Exact plant varieties are not guaranteed and are subject to availability at time of installation

Proposal is based on planting being conducted during normal planting seasons. Price does not include summer-digging or over-wintering fees, which will be added if plants must be harvested or stored in extreme conditions.

Gade Masonry and Landscaping will not be responsible for damages to existing landscape or structures due to actions or conditions beyond our control including, but not limited to: Acts of God, weather, neglect, vandalism, theft, etc.

PASTORE EXCAVATION

November 6, 2019

John Falacci
Bayswater Development, LLC
20 Red Brook Road
Mashpee, Ma. 02649

Project: The Cottages Phase-III
New Seabury

Proposal

Dear John:

We are pleased to quote the sum of **\$635,000.00** for work to be completed on the above named project.

Plans by:	BSC Group
Plans dated:	May 16, 2016
Plan revisions:	June 23, 2016
Drawing numbers:	1 through 11

Scope of work to be performed:

- Cut and chip trees at Great Oak Rd. entrance. Remove and dispose of stumps.
- Furnish and install silt fence, and stone tracking pad per plan.
- Make the necessary cuts and fills to bring the 40' roadway right of way to the proper subgrade.
- Furnish and install 8" gravity sewer mains and connect to the existing 8" stub at Cross Road. Furnish and install sewer manholes and 4" service stubs to the house lots.
- Tap the existing 16" waterline at two locations and install the 8" watermain in Rosewood circle. Furnish and install fire hydrants and 1" service stubs to all house lots.
- Furnish and install drainage per plan, including the Cultec infiltration systems.
- Furnish and install 8" of compacted recycled asphalt below roadways.
- Spread stockpiled loam along the roadway edges. Seed all loamed areas.
- Furnish and install asphalt paving in roadway per plan, total thickness of 3 1/2"

19 Jan Sebastian Drive Sandwich, MA 02563

Tel: 508-428-9300 Fax: 508-420-0001 Web: www.pastoreexcavation.com E-mail: info@pastoreexcavation.com

Exclusions- price does not include:

- A. Inspection, testing and municipal tie-in fees.
- B. Excavation, power cable, conduit, concrete encasement, transformer pads and manholes for the underground electric system.
- C. All work associated with the house lots, other than stubs onto the lots for future sewer and water tie ins.
- D. Stone walls.
- E. Asphalt paving price increases/decreases-prices quoted are based on the current fob refinery prices on liquid asphalt. Such prices are not guaranteed by the major oil companies and are subject to adjustment during the term of this contract. The base price for liquid asphalt for this contract is \$380.00 per ton. Any change in the price of liquid asphalt (increase or decrease) will require a change of \$.055 per ton of asphalt used on the project for every \$1.00 per ton increase in the price of liquid asphalt.

Payment schedule:

Tree Clearing	\$ 3,950
Erosion control	\$ 3,000
Cuts and fills	\$ 31,000
Gravity sewer	\$120,000
Water mains	\$124,000
Drainage	\$214,000
Gravel roadways	\$ 34,000
Loam and seed	\$ 12,350
Paving-binder course	\$ 57,000
Paving-top course	<u>\$ 35,700</u>
Proposal total	\$635,000

Billing shall be done on a monthly basis in accordance with the payment schedule listed above. All payments shall be received within fourteen (14) days of the invoice date.

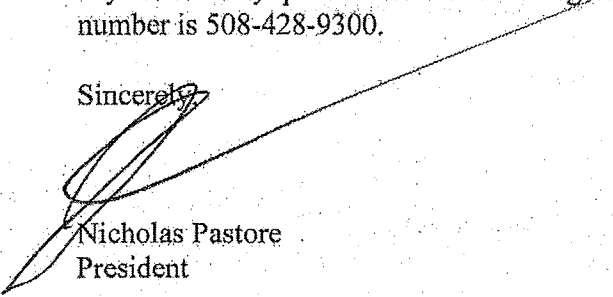
All work completed and paid for will be guaranteed for a period of one (1) year from the date of installation.

All work shall be performed in accordance with the initialed set of contract drawings, specifications and all applicable rules and regulations of the Town of Mashpee.

Proposal price (with the exception of asphalt paving) shall remain in effect for a period of sixty (60 days) from the date of this proposal.

If you have any questions or concerns regarding this proposal, please do not hesitate to call. My office number is 508-428-9300.

Sincerely,



Nicholas Pastore
President

19 Jan Sebastian Drive Sandwich, MA 02563

Tel: 508-428-9300 Fax: 508-420-0001 Web: www.pastoreexcavation.com E-mail: info@pastoreexcavation.com

Dept: Planning Board

TREASURER'S COPY - Yellow

TO VERIFY AUTHENTICITY, SEE REVERSE SIDE FOR DESCRIPTION OF THE 13 SECURITY FEATURES

New Seabury Properties, LLC
22 Seaneast Drive
Mashpee, MA 02649

Rockland Trust Co.
288 Union St.
Rockland, MA 02370
53-447/113

19755

*****One Million, Nine Thousand, Six Hundred Twenty Dollars and Zero cents ***

PAY TO THE ORDER OF

Nov 13, 2019

\$1,009,620.00

TOWN OF MASHPEE
16 GREAT NECK RD NORTH
MASHPEE, MA 02649



Per

Per

⑈19755⑈ ⑆011304478⑆ 2948002361⑈



February 1, 2024

Karen D. Faulkner as Chairman
Mashpee Planning Board
c/o Evan Lehrer, Town Planner
Mashpee Town Hall
16 Great Neck Road North
Mashpee, MA 02649

RE: "THE COTTAGES AT NEW SEABURY – PHASE IV"

Dear Ms. Faulkner,

New Seabury Homes, LLC respectfully requests that the performance bond amount of \$1,418,280 specific to The Cottages at New Seabury Phase IV be reduced by \$1,242,180.

The remaining costs include:

Paving Top Course	$\$115,000 \times 1.5 = \$172,500$
Cleaning of 16 drainage grates at \$150 each	$\underline{2,400 \times 1.5 = 3,600}$
	$\$117,400 \times 1.5 = \$176,100$

Please advise if this request can be considered by the Board at your next available meeting.

Regards,

Nicholas Galanis, Vice President of Construction
New Seabury Homes, LLC

Completed Work in The Cottages at New Seabury Phase IV

1. Tree clearing:	\$34,000.00		complete
2. Erosion Control:	\$75,000.00	Retain \$ 5,000.00	Complete
3. Strip/stockpile loam	\$180,000.00		complete
4. Cuts/fills	\$165,000.00		complete
5. Gravity Sewer	\$240,000.00	Retain \$12,000.00	Complete
For raising castings to grade and testing			
6. Pump Station	\$185,000.00	Retain All	Complete
7. Water Mains	\$225,000.00	Retain	All Complete
8. Drainage	\$291,000.00	Retain \$14,500.00	complete
For raising castings to grade and testing			
9. Gravel roadways	\$125,000.00	Retain All	Complete
10. Loam and seed	\$ 25,000.00	Retain All	Complete
11. Paving/binder	\$135,000.00	Retain	All Complete
12. Paving top course	\$115,000.00	Retain	All Not yet complete
Contract Total	\$1,795,000.00	Total Retain	\$841,500.00

Under separate cover for sewer force main, Pastore letter of July 24, 2020 for the force main at Rock Landing Road the following total cost is quoted. No work has commenced on this portion of the project.

1. Vegetation removal, erosion control, install force main, loam and seed and roadway patching for Rock Landing Road \$97,850.00 Complete

Additional items that include the bounding of all streets within Cottages IV area has been submitted by New Seabury \$ 5,170.00 Complete
No figure was received for 6 street signs Est. \$ 1,000.00 Complete

The total cost of work to be completed as itemized above was \$945,520.00. The custom of the Planning Board has been to add 50% to the base cost (\$472,760.00) for a total bond of \$1,418,280.00.

MASHPEE PLANNING BOARD
RECORD OF SUBDIVISION PERFORMANCE GUARANTEE
SUBMITTED IN EXCHANGE FOR RELEASE OF ROAD COVENANT

Subdivision The Cottages - Phase IV File/Plan Number _____
Date plan endorsed 5/30/20 Covenant date N/A Recorded at Book _____ Page _____ Covenant Release date _____
Re-endorsed 2/18/2021
Form of guarantee: ☒ Cash Deposit ☐ Bond ☐ Other (explain) _____
Attach copy of check or other documents
Amount of guarantee \$ 1,418,280 Name of guarantor (if not cash) _____
Submitted by New Seabury Properties LLC Address _____ Phone _____
Guarantee received by: [Signature] Date: 1-29-21
[Signature] For Mashpee Planning Board Date: 1-29-21
[Signature] Town Treasurer
Cash deposited to: Bank _____ Account type _____ Account # _____
Other Security held by _____ in _____
Construction to be completed by _____ Performance guarantee to expire on _____
Date (if any) _____ Date(if any) _____

REDUCTION OF PERFORMANCE GUARANTEE

At its meeting of _____ the Planning Board voted to reduce the above guarantee amount to \$ _____

Must be signed by a majority of the Planning Board
Released funds returned to: _____
Signature of Owner/Applicant/Guarantor _____ Date _____
At its meeting of _____ the Planning Board voted to further reduce the above guarantee amount to \$ _____

Must be signed by a majority of the Planning Board
Released funds returned to: _____
Signature of Owner/Applicant/Guarantor _____ Date _____
At its meeting of _____ the Planning Board voted to further reduce the above guarantee amount to \$ _____

Must be signed by a majority of the Planning Board
Released funds returned to: _____
Signature of Owner/Applicant/Guarantor _____ Date _____

Note: Attach copy of expense vouchers for released funds

RELEASE OF PERFORMANCE GUARANTEE

Pursuant to the provisions of Mass. General Laws Chapter 41, Section 81-U, the applicant (the person who has submitted the performance guarantee) shall, upon completion of the construction of ways and the installation of municipal services in a subdivision in accordance with the rules and regulations of the Planning Board, shall send by registered (or certified) mail to the Town Clerk and to the Planning Board a written statement that the said construction or installation secured by the performance guarantee has been completed in accordance with said rules and regulations ("Statement of Completion"), such statement to contain the address of the applicant.

Date Statement by Registered Mail from Applicant that Construction has been completed:

Received by Town Clerk

Town Clerk Signature

Date

Received by Planning Board

Authorized Planning Board Representative Signature

Date

The Planning Board shall make a determination of completion and notify the applicant by registered (or certified) mail within 45 days of receipt of the Statement of Completion by the Town Clerk. If construction is determined not to be complete, it shall specify in its notice the details wherein said construction fails to comply with its rules and regulations. In the event that said 45-day period expires without such specification, or without the release and return of the bond or return of the deposit, all obligations under the bond shall terminate and any deposit shall be returned. The Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

Date statement issued by Town Clerk _____

Signature of Town Clerk _____

Planning Board Consulting Engineer's Certification that Construction has been completed:

Consulting Engineer Signature

Date

Based on the representations of the applicant's Statement of Completion and the certification of the Board's Consulting Engineer, the Mashpee Planning Board voted to release any remaining performance guarantee for this subdivision at its meeting of _____
Date

Must be signed by a majority of the Planning Board

Date of submission of final expense voucher _____ *Must be signed and attached for release of deposits of money*

Remaining guarantee returned by Treasurer

Town Treasurer

Date

Guarantee received by

Owner/Applicant/Guarantor Signature

Date

Charles L. Rowley, PE, PLS

Consulting Engineer and Land Surveyor

5 Carver Road
PO Box 9
West Wareham, MA 02576

Tel: 508-295-1881
Cell: 508-295-0545
E-mail: crsr63@verizon.net

December 2, 2020

Town of Mashpee Planning Board
Town Hall
16 Great Neck Road
Mashpee, MA 02649

Re: Cost Estimate for Surety at
New Seabury, Cottages IV

Attention: John Phelan, Chairman

Dear Chairman Phelan:

I am in receipt of cost estimates prepared by Pastore Construction dated July 24, 2020 for the above referenced project in anticipation of receiving lot releases from the Covenant for road construction. The following is a breakdown of costs for the purpose of considering the amount to be secured.

1. Tree clearing:	\$34,000.00		complete
2. Erosion Control:	\$75,000.00	Retain	\$ 5,000.00
3. Strip/stockpile loam	\$180,000.00		complete
4. Cuts/fills	\$165,000.00		complete
5. Gravity Sewer	\$240,000.00	Retain	\$12,000.00
For raising castings to grade and testing			
6. Pump Station	\$185,000.00	Retain	All
7. Water Mains	\$225,000.00	Retain	All
8. Drainage	\$291,000.00	Retain	\$14,500.00
For raising castings to grade and testing			
9. Gravel roadways	\$125,000.00	Retain	All
10. Loam and seed	\$ 25,000.00	Retain	All
11. Paving/binder	\$135,000.00	Retain	All
12. Paving top course	\$115,000.00	Retain	All
Contract Total	\$1,795,000.00	Total Retain	\$841,500.00

Under separate cover for sewer force main, Pastore letter of July 24, 2020 for the force main at Rock Landing Road the following total cost is quoted. No work has commenced on this portion of the project.

1. Vegetation removal, erosion control, install force main, loam and seed and roadway patching for Rock Landing Road \$97,850.00

Additional items that include the bounding of all streets within Cottages IV area has been submitted by New Seabury \$ 5,170.00
No figure was received for 6 street signs Est. \$ 1,000.00

The total cost of work to be completed as itemized above is \$945,520.00. The custom of the Planning Board has been to add 50% to the base cost (\$472,760.00) for a total of \$1,418,280.00.

Please feel free to contact me if you have any questions.

Very truly yours,

Charles L. Rowley

Charles L. Rowley, PE, PLS

Cc Evan Lehrer, Mashpee Town Planner
Nicholas Galanis, New Seabury Project Manager

Dept: Planning Board

TREASURER'S COPY - Yellow

New Seabury Properties, LLC
22 Seaneest Drive
Mashpee, MA 02649

288 Union St.
Rockland, MA 02370
53-447/113

21214

One Million, Four Hundred Eighteen Thousand, Two Hundred Eighty Dollars and Zero cents

PAY TO THE ORDER OF

Jan 27, 2021

\$1,418,280.00

TOWN OF MASHPEE
16 GREAT NECK RD NORTH
MASHPEE, MA 02649

Per

Per



⑈21214⑈ ⑆011304478⑆ 294800236⑈

NO. _____

DATE 1/29/2021

RECEIVED FROM New Seabury / Tamara Joyce

One Million Four Hundred Eighteen Thousand Two Hundred Eighty DOLLARS

Account Total \$ _____

Amount Paid \$ 1,418,280.00

Balance Due \$ _____

Patricia A. Maguire

CAMPAD

TOWN OF MASHPEE
PLANNING DEPARTMENT
16 GREAT NECK ROAD NO.
MASHPEE MA 02649

TOWN OF MASHPEE
PLANNING DEPARTMENT
16 GREAT NECK ROAD NO.
MASHPEE MA 02649



Town of Mashpee

16 Great Neck Road North
Mashpee, Massachusetts 02649

Tamara Joyce
Executive Coordinator
Bayswater Development
22 Seaneast Drive
Mashpee, MA 02649

Re: Bond amount for The Cottages – Phase IV

January 13, 2021

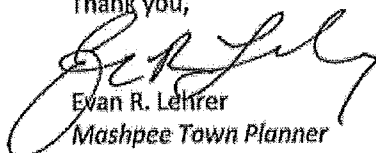
Dear Ms. Joyce,

At its meeting of December 2, 2020 the Mashpee Planning Board voted to set a bond amount of \$1,418,280 for the subdivision known as The Cottages – Phase IV. The bond amount was established by a written recommendation by the Board's consulting engineer, Charles Rowley, dated December 2, 2020 (attached hereto). His recommendation was made by review of quotes provided by Pastore Excavation.

The endorsed subdivision plan referenced a covenant dated January 28, 2020. As the plan and the covenant have not yet been recorded, I would recommend that any revised mylar remove the language regarding a covenant. Upon receipt of the aforementioned cash performance bond, the revised mylar will be endorsed and provided to Bayswater for recording. This will remove the necessity to seek lot releases following the recording of the plan.

Please call me with any questions.

Thank you,



Evan R. Lehrer
Mashpee Town Planner

Cc: Nick Galanis
Rowland Bates



February 1, 2024

Karen D. Faulkner as Chairman
Mashpee Planning Board
c/o Evan Lehrer, Town Planner
Mashpee Town Hall
16 Great Neck Road North
Mashpee, MA 02649

RE: "OceanFront" Subdivision (Coastline Drive)

Dear Ms. Faulkner,

New Seabury Homes, LLC on behalf of Bayswater Development, LLC respectfully request that the performance bond specific to Oceanfront subdivision be release entirely based upon the following work that has been completed entirely.

Work completed equals $\$238,500. \times 1.5 = \$357,750.-$

Work completed equals $\$43,349. \times 1.5 = \$65,024.-$

Please advise if this request can be considered by the Board at your next available meeting.

Regards,

Nicholas Galanis, Vice President of Construction
New Seabury Homes, LLC

New Seabury Homes, LLC
33 Seanest Drive • Mashpee 02649
508-539-8314

Construction cost for Oceanfront in New Seabury

Cut remove trees and brush, dispose of stumps	COMPLETED	(\$15,000.00)
Cuts and fills to set site to sub-grade	COMPLETED	(\$15,000.00)
Sewer main installation and house services	COMPLETED	(\$62,000.00)
Water main installation to the lot lines	COMPLETED	(\$45,000.00)
Furnish and install drainage as per plans	COMPLETED	(\$54,000.00)
Demolition of old roadway and utilities	COMPLETED	(\$15,000.00)
Furnish and install compacted road base	COMPLETED	(\$25,000.00)
Loam and seed shoulders	COMPLETED	(\$7,500.00)
Pave new roadway	COMPLETED	\$40,099.00
Install bounds	COMPLETED	\$3,250.00

MASHPEE PLANNING BOARD
RECORD OF SUBDIVISION PERFORMANCE GUARANTEE
SUBMITTED IN EXCHANGE FOR RELEASE OF ROAD COVENANT

Subdivision NEW SEABURY "OCEANFRONT" SUBDIVISION File/Plan Number 132-13-01

Date plan endorsed 6/5/13 Covenant date NONE Recorded at Book X Page X Covenant Release date N/A

Form of guarantee: Cash Deposit Bond Other (explain) _____
Attach copy of check or other documents

Amount of guarantee \$ 422,773.50 Name of guarantor (if not cash) _____

Submitted by Joseph C. Chasman Address 20 Red Brook Rd Phone 508 539 8255

Guarantee received by: [Signature] Date: 6-10-13
For Mashpee Planning Board

[Signature] Date: 6-10-13
Town Treasurer

Cash deposited to: Bank Century Bank Account type Performance Bond Account # 79937640

Other Security held by X in X

Construction to be completed by 6/5/15 Performance guarantee to expire on N/A
Date (if any) Date (if any)

REDUCTION OF PERFORMANCE GUARANTEE

At its meeting of 10-1-14 the Planning Board voted to reduce the above guarantee amount to \$ 105,523.50

[Signature] May Wayzen [Signature]
[Signature] _____
Must be signed by a majority of the Planning Board

Released funds returned to: _____
Signature of Owner/Applicant/Guarantor Date

At its meeting of 12/2/15 the Planning Board voted to further reduce the above guarantee amount to \$ 65,148.50

May Wayzen [Signature]
Donna H. Roberts Joseph P. Chasman _____
Must be signed by a majority of the Planning Board

Released funds returned to: [Signature] 12-14-15
Signature of Owner/Applicant/Guarantor Date

At its meeting of _____ the Planning Board voted to further reduce the above guarantee amount to \$ _____

Must be signed by a majority of the Planning Board

Released funds returned to: _____
Signature of Owner/Applicant/Guarantor Date

Note: Attach copy of expense vouchers for released funds

RELEASE OF PERFORMANCE GUARANTEE

Pursuant to the provisions of Mass. General Laws Chapter 41, Section 81-U, the applicant (the person who has submitted the performance guarantee) shall, upon completion of the construction of ways and the installation of municipal services in a subdivision in accordance with the rules and regulations of the Planning Board, shall send by registered (or certified) mail to the Town Clerk and to the Planning Board a written statement that the said construction or installation secured by the performance guarantee has been completed in accordance with said rules and regulations ("Statement of Completion"), such statement to contain the address of the applicant.

Date Statement by Registered Mail from Applicant that Construction has been completed:

Received by Town Clerk _____

Town Clerk Signature

_____ Date

Received by Planning Board _____

Authorized Planning Board Representative Signature

_____ Date

The Planning Board shall make a determination of completion and notify the applicant by registered (or certified) mail within 45 days of receipt of the Statement of Completion by the Town Clerk. If construction is determined not to be complete, it shall specify in its notice the details wherein said construction fails to comply with its rules and regulations. In the event that said 45-day period expires without such specification, or without the release and return of the bond or return of the deposit, all obligations under the bond shall terminate and any deposit shall be returned. The Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

Date statement issued by Town Clerk _____

Signature of Town Clerk _____

Planning Board Consulting Engineer's Certification that Construction has been completed:

Consulting Engineer Signature

Date

Based on the representations of the applicant's Statement of Completion and the certification of the Board's Consulting Engineer, the Mashpee Planning Board voted to release any remaining performance guarantee for this subdivision at its meeting of _____

Date

Must be signed by a majority of the Planning Board

Date of submission of final expense voucher _____ Must be signed and attached for release of deposits of money

Remaining guarantee returned by Treasurer _____

Town Treasurer

_____ Date

Guarantee received by _____

Owner/Applicant/Guarantor Signature

_____ Date

TOWN PLANNER REPORT



THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION

10 MECHANIC STREET, SUITE 301

WORCESTER, MA 01608

ANDREA JOY CAMPBELL

ATTORNEY GENERAL

(508) 792-7600

(508) 795-1991 fax

www.mass.gov/ago

January 17, 2024

Deborah F. Kaye, Town Clerk
Town of Mashpee
16 Great Neck Road North
Mashpee, MA 02649

**Re: Mashpee Fall Annual Town Meeting of October 16, 2023 -- Case # 11183
Warrant Articles # 2, 3, and 4 (Zoning)
Warrant Article # 6 (General)**

Dear Ms. Kaye:

Articles 2, 3, 4, and 6 – We approve Articles 2, 3, 4, and 6 adopted at the Mashpee October 16, 2023 Fall Town Meeting. Our comments on Articles 3 and 6 are provided below.

Article 3 – Under Article 3 the Town deleted the existing text of Section 174.45.4, “Accessory Apartment,” subsection A and inserted new text that allows the property owner of an accessory apartment to live in either the accessory apartment or the principal dwelling unit, and rent the other unit as follows:

In order for an accessory apartment to be permitted, in addition to meeting all of the requirements under subsections B-M, the principal dwelling unit or the proposed accessory apartment must be occupied by the property owner identified on the latest recorded or registered deed. The property owner may reside in either the accessory apartment or in the principal dwelling and rent the other unit to a tenant, but may not under any circumstances rent both the principal dwelling and the accessory apartment to tenants concurrently. For purposes of this Bylaw, the term “property owner” shall include: each person who alone or jointly or severally with others: a) has legal title of record to any building, structure, or property subject to this Bylaw, or; b) has care, charge, or control of any such building, structure, or property in any legal capacity, including but not limited to agent, executor, administrator, member or owner of a limited liability company, trustee or guardian of the estate of the record holder of legal title; or c) is a lessor under written agreement; or d) is the mortgagee in possession; or e) is the recognized agent, trustee or other person claiming rights under the record title holder with care, charge, or control of the property as a matter of law or as appointed by the courts. On an annual basis coinciding with the initial date of issuance of the Building

Permit, the property owner shall submit to the Building Inspector sufficient evidence to demonstrate the property owner's occupancy of the principal dwelling unit or the accessory apartment.

Towns can impose conditions on accessory apartments, including requirements regarding owner-occupancy. See G.L. c. 40A, § 1A's definition of "Accessory Apartment."¹ However, there is pending legislation that would amend the definition of "Accessory Apartment" in Section 1A and amend G.L. c.40A, § 3, by adding a new paragraph that would prohibit towns from imposing owner-occupancy requirements for accessory apartments. See H.4138, "Affordable Homes Act", Sections 12 and 13 (<https://malegislature.gov/Bills/193/H4138>).² The Town should discuss the pending proposed changes to G.L. c. 40A with Town Counsel.

Article 6 - Under Article 6 the Town voted to amend the general by-laws to adopt a new Chapter 175, "Mashpee Tree Preservation Bylaw." We approve Article 6 because it does not

¹ Section 1A defines "Accessory dwelling unit" as "a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller; and (iii) is subject to such additional restrictions as may be imposed by a municipality, including but not limited to additional size restrictions, owner-occupancy requirements and restrictions or prohibitions on short-term rental of accessory dwelling units."

² Section 13 would amend G.L. c. 40A, § 3 to add a new paragraph regarding accessory apartments as follows (with emphasis added):

No zoning ordinance or by-law shall prohibit, unreasonably restrict, or require a special permit or other discretionary zoning approval for the use of land or structures for an accessory dwelling unit, or the rental thereof, in a single-family residential zoning district; provided, that the use of land or structures for an accessory dwelling unit under this paragraph may be subject to reasonable regulations, including but not limited to 310 CMR 15.000 et seq., if applicable, site plan review, regulations concerning dimensional setbacks and the bulk and height of structures and may be subject to restrictions and prohibitions on short term rental as defined in section 1 of chapter 64G. ***The use of land or structures for an accessory dwelling unit under this paragraph shall not require owner occupancy of either the accessory dwelling unit or the principal dwelling;*** provided further, that not more than 1 additional parking space shall be required for an accessory dwelling unit; and provided further, that no additional parking space shall be required for an accessory dwelling located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station. The executive office of housing and livable communities may issue guidelines or promulgate regulations to carry out the purposes of this paragraph.

conflict with the Constitution or laws of the Commonwealth. See Amherst v. Attorney General, 398 Mass. 793, 795-96 (1986) (requiring inconsistency with state law or the constitution for the Attorney General to disapprove a by-law). However, we offer the following comments for the Town's consideration when applying the new Chapter 175.

I. Summary of Article 6

Under Article 6 the Town voted to amend the general by-laws to add a new Chapter 175, "Mashpee Tree Preservation Bylaw." The purpose of the new by-law is to encourage the preservation and protection of trees on residential, commercial, and industrial lots during building construction activities. Section 175-1 states that the by-law "does not prohibit a landowner's right to remove any protected tree." Rather the by-law allows removal if the property owner provides mitigation for the removal of a protected tree. Section 175-1. Section 175-2 defines the terms used in the by-law, including the terms "Building Activity;" "Protected Tree;" "Tree Yard;" and "Tree Permit," as follows:

Building Activity: One of the following types of work performed on a lot:

Work performed pursuant to a special permit (as defined in MGL Ch. 40A Sec. 9 and the Mashpee Zoning Bylaw);

Work performed pursuant to site plan approval (as defined in the Mashpee Zoning Bylaw);

Construction of a new dwelling (including after razing an existing dwelling);

Construction of a subdivision;

Construction of a structure or addition that increases the gross floor area of a residential, commercial, or industrial structure by 50% or more;

Demolition of a structure(s) with a footprint of 250 square feet or greater;

Construction of any accessory structures requiring a building permit including but not limited to sheds greater than 200 square feet, detached garages, pools, retaining walls with a height of four feet or greater; or

Clearing, grading, or other site preparation work performed prior to undertaking any of the above.

Protected Tree: Any tree with a diameter at breast height (DBH) of six-inches (6") or greater of any one of the species listed in Table 2 below.

Tree Yard: A defined area along the perimeter of a lot which is equal to the minimum setbacks defined in Section 175-31 of the Mashpee Zoning Bylaw.

Tree Permit: Formal permission granted to proceed with any building activity that affects a Protected Tree(s)

Section 175-3 prohibits a person from starting “building activity” on a lot without first receiving a Tree Permit or an exemption from the Town Planner. Section 175-3, “Exemptions,” lists activities that are exempt from the Tree Permit requirement, including previously developed properties; lots subject to wetlands jurisdiction; building activity that is not included within the by-law’s definition of “building activity;” removal of hazardous, dead or diseased trees; and pruning activities. Sections 175-5 and 175-6 require a Tree Protection and Mitigation Plan (Plan) as part of the Tree Permit application and state the information that must be included in the Plan. The Plan must show the “Tree Yard” location; the location of “Protected Trees”, and what mitigation method the property owner intends to use if any “Protected Trees” are removed. Section 175-5. If a property owner seeks to remove a “Protected Tree,” the property owner must either replant new trees on-site or contribute to the Town’s Tree Bylaw Revenue Account. See Sections 175-5 and 175-6. Section 175-10 authorizes the Planning Board to adopt rules and regulations to effectuate the by-law. Finally, Sections 175-11 through 175-16 authorize enforcement of the by-law by stop work orders and fines, including using the non-criminal disposition process.

II. Comments on Chapter 175

We approve Chapter 175 because it does not conflict with state law. Amherst, 398 Mass. at 795-96. However, we offer the following comments for the Town’s consideration regarding certain approved portions of Chapter 175.

A. “Tree Bylaw Revenue Account”

Chapter 175 authorizes the Town Accountant to establish a “Tree Bylaw Revenue Account” where the funds collected as part of the by-law’s mitigation requirement are deposited. See, Section 175-2, “Definitions.” Under the Tree Bylaw Revenue Account, Town Meeting may appropriate funds for the purpose of “maintaining, acquiring and/or installing trees to beautify the Town” Id. It is unclear what type of account the Tree Bylaw Revenue Account and whether it is intended as a revolving fund. The Town’s use of this account must be consistent with G.L. c. 44, § 53, which requires all money received by the Town to be deposited into the Town’s general fund.

General Laws Chapter 44, § 53 provides that “[a]ll moneys received by a city, town or district officer or department, except as otherwise provided by special acts and except fees provided for by statute, shall be paid by such officers or department upon their receipt into the city, town or district treasury.” In the absence of any general or special law to the contrary, funds of the sort contemplated here would have to be deposited with the Town Treasurer and made part of the town’s general fund. An example of such legislative authority includes G.L. c. 44, §§ 53E ½, which states as follows:

Notwithstanding section 53, a . . . town may authorize by by-law . . . the use of 1 or more revolving funds by 1 or more municipal agencies, boards, departments or

offices, which shall be accounted for separately from all other monies in the . . . town and to which shall be credited any fees, charges or other receipts from the departmental programs or activities supported by the revolving fund. . . . A revolving fund shall be established pursuant to this section by by-law . . . The by-law . . . shall specify for each fund: (1) the programs or activities for which the revolving fund may be expended; (2) the departmental receipts in connection with those programs or activities that shall be credited to the revolving fund; (3) the board, department or officer authorized to expend from such fund; and (4) any reporting or other requirements the city or town may impose.

For the Town to deposit any money received under the new by-law in a revolving fund, the Town would have to comply with the requirements of G.L. c. 44, § 53E ½. In the absence of compliance with G.L. c. 44, § 53E ½, or some other statutorily created fund, the mitigation funds collected as part of Chapter 175's provisions must be deposited with the Town Treasurer and made part of the Town's general fund pursuant to G.L. c. 44, § 53. The Town should consult with Town Counsel on the proper application of the new by-law.

B. Multi-Family Developments and Solar Energy Systems

Chapter 175 applies to all building activity (as defined in the by-law) in the Town unless exempted. The Town should consult closely with Town Counsel to make sure that the new by-law is not applied in a manner to unlawfully delay or prohibit development projects in the Town, including multi-family developments and solar energy system developments. This is particularly important when applying the by-law's requirements to a solar energy system because if Chapter 175 is used to deny a solar energy system or is applied in a way that makes it impracticable or uneconomical to a build solar energy system and related structures, such application would run a serious risk of violating G.L. c. 40A, § 3. See Tracer Lane II Realty, LLC v. City of Waltham, 489 Mass. 775, 781 (2022) (Waltham's prohibition on solar energy systems in all but one to two percent of its land area violates the solar energy provisions of G.L. c. 40A, § 3; see also PLH LLC v. Town of Ware, No. 18 MISC 000648 (GHP), 2019 WL 7201712, at *3 (Mass. Land Ct. Dec. 24, 2019), aff'd, 102 Mass. App. Ct. 1103 (2022), ("the review of the municipality conducted under the bylaw's special permit provisions must be limited and narrowly applied in a way that is not unreasonable, is not designed or employed to prohibit the use or the operation of the protected use, and exists where necessary to protect the health, safety or welfare.") The Town should consult with Town Counsel on this issue.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli E. Gunagan
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600

cc: Town Counsel Patrick J. Costello

CORRESPONDENCE

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERWAYS REGULATION PROGRAM**

Additional Notice of Chapter 91 License/Permit Application Number 23-WW01-0115-APP

Applicant: Town of Mashpee Department of Public Works

Project Location: Child's River Culvert on Route 151 (Nathan Ellis Highway), adjacent to the intersection of Route 151 and Old Brickyard Road, Child's River, Town of Mashpee, Barnstable County

Notification Date: January 26, 2024

Public Comments Deadlines: As specified below

Additional public notice is hereby given of the Chapter 91 Waterways License Application by the Town of Mashpee Department of Public Works for the culvert extension and maintenance work, including the installation of appurtenant fill and structures and improvement dredging at the Child's River culvert on Route 151 (Nathan Ellis Highway) adjacent to the intersection of Route 151 and Old Brickyard Road. The Department has determined that the proposed project is a Water-Dependent Use project.

Written comments on the **Chapter 91 Permit** Application must be sent **within fifteen (15) days of the Notification Date** and written comments on the **Chapter 91 License** Application must be sent **within thirty (30) days of the Notification Date** to: Ryan.Morrison@mass.gov or Waterways Regulation Program c/o Ryan Morrison at 100 Cambridge Street, Suite 900, Boston, MA, 02114

The Department will consider all written comments on this Waterways Permit and License Application by the respective Public Comments Deadline. Failure of any aggrieved person or group of ten (10) citizens or more to submit written comments to the Waterways Regulation Program by the Public Comments Deadline will result in the waiver of any right to an adjudicatory hearing in accordance with 310 CMR 9.13(4)(c). The group of citizens must include at least five (5) citizens who are residents of the municipality in which the proposed project is located. A public hearing may be held upon request by the Municipal Official.

Project plans and documents for the Waterways application are on file for public viewing electronically at: <https://eeaonline.eea.state.ma.us/EEA/PublicApp/> (enter 23-WW01-0115-APP in the Search Page in the field for Record ID). If you need assistance, please contact Ryan.Morrison@mass.gov or if you do not have access to email, please leave a message at (617) 292-5929 for alternative options.

It is recommended that documents and correspondence be filed electronically with the email address above when possible. Alternatively, comments may be mailed to Ryan Morrison c/o MassDEP Waterways Regulation Program, 100 Cambridge Street, 9th Floor, Boston, MA 02114.

Received By

JAN 25 2024

Planning Dept.



Massachusetts Department of Environmental Protection

eDEP Transaction Copy

Here is the file you requested for your records.

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

Username: **EBELAIR**

Transaction ID: **1653797**

Document: **Groundwater Discharge Monitoring Report Forms**

Size of File: **1080.30K**

Status of Transaction: **Submitted**

Date and Time Created: **1/24/2024:10:56:30 AM**

Note: This file only includes forms that were part of your transaction as of the date and time indicated above. If you need a more current copy of your transaction, return to eDEP and select to "Download a Copy" from the Current Submittals page.



Groundwater Permit

DISCHARGE MONITORING REPORT

668
1. Permit Number
2. Tax identification Number
2023 DEC MONTHLY
3. Sampling Month & Frequency

Important:When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



A. Facility Information

1. Facility name, address:

SOUTH CAPE VILLAGE		
a. Name		
672 FALMOUTH ROAD/RTE. 28		
b. Street Address		
MASHPEE	MA	02649
c. City	d. State	e. Zip Code

2. Contact information:

MYLES OSTROFF		
a. Name of Facility Contact Person		
6174311097	myles@chartweb.com	
b. Telephone Number	c. e-mail address	

3. Sampling information:

12/8/2023	RI ANALYTICAL
a. Date Sampled (mm/dd/yyyy)	b. Laboratory Name
BRENT PLANT	
c. Analysis Performed By (Name)	

B. Form Selection

1. Please select Form Type and Sampling Month & Frequency

Discharge Monitoring Report - 2023 Dec Monthly	▼
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☐ All forms for submittal have been completed.

2. ☐ This is the last selection.

3. ☐ Delete the selected form.



Groundwater Permit
DISCHARGE MONITORING REPORT

668
1. Permit Number
2. Tax identification Number
2023 DEC MONTHLY
3. Sampling Month & Frequency

D. Contaminant Analysis Information

- For "0", below detection limit, less than (<) value, or not detected, enter "ND"
- TNTC = too numerous to count. (Fecal results only)
- NS = Not Sampled

1. Parameter/Contaminant	2. Influent	3. Effluent	4. Effluent Method
Units			Detection limit
BOD	100	3.6	3.0
MG/L			
TSS	120	6.0	2.0
MG/L			
TOTAL SOLIDS	610		
MG/L			
AMMONIA-N	14		
MG/L			
NITRATE-N		0.97	0.050
MG/L			
TOTAL NITROGEN(NO3+NO2+TKN)		4.1	0.50
MG/L			
OIL & GREASE		ND	0.50
MG/L			



Groundwater Permit

DAILY LOG SHEET

668
1. Permit Number
2. Tax identification Number
2023 DEC DAILY
3. Sampling Month & Frequency

A. Facility Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Facility name, address:

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

2. Contact information:

MYLES OSTROFF

a. Name of Facility Contact Person

6174311097

b. Telephone Number

myles@chartweb.com

c. e-mail address

3. Sampling information:

12/31/2023

a. Date Sampled (mm/dd/yyyy)

WHITEWATER

b. Laboratory Name

JAMIE STEWART

c. Analysis Performed By (Name)

B. Form Selection

1. Please select Form Type and Sampling Month & Frequency

Daily Log Sheet - 2023 Dec Daily

☐

All forms for submittal have been completed.

☐

2. This is the last selection.

☐

3. Delete the selected form.



Groundwater Permit
DAILY LOG SHEET

668
1. Permit Number
2. Tax identification Number
2023 DEC DAILY
3. Sampling Month & Frequency

C. Daily Readings/Analysis Information

Date	Effluent Flow GPD	Reuse Flow GPD	Irrigation Flow GPD	Turbidity	Influent pH	Effluent pH	Chlorine Residual (mg/l)	UV Intensity (%)
1	9107					7.6		
2	9107							
3	9107							
4	6269					7.6		
5	15465					7.9		
6	8500					7.5		
7	8628					7.3		
8	10868					7.3		
9	10868							
10	10868							
11	11127					7.1		
12	11160					7.2		
13	8889					7.1		
14	11124					7.3		
15	10434					7.3		
16	10434							
17	10434							
18	11049					7.3		
19	9037					7.2		
20	11119					7.3		
21	13659					7.3		
22	9678					7.3		
23	9678							
24	9678							
25	9678							
26	7061					7.6		
27	9418					7		
28	10951					7.1		
29	8519					7.1		
30	8519							
31	8519							



Groundwater Permit

MONITORING WELL DATA REPORT

668
1. Permit Number
2. Tax identification Number
2023 DEC MONTHLY
3. Sampling Month & Frequency

A. Facility Information

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Facility name, address:

SOUTH CAPE VILLAGE

a. Name

672 FALMOUTH ROAD/RTE. 28

b. Street Address

MASHPEE

c. City

MA

d. State

02649

e. Zip Code

2. Contact information:

MYLES OSTROFF

a. Name of Facility Contact Person

6174311097

b. Telephone Number

myles@chartweb.com

c. e-mail address

3. Sampling information:

12/30/2023

a. Date Sampled (mm/dd/yyyy)

WHITEWATER

b. Laboratory Name

JAMIE STEWART

c. Analysis Performed By (Name)

B. Form Selection

1. Please select Form Type and Sampling Month & Frequency

Monitoring Well Data Report - 2023 Dec Monthly

☐

All forms for submittal have been completed.

☐

2. This is the last selection.

☐

3. Delete the selected form.



Groundwater Permit
MONITORING WELL DATA REPORT

668

1. Permit Number

2. Tax identification Number

2023 DEC MONTHLY

3. Sampling Month & Frequency

C. Contaminant Analysis Information

- For "0", below detection limit, less than (<) value, or not detected, enter "ND" <
- TNTC = too numerous to count. (Fecal results only)
- NS = Not Sampled
- DRY = Not enough water in well to sample.

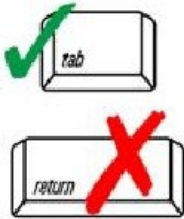
Parameter/Contaminant	P-1	P-2	P-4	P-6		
Units	Well #: 1	Well #: 2	Well #: 3	Well #: 4	Well #: 5	Well #: 6
PH	6.1	DRY	5.9	6.1		
S.U.						
STATIC WATER LEVEL	18.9	DRY	47.8	51.1		
FEET						
SPECIFIC CONDUCTANCE	966	DRY	777	1009		
UMHOS/C						



Groundwater Permit

668
1. Permit Number
2. Tax identification Number

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Any person signing a document under 314 CMR 5.14(1) or (2) shall make the following certification

If you are filing electronic-ally and want to attach additional comments, select the check box.



Facility Information

SOUTH CAPE VILLAGE
a. Name
672 FALMOUTH ROAD/RTE. 28
b. Street Address
MASHPEE MA 02649
c. City d. State e. Zip Code

Certification

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

ELIZABETH BELAIR 1/24/2024
a. Signature b. Date (mm/dd/yyyy)

Reporting Package Comments

FACILITY WAS IN FULL COMPLIANCE WITH ALL PERMIT REQUIREMENTS FOR THE MONTH

TOWN MANAGER
COPIED



3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630

(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

CAPE COD
COMMISSION

Date: January 18, 2024

To: Cape Cod Boards of Selectmen & Barnstable Town Council
Cape Cod Town Administrators and Managers
Cape Cod Town Planners and Planning Board Chairs

From: Kristy Senatori, Executive Director, Cape Cod Commission

Dear Municipal Official:

The Cape Cod Commission has recently been awarded Executive Office of Housing and Livable Communities 2024 District Local Technical Assistance (DLTA) funds to provide technical assistance to member municipalities. DLTA funds must be expended by December 31, 2024. Please note, this deadline is fixed, and projects undertaken with these funds cannot be extended.

This letter is an invitation to Cape Cod municipalities to apply for funding consistent with state guidelines for this technical assistance.

DLTA funds totaling \$192,999 are available for the State's identified priority areas: 1) **Planning Ahead for Housing** (or to help reach the Statewide Housing Production Goal); 2) **Planning Ahead for Growth**; 3) **Community Compact Cabinet activities including regionalization**; and 4) **Housing Choice Initiative activities**.

The goal of the DLTA Fund is to direct these funds to projects and activities that result in change in the municipality(ies), whether in law, regulation, program management, or practice.

Project Selection Criteria:

- 1) Responsiveness to priority uses, including:
 - support for towns to achieve Community Compact best practices; and
 - support for opportunities for collaboration and/or resource sharing; and,

- promotion of planning to adapt to and mitigate climate change and encourage sustainable development; and
- support for water quality and wastewater planning and projects; and planning and implementation activities that support affordable and market-rate housing planning and production opportunities in appropriate locations

2) Provision of a clear statement of expected products/deliverables (i.e., bylaw prepared for adoption, proposed or adopted regional agreement or memorandum of understanding, joint procurement solicitation prepared, proposed or adopted permitting procedures).

A list of Community Compact Cabinet Best Practices is attached for your information. (Attachment A). Housing Choice Best Practices can be found at www.mass.gov/housing-choiceinitiative.

PROPOSAL SUBMISSIONS

Please submit your written funding request to me by **February 7, 2024**. This request should detail your proposed scope of work, list of tasks, anticipated products or deliverables and budget. Please also indicate if you have conducted your procurement and engaged a consultant. Again, it is important to note that work must be completed and grant funds expended by December 31, 2024.

Regardless of the topic of your funding request, please indicate which best practices are included in your town's Community Compact agreement with the State.

As required by the state, successful applicants shall enter into a Memorandum of Agreement or similar record with the Cape Cod Commission detailing a scope of work and budget for each project. Funds cannot be used for routine administration, nor can DLTA funds be used if other state resources are available.

Please feel free to call me at 508-744-1216 if you have any questions regarding this opportunity to use DLTA funds to improve our communities and our region.

cc: Cape Cod Commission members

ATTACHMENT A

Community Compact Best Practice Areas

Note: DLTA funds shall not be used for any activities related to assertion of the General Land Area Minimum (GLAM) (1.5% of total land area) safe harbor under 760 CMR 56.03 (b) (Chapter 40B).

Age and Dementia Friendly Best Practices

An Age-Friendly community is one that is livable for residents of all ages inclusive of older adults and those living with dementia. Age-friendly communities strive to be equitable and accessible with walkable streets, housing and transportation options, access to services, and opportunities for residents to participate in community activities.

Best Practice: Convene and engage municipal and community leaders, businesses, and the public to align age- and dementia-friendly goals, conduct a baseline needs assessment, and create an action plan for age- and/or dementia-friendly action to pursue the path of an age- and dementia-friendly designation.

Best Practice: Develop and amend municipal policies, regulations, and programs with a goal of promoting aging in all policies, programs, and services in an equitable and inclusive manner.

Best Practice: Implement age- and dementia-friendly initiatives to support aging in community, including, but not limited to, programs that address social determinants of health, facilitate connection and engagement, promote intergenerational engagement, improve mobility, facilitate technological access, develop digital literacy, support older workers, job seekers and volunteers, publicize and share local information and resources to support aging and care givers, and raise public awareness that aging is an asset and that older adults, including people living with dementia, make meaningful contributions to the community.

Best Practice: Develop and Update ADA Transition Plans for municipalities
Diversity, Equity, and Inclusion (DEI) Best Practices

Best Practice: Diversity, Equity, and Inclusion Training Program – Develop a comprehensive ongoing training program for staff, elected and appointed officials. The pathway to advancing equity begins with training. Training is helpful in building a shared vocabulary and understanding of equity concepts and how they impact the community.

Best Practice: Community Needs Assessment – Conduct a community needs assessment to ascertain community buy-in and goals related to diversity, equity, and inclusion.

Best Practice: Workforce Assessment – Conduct Assessment of Town’s workforce and compare to population and census data. Identify gaps. Provide areas that require improvement and make recommendations on how to implement positive change.

Best Practice: Equity Audit – Conduct a town/city wide equity audit to determine what the existing barriers are to equitable representation and participation, access and opportunity for all residents and business owners in the community.

Best Practice: Recruitment and Retention of a Representative Workforce – Develop a data driven and informed plan to guide human resources professionals with the goal of recruitment and retention of a representative workforce. This will include model policies and procedures to be adopted, as well as technology to support the continued practices, including the development of a town/ city public Diversity Dashboard.

Best Practice: Public Engagement – Develop an initiative to improve and increase community engagement, particularly with underrepresented members of the community and young people and improve access to local government. This can include actions to enhance internal and external communications to encourage the use of pronouns in email signatures and on business cards as a way to build inclusive community and the review of websites and printed materials to ensure the use of gender-neutral language and pictures of diverse and underrepresented members.

Best Practice: DEI Strategic Planning – Develop a plan that includes community’s goals and strategies for improving the delivery of services through a DEI lens. (Could include a single focus, like housing, or be more general).

Best Practice: Zoning Review – Comprehensive review of Zoning Bylaws through an informed racial equity and civil rights lens and recommend any changes for adoption by Town Meeting/City Council.

Best Practice: Municipal Supplier Diversity Program – Develop a Municipal Supplier Diversity Program with purchasing policies and procedures to promote and ensure diversity, equity, and inclusion in contracting for businesses owned by minorities, women, Portuguese, veterans, service-disabled veterans, those with a disability, and LGBT individuals, as well as small Massachusetts businesses. This may include spending goals and benchmarks for various businesses.

Economic Development Best Practices

Best Practice: Create an Economic Development Plan that engages diverse stakeholders, leverages local and regional economic strengths and assets, encourages innovation and entrepreneurship, and/or promotes workforce development planning and implementation.

Best Practice: Align land use regulations, especially zoning, capital investments, and other municipal actions with Housing Development, Economic Development, Master, Land Use Priority, or other plans for future growth. Promote development and reuse of previously developed sites.

Best Practice: Create and distribute a Business Guide to not only promote development goals and priorities, but also clearly outline the community’s policies and procedures related to zoning and permitting.

Best Practice: Pursue and attain key community designations and/or certifications (such as Vacant Storefront District, PACE Massachusetts, etc.) that can assist local businesses and developers to leverage/access additional state resources in support of their efforts to establish and/or expand in the community.

Best Practice: Identify and establish Priority Development Sites through community planning and site assembly efforts that engage diverse stakeholders and include necessary zoning changes and/or local permitting process enhancements that proactively address obstacles to housing/job creation.

Best Practice: Establish an Expedited Permitting Processes, including Chapter 43D expedited permitting designation, that allows developers and those wishing to expand operations to achieve clear timelines for permitting review, and to encourage growth in priority development districts.

Best Practice: Create a Digital Equity Plan. Engage in planning activities and develop strategic documents related to digital equity and bridging the digital divide for all residents.

Best Practice: Create a District Management Entity, such as a Business Improvement District, that engages public/private stakeholders to develop and support downtown revitalization efforts.

Best Practice: Adopt As-Of-Right Zoning to promote housing development, support transit oriented development, and mixed-use development in priority districts.

Best Practice: Establish and Utilize Performance Data to evaluate the competitiveness of the community, conduct year to year comparisons, and measure economic development performance against comparable communities. Create a public dashboard to monitor and communicate the data with the public.

Education Best Practices

Best Practice: Cultivate partnerships between the municipality, public school leadership and private child care providers to understand the interest and plan for universal pre-kindergarten for all 4-year-olds within the community, with shared curriculum and professional development.

Best Practice: Implement the MyCAP framework for college and career advising for all students beginning in middle school and continuing through high school, in collaboration with regional workforce organizations (e.g., MassHire Career Centers).

Best Practice: Implement collaborative arrangements among regional vocational technical schools, comprehensive high schools, and community colleges to maximize opportunities for high school students and adults to access specialized vocational education programs.

Best Practice: Create opportunities for municipal governments to collaborate with high schools and colleges to provide students with internship experiences aligned to their courses of study, especially in STEM-related departments (i.e., IT, engineering department, accounting, etc.).

Best Practice: Leverage Connecting Activities programs for local high school students pursuing summer jobs and paid internships.

Energy and Environment Best Practices

Greenhouse gas reduction and renewable energy

- **Best Practice:** Participate in programs offered by DOER's Green Communities Division to reduce energy use, cut GHG emissions attributed to buildings and vehicles, increase renewable energy, and adopt building codes that support energy efficiency and electrification in new construction and major renovations. This includes developing and implementing municipal energy reduction and decarbonization plans in coordination with the Department of Energy Resources' Green Communities Division and regional planning agencies.

Climate change adaptation and resilience

- **Best Practice:** Apply for the MVP 2.0 program to update your local resilience priorities with a more representative community core team, and then move planning priorities to action through an MVP Action Grant.
- **Best Practice:** Plan and design capital projects (such as buildings, facilities, or parks) using the Resilient MA Action Team (RMAT) Climate Resilience Design Tool. This tool helps you integrate statewide climate change data and resilience standards into the project design to decrease risks and enhance resilience to a changing climate. Log into the tool at https://resilientma.mass.gov/rmat_home/designstandards/

Sustainable development and land protection

- **Best Practice:** Encourage sustainable development through a master plan, open space and recreation plan, zoning, street and trail design, and other initiatives to create higher density, mixed-use development and transit-oriented communities; increase pedestrian and bike mobility; protect land and water resources; increase climate resilience; and advance housing and economic development goals.

Water resource management

- **Best Practice:** Develop a water conservation plan that includes proper maintenance and updates of infrastructure, reduction in water losses, reduction in infiltration and inflow, installation of water efficient fixtures and appliances, and instating of watering restrictions to ensure long-term water resource sustainability, enable growth and avoid new source development.
- **Best Practice:** Enhance local water resources by reducing impervious cover and managing point and nonpoint source stormwater runoff. In coordination with the Department of Environmental Protection's stormwater management coordinator, these efforts can include development of plans and implementation of actions that can increase recharge, reduce pollution, and control flooding to protect lives, infrastructure, and critical assets, and minimize impacts during droughts.

Waste management

- **Best Practice:** Participate in MassDEP Recycling Dividends Program to increase the Recycling & Diversion Rate through regulatory improvements, service expansion, and other means in order to reduce waste and disposal costs. Partner with Recycle Smart MA and utilize the Recycling IQ Kit to support residents in throwing away less, recycling more and following smart waste practices.

Site cleanup

- **Best Practice:** Complete a Brownfields Inventory so that the community is aware of all abandoned and underutilized properties in order to move forward with plans to assess/remediate and redevelop these properties. Engage with Regional Planning Agency and/or MassDEP Statewide Brownfields Coordinator on developing plans to assess/remediate or redevelop Brownfields and identifying funding opportunities and technical assistance.

Agriculture

- **Best Practice:** Develop programs, policies, and plans to support local agriculture, support land access and protection, and support community access to healthy and local food. This can be accomplished via efforts like creation of marketing initiatives, creation of farm inventories that quantify fiscal benefits to communities, contribution to land protection, adoption of local "Right to Farm" ordinances, establishment of local bodies like an Agricultural Commission or Food Policy Council, and establishment of partnerships to connect farms and fisheries with processors and distributors, schools, pantries, and places of work.

Financial Management Best Practices

Best Practice: Establish a Budget document that details all revenues and expenditures, provides a narrative describing priorities and challenges, and offers clear and transparent communication of financial policies to residents and businesses.

Best Practice: Develop, document and implement Financial Policies and Practices including reserve levels, capital financing, and use of Free Cash. Such policies should identify the responsible parties and procedural steps necessary to carrying out the directed strategy or action.

Best Practice: Develop and utilize a Long-range Planning/Forecasting Model that assesses both short-term and long-term financial implications of current and proposed policies, programs and assumptions over a multi-year period.

Best Practice: Prepare a Capital Improvement Plan that reflects a community's needs, is reviewed and updated annually, and fits within a financing plan that reflects the community's ability to pay.

Best Practice: Review and evaluate Financial Management Structure to ensure that the structure and reporting relationships of the community's finance offices support accountability and a cohesive financial team process.

Best Practice: Utilize Financial Trend Monitoring, modeled after the ICMA's Financial Trend Monitoring System (FTMS).

Best Practice: Perform an assessment of the municipality's enterprise funds, including revenues, expenditures, indirect costs, and related policies and procedures to determine whether enterprise fund(s) are self-sufficient and make recommendations for best financial policies and practices.

Housing and Livable Communities Best Practices

Best Practice: Create an Affordable Housing Trust Fund and/or adopt the Community Preservation Act to fund production and preservation of affordable housing in your community.

Best Practice: Take steps to demonstrate housing production and/or zoning best practices in an effort to obtain Housing Choice Community Designation. Designation provides access to an exclusive grant program and priority status for state grants.

Best Practice: Create and implement a Housing Production Plan (HPP) that accounts for changing demographics, including young families, changing workforce, and an aging population. Conduct ongoing and robust outreach and education about housing needs in your community to dispel common myths about the effects of new housing. Create an inventory of municipally owned and publicly controlled land that can potentially developed for housing production.

Best Practice: Adopt Chapter 40R Smart Growth as of right zoning for "missing middle housing" to facilitate the creation of dense residential or mixed-use smart growth zoning districts, including a set percentage of affordable housing units, to be located near transit stations, if applicable, or in areas of concentrated development such as existing city and town centers, and in other locations near activity centers.

Best Practice: Amend zoning to reduce required off street parking spaces for residential development. Review MAPC "Perfect fit Parking" study of parking utilization compared to requirements demonstrating requirements for multi-family parking are almost universally too high.

Best Practice: Adopt or amend zoning to streamline the process for homeowners to build Accessory Dwelling Units (ADUs) which are also known as "in law apartments". Consider removing requirements for familial relationship. Distribute materials from AARP promoting advantages of ADUs.

Best Practice: Perform a comprehensive review of Zoning Bylaws through an informed racial equity and civil rights lens and recommend any changes for adoption by Town Meeting/City Council. Provide information to officials and the public about exclusionary practices in zoning. Consider reducing minimum lot sizes.

Best Practice: Pursue land use and housing training opportunities such as the Citizen Planner Training Collaborative (CPTC), Massachusetts Housing Partnership's Housing Institute, or trainings by state and regional entities. Become versed in available state, regional and federal funding opportunities, tax credits, and incentive programs.

Best Practice: Complete and submit to HUD an "Assessment of Fair Housing Report," incorporating HUD data and assessment tools, local data and knowledge, a significant community participation process, and the assessment tool. Access technical assistance from non-profit groups with expertise.

Best Practice: Develop a re-use plan or feasibility analysis for revitalization of existing municipal or publicly owned land or buildings

Human Resources Best Practices

Best Practice: Cost-Out Collective Bargaining proposals so that the impact of the total package is known. This provides the municipality with a clear understanding of both short-term and long-term budgetary impacts.

Best Practice: Develop a Workplace Safety program so that the risk of on-the-job injuries is minimized.

Best Practice: Develop a formal Wage and Classification Plan that details, at a minimum, job descriptions, employee grades, and salary ranges, thereby providing the municipality with a tool to make pay decisions that are reasonable in comparison to similar work being carried out in all areas of city/town government.

Best Practice: Develop Employee Policies and Procedures for things such as discrimination, sexual harassment, information technology use, drug and alcohol, use of social media, and town-owned vehicles.

Best Practice: Manage employee benefit costs such as health insurance, dental insurance, unemployment insurance, and worker's compensation/111F; includes eligibility review and evaluation of insurance choices.

Best Practice: Prepare a Succession Plan to help address the pending wave of retirements that will challenge a municipality's ability to maintain service levels and utilize expertise and experience of mature workers through consulting or mentorship programs.

Best Practice: Explore Centralized Human Resources/Personnel Operations to improve service delivery and build efficiencies.

Information Technology Best Practices

Best Practice: Perform a cybersecurity assessment to identify human and technology risks within the environment, analyze and identify gaps in existing cybersecurity processes, assess vulnerability to external attack, and identify steps to remediate identified issues. The assessment

includes a general IT assessment of hardware infrastructure, networking, backup, email and user account management, with a written evaluation and recommendations.

Best Practice: Design a cybersecurity incident response plan tailored to your community to handle rising cybersecurity threats and conduct a tabletop exercise to test your response plan.

Best Practice: Design a regional shared IT services program to maximize technology resources across multiple communities and/or school districts.

Best Practice: Develop a strategy to prioritize technology investments and develop IT resiliency, disaster recovery and contingency plans that protect those investments and position the community to effectively manage unforeseen events.

Best Practice: Ensure that municipal websites, digital reports and documents, desktop and web-based software, and other IT systems are usable by residents with disabilities, as required by federal law.

Mental Health Best Practices

Best Practice: Expand community awareness and access to Community Behavioral Health Centers/Community Crisis Intervention and Behavioral Health Urgent Care by coordinating with law enforcement and other first responders to increase drop off rates at CBHCs and decreasing rates of arrest and/or drop off at Emergency Departments.

Best Practice: Disaggregate Behavioral Health Helpline data by caller zip code, race, gender, ethnicity and age to better understand BHHL utilization rates and develop community specific culturally sensitive strategies to increase rates of access.

Best Practice: Strengthen partnerships between public safety, social services, healthcare providers, and local public and private schools to establish systems and protocols for assessing and identifying children and young adults who present risks to themselves or to others, in order to ensure effective and pro-active responses that can prevent violence and provide timely supports to individuals in need.

Public Accessibility Best Practices

Best Practice: Undertake a Title II Americans with Disabilities Act (ADA) Self-Evaluation and Transition plan to comply with the ADA's TII Administrative Requirements through a comprehensive review of all public buildings, including programs, activities, and services.

Public Health Best Practices

Best Practice: Conduct a maternal and child health landscape assessment to identify and understand the community strengths and gaps in improving the health and well-being of birthing people, infants, children and youth with special health needs, and their families, including public health infrastructure and staff capacity. Develop shared public health services with contiguous municipalities.

Best Practice: Collaborate with Emergency Management to ensure preparedness and planning efforts address gaps and ensure resiliency for essential public health and community functions. Using tools, such as CDC’s Social Vulnerability Index (SVI) and DPH’s Emergency Preparedness Portal, incorporate planning considerations for at-risk populations, including birthing people, infants, children, and youth, including those with special health needs and people with disabilities have access and functional needs in times of disasters and emergencies.

Best Practice: Climate Change Adaptability Planning. Data collection, strategy development and planning at the local level are critical to the overall preparedness and long-term resilience to the effects of climate change. Develop a report that identifies: the range of climate impacts, associated potential health outcomes, vulnerable populations, the additional burden of health outcomes due to climate change, and the most suitable health interventions. Use the CDC’s BRACE framework to develop and implement a plan that introduces health system program changes.

Best Practice: Adopt strategic practices to advance health equity in local health both internally within their departments and externally with communities and other government agencies.

Public Safety Best Practices

Best Practice: Police and fire departments, in collaboration with EMS, should establish NFPA3000-compliant Active Shooter Hostile Event Response protocols and hold regularly scheduled, integrated training sessions. The Department of Fire Services (DFS), the Massachusetts State Police (MSP) and the Municipal Police Training Committee (MPTC) are delivering Active Attack Integrated Response (AAIR) training. This integrated response training is consistent with NFPA3000 and is based on four main concepts: Integrated Response, Unified Command, Whole Community and Planned Recovery. To further assist communities, the MPTC and the DFS retain specialty-specific ASHER directors who are available for guidance and coordination.

Best Practice: Develop an Emergency Preparedness Plan in partnership with the Massachusetts Emergency Management Agency (MEMA) to enhance the community’s disaster and emergency response capabilities.

Best Practice: Establish Hazardous Material Response Protocols in conjunction with Regional Hazardous Materials Response Teams under the Department of Fire Services to enable cities and towns to protect their citizens, the environment, and property during incidents involving a release or potential release of hazardous materials.

Best Practice: Implement a Local Hazard Mitigation Plan that outlines natural hazards that affect your municipality, identify actions to reduce any impacts from those hazards, and create a pipeline of shovel ready projects for state and federal funding. Use the data and information from the State Hazard Mitigation & Climate Adaptation Plan (SHMCAP) to help guide local officials and community leaders during Local Hazard Mitigation Plan development and other strategic planning efforts that address risks and vulnerabilities to natural hazards, especially those exacerbated by climate change. <https://www.mass.gov/info-details/local-hazard-mitigation-planning>.

Best Practice: Collaborate with the Municipal Police Training Committee (MPTC) to implement the 2020 police reform legislation fully, including: use of force training focusing on de-escalation, school resource officer training, Bridge Academy compliance for any part-time officers and 40 hours of annual in-service training.

Best Practice: Ensure compliance with policies that govern the use of the statewide Sexual Assault Evidence Collection Kit (SAECK) tracking system with special attention on meeting statutory deadlines for hospitals and collection sites.

Best Practice: Develop whole community plan to divert, prevent, and suppress behaviors that lead to gun violence, especially among young people.

Best Practice: Collaborate with the Statewide Interoperability Coordinator (SWIC) and develop policies that integrate with the Statewide Communications Interoperability Plan (SCIP) and the Massachusetts Interoperable Emergency Communications Best Practices guideline regarding your public safety agency's communications and interoperable resource utilization and planning.

Best Practice: Pursue opportunities for returning citizens to reintegrate into their community after incarceration through personal connection, meaningful work, sustainable housing, and effective treatment according to their unique personal needs.

Regionalization/Shared Services Best Practices

Best Practice: Regionalize services and share resources among municipalities for efficient and effective service delivery to residents and taxpayers in this era of shrinking budgets, loss of seasoned employees to retirement, and increased need for service improvements.

Best Practice: School/Municipal Shared Services Feasibility Study: Conduct a feasibility study on options for shared services among school districts and municipalities for efficient and effective service delivery to residents and taxpayers in this era of shrinking budgets, loss of seasoned employees to retirement, and increased need for service improvements.

Best Practice: Review Existing Regional or Shared Services Arrangements: Existing regional or shared services arrangements can be difficult to sustain over time. Conduct an organizational and operational review of existing an existing arrangement to improve its long-term viability. This study should include substantial engagement of all partners and development of future-focused strategies.

Transportation & Public Works Best Practices

Safe & Active Transportation

Best Practice: Adopt a Transit Oriented Development (TOD) plan or policy that establishes zoning regulation around transit centers that maximizes bicyclist, pedestrian, and transit use, allows for lower levels of required parking, and encourages mixed use development to ensure basic amenities are placed near population centers.

Best Practice: Participate in MassDOT’s Complete Streets Funding Program to implement Complete Streets principles into all regular planning and design practices on local roadways. Demonstrate advancement through the program by adopting a Complete Streets Policy, developing a Prioritization Plan, and implementing Complete Streets projects with funding from both within and outside the MassDOT program.

Best Practice: Adopt a plan or policy that addresses the transportation needs of aging populations. Develop a specific process for the consideration of interventions that prioritize the needs of the elderly in transportation related decisions or activities. Examples include education and outreach, inclusion of age-friendly infrastructure in transportation projects, and offering alternatives to single occupancy vehicles to reach senior destinations.

Best Practice: Enroll local schools and/or school district(s) in MassDOT’s Safe Routes to School Program to promote safe and active travel options for children on their commute to and from school or other youth destinations. Adopt the program’s “Six E’s” approach and actively participate in the educational component of the program.

Best Practice: Prepare and implement a speed management plan or policy that encourages safer vehicle speeds on neighborhood roadways frequented by pedestrians, bicyclists, and transit users. Utilize MassDOT’s Speed Management Toolkit in the development of the plan or policy.

Resilient & Reliable Transportation

Best Practice: Develop a multi-year asset management plan that inventories and rates the condition of public works assets such as roadway pavement, municipal vehicles, drainage facilities, and culverts/bridges. The plan should then include a funding strategy and schedule for efficient maintenance, preservation, and reconstruction/replacement of these assets.

Best Practice: Adopt a policy or plan that regularly schedules roadway maintenance. Demonstrate routine improvements for local roads, such as street sweeping, pothole filling, cutting back vegetation that interferes with sight distance or sidewalk width, clearing brush that obscures traffic signage, renewing or installing pavement markings, or conducting nighttime surveys to check visibility and retro reflectivity.

Best Practice: Develop a transportation climate resiliency plan that identifies assets at risk of being negatively impacted by climate change. The plan should include reactive interventions for existing issues and proactive planning for future conditions, as well as identify potential funding opportunities.

Best Practice: Develop a transportation climate resiliency plan that identifies assets at risk of being negatively impacted by climate change. The plan should include reactive interventions for existing issues and proactive planning for future conditions, as well as identify potential funding opportunities.

Best Practice: Implement community programs and investments that reduce transportation emissions from network users living, working, or traveling on local roadways.

Best Practice: Develop a plan to facilitate increased use of electric vehicles and related infrastructure. Plans could include upgrades to the electric grid, analyses of charging station needs, installation of charging infrastructure, and replacement of gas or diesel municipal vehicles with electric vehicles when feasible. Adopting local policy related to electric vehicles such as charger requirements for new developments should also be considered.

Veterans Services Best Practices

Best Practice: Establish a clear VSO Succession Plan that includes all relevant training, manuals, and a concrete timeline for replacing an old VSO to ensure there are no gaps in coverage.

Best Practice: Create and disseminate a veteran survey to capture more comprehensive socioeconomic/demographic data on all veterans in the community. This should also include a needs assessment portion to establish which programs and resources are needed.

Best Practice: Develop a plan for transportation services for disadvantaged veterans to obtain services and care needed outside of the community in which they reside. This could include subsidized, free, volunteer, or ride sharing options

Best Practice: Develop a robust stakeholder engagement plan to determine the types of info local veterans want, as well as the frequency and methods of communication they prefer.

Best Practice: Explore the creation of a local veteran's resource center. This area can serve as a one-stop-shop to share information and resources, as well as provide a consolidated meeting space for multiple veteran entities.

Workforce Development Best Practices

Best Practice: Conduct a comprehensive economic and workforce development assessment of the municipality or region that identifies labor market trends, labor supply and demand data, industry, and employment projections to inform policy and planning, such as economic development goals, zoning/permitting policies, transit development, and workforce planning.

Best Practice: Design and implement workforce training strategies for 1-2 identified high quality and high demand occupations that also have critical labor shortages in collaboration.

Best Practice: Design and implement workforce training strategies for 1-2 high demand occupations identified by municipalities and apply for Workforce Competitiveness Trust Fund in partnership with trainers, MassHire and other key partners to fund training across municipalities for specific occupations in demand eg CDL drivers, assessors etc. Take advantage leveraging strategies and investments other programming like registered apprenticeship.

Best Practice: Establish an industry-focused advisory committee comprised of local business, workforce and economic development agencies, and education and training institutions to develop and deploy short- and long-term workforce planning strategies, such as school-to-career pipeline development, occupational skills training programs, and career pathway development.

Best Practice: Create a local MassHire talent recruitment campaign in collaboration with regional employers ready to hire, developing and deploying a comprehensive effort using tactics such as job postings, direct outreach to job seekers, hiring events, job fairs, on site recruitment, direct candidate referrals, and social media marketing.



**TOWN OF FALMOUTH
MASSACHUSETTS**

BOARD OF APPEALS

Notice of Decision

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by G. L. Tucker LLC, 237 Acapesket Road, East Falmouth, MA.

(Map 40 Lot 286) under 240-6.6B of the Zoning By-Law, as amended to **grant** the modification of special permit No. 115-88 to raze the existing detached garage and rebuild a barn/garage with habitable space on the second floor.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **January 11, 2024** which is the date the Decision was filed in the office of the Town Clerk.

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

Received By

JAN 17 2024

Planning Dept.



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

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

Received By

**BOARD OF APPEALS
NOTICE OF PUBLIC HEARING**

JAN 17 2024

Planning Dept.

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

Application #107-23 Insurance Marketing Agencies, Inc., 366 Menauhant Road, East Falmouth, MA.:
Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-6.4 of the Code of Falmouth to allow a business office within the existing Marina Office. **The subject properties are 366 Menauhant Road and 470 Acapesket Road, East Falmouth, MA.**

Map 40 Section 10 Parcel 009 Lot(s) 201 - #366

Map 40 Section 10 Parcel 008 Lot(s) 202 - #407

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

Thursday, February 1, 2024 at 6:00PM

You are invited to be present.

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

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



TOWN OF FALMOUTH

ZONING BOARD OF APPEALS

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

BOARD OF APPEALS NOTICE OF PUBLIC HEARING

Received By

JAN 17 2024

Planning Dept.

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

Application #109-23 Dianne I. Durso, Trustee, 128 Locust Street, Falmouth, MA.: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-10.2A of the Code of Falmouth to renovate a portion of the existing dwelling, construct an addition and attached garage with additional living space above. The subject property is 128 Locust Street, Falmouth, MA.

Map 47A Section 05 Parcel 021 Lot(s) 000A

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on **Thursday, February 1, 2024 at 6:00PM**

You are invited to be present.

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

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



TOWN OF FALMOUTH
MASSACHUSETTS

BOARD OF APPEALS

Notice of Decision

Received By

JAN 19 2024

Planning Dept.

Notice is hereby given that the Board of Appeals of the Town of Falmouth has made a decision on a petition by Bac V. Nguyen, 62 Old Bayberry Road, East Falmouth, MA.

(Map 33 Lot 518) under of the Zoning By-Law, as amended to **grant** the special permit to allow a detached accessory apartment.

Appeals, if any, shall be made pursuant to the Massachusetts General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after **January 11, 2024** which is the date the Decision was filed in the office of the Town Clerk.

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



Falmouth Planning Board

59 Town Hall Square, Falmouth, MA 02540

Telephone: 508-495-7440 Fax: 508.495.7443 email: planning@falmouthma.gov

RECEIVED
JAN 30, 2024 AM 9:07
TOWN CLERK

Received By

January 30, 2024

Michael Palmer, Town Clerk
Falmouth Town Hall
59 Town Hall Square
Falmouth, Massachusetts 02540

FEB 2 2024

Planning Dept.

**Re: Special Permit Extension – Cove Cottage LLC and 108 Seapit Road LLC
98 and 108 Seapit Road – 32 21 005 026, 32 21 004 023**

Dear Michael,

At its meeting on January 23, 2024, the Planning Board voted to extend the statutory 3-year lapse period for the Special Permit (originally granted for the above referenced addresses on October 21, 2020) for an additional one year period to October 22, 2024. The Special Permit was granted to allow the adjustment of lot lines between the above two properties, with a lot to be created with an area having less than 80% of the required lot width.

Ms. Harris	Yes	Mr. Druley	Yes
Ms. Kerfoot	Yes	Ms. Harting-Barrat	Yes
Mr. Dreyer	Yes	Mr. Fox	Yes
Mr. Leary	Yes		

NOTE: Any appeal from this decision of the Planning Board can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (MGL) as amended, and must be filed within twenty (20) days after the date of filing of this decision with the Town Clerk.

Sincerely,

Jed Cornock, AICP
Town Planner

cc: Applicant

Town of Sandwich
THE OLDEST TOWN ON CAPE COD



Board of Appeals

100 Route 6A
Sandwich, MA 02563
Phone: 508-833-8001
Fax: 508-833-8006
E-mail: planning@sandwichmass.org

**Special Permit
Certificate of Approval**

Petition #	23-26
Current Property Owner(s):	Lori A. & Jose M. Nieves
Applicant:	Lori A. Nieves
Property Address:	46 Greenville Drive
Map, Parcel:	16-086
Book, Page:	35566, 297

TOWN CLERK
TOWN OF SANDWICH

JAN 10 2024

11:38 M A M
RECEIVED & RECORDED


On January 9, 2024, the Board of Appeals voted to approve a special permit from Sections 1330 and 2220 of the Sandwich Zoning By-law for property located at 46 Greenville Drive as shown on Assessor's Map 16, Parcel 086, for the purpose of operating a personal kennel accessory to a residential use.

The Board of Appeals certifies that the decision attached hereto is a true and correct copy of its decision to approve a special permit and that copies of said decision, and of all plans referred to in the decision, have been filed with the Board of Appeals and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 provides that no special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town clerk that twenty days have elapsed after the decision has been filed in the office of the town clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The owner or applicant shall pay the fee for such recording or registering. A copy of that registered decision shall be returned to the Planning & Development office as proof of filing.

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


Board of Appeals Member


Date

Received By

JAN 16 2024

Planning Dept.

PROCEDURAL HISTORY

1. An application from sections 1330 & 2220 of the Zoning By-Law for property located at 46 Greenville Drive was filed on December 12, 2023.
2. After proper notice was given the public hearing was opened on January 9, 2024 and closed on January 9, 2024
3. The application was not accompanied by a site plan.
4. The Board reviewed the application and all other materials submitted prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing.
5. The following members attended the public hearing:

James Killion
Christopher Neeven
Erik Van Buskirk
Chase Terrio
Kevin Kirrane

FINDINGS

The Zoning Board of Appeals finds that:

1. The Board of Appeals finds that this application meets the requirements of Section 9, M.G.L. Chapter 40A.
2. Subject property is located within the R2 Zoning District.
3. Applicant wishes to operate a personal kennel consisting of 5 dogs accessory to a residential use.
4. Section 1330 requirements:
 - a) The Board of Appeals does not find that there are conditions peculiar to this case but not generally true for similar permitted uses on other sites in the same district;
 - b) The Board of Appeals finds that nuisance, hazard or congestion will not be created;
 - c) The Board of Appeals finds that there will not be substantial harm to the neighborhood;
 - d) The Board of Appeals finds that there is no derogation from the intent of the bylaw such that the districts' objectives will be satisfied.
5. This kennel has been licensed and in operation for 7 years.
6. The building commissioner states that there have been no complaints relative to the kennel operation.

Motion: I, Christopher Neeven, move to adopt these findings as the findings of the Board of Appeals.

Second: Chase Terrio

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Erik Van Buskirk	Yes
	Chase Terrio	Yes
	Kevin Kirrane	Yes

CONDITIONS:

At the public hearing, the Board of Appeals considered potential conditions of approval for the special permit. The Board of Appeals voted that the following conditions of approval shall be imposed upon any approval of a special permit and that these conditions are reasonable and that the applicant and its successor-in-interest shall be bound by these conditions:

1. Failure to comply with all the conditions set forth in this decision shall terminate the grant of this special permit.
2. Pursuant to the requirements of Sandwich Protective Zoning By-law Section 1330, the grant of special permit shall expire upon:
 - a) Transfer of ownership, prior to initiation of substantial construction on or occupancy of the site unless such transfer is authorized in this permit, or
 - b) If no substantial construction or occupancy takes place within (3) three years of special permit approval, excluding such time required to pursue or await the determination of an appeal referred to in MGL C 40A, Section 17.
3. The special permit shall not take effect until it is recorded at the Barnstable County Registry of Deeds and a copy of the recorded special permit is provided to the Board of Appeals.
4. Special Permit is limited for use to the property owner and not open to the public.
5. Fecal waste is to be removed off site and not composted or buried on site.

Motion: I, Christopher Neeven, move to impose the above conditions of approval upon any approval of the special permit.

Second: Chase Terrio

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Erik Van Buskirk	Yes
	Chase Terrio	Yes
	Kevin Kirrane	Yes

DECISION:

After reviewing the application, the plan and other materials submitted and after giving due consideration to testimony given at the public hearing, the Board hereby approves the special permit application for property located at 46 Greenville Drive as shown on Assessor's Map 16, Parcel 086, for the purpose of operating a personal kennel accessory to a residential use.

Motion: I, James Killion, move to approve the special permit application.

Second: Christopher Neeven

Vote:	James Killion	Yes
	Christopher Neeven	Yes
	Erik Van Buskirk	Yes
	Chase Terrio	Yes
	Kevin Kirrane	Yes