



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Meeting of the Mashpee Planning Board
Wednesday, August 7, 2019
Waquoit Meeting Room, 6:00 PM

MASHPEE TOWN CLERK

AUG - 5 2019

RECEIVED BY 12:30

Call Meeting to Order

6:00 PM – Waquoit Meeting Room – Mashpee Town Hall

- Pledge of Allegiance

6:00 PM

- Workshop on Proposed Amendments to the ADU/Accessory Apartment Zoning Bylaw to receive public comment and possibly revise article submitted to the Board of Selectmen

Approval of Minutes

- Review and approval of meeting minutes from July 17, 2019

Public Hearings

7:10 PM – Proposed Road Naming ‘Mendes Way’

Under the provisions of MGL Chapter 85, Sections 3A and 3B, consider naming a private way on a parcel of land currently addressed as 341 Great Neck Road North. The proposed name is Mendes Way.

7:20 PM – Cape and Islands Engineering (Continued from July 17, 2019)

Cape and Island’s Engineering has submitted an application for consideration of a Definitive Subdivision pursuant to M.G.L. Chapter 41 Section 81T on behalf of Mark and Donna Lopez, subject property owners. The subject property is currently addressed as 103 Meetinghouse Road and identified on Assessor’s Map and Block 45-50-0. The parcel consists of 284,184+/-sq.ft. area, located on the west side of Meetinghouse Road and to the east of Mashpee River.

7:25 PM – Cape and Islands Engineering (Continued from July 17, 2019)

Cape and Island’s Engineering has submitted an application for consideration of a Special Permit for a Cluster Subdivision to create three (3) building lots and two (2) open space parcels pursuant to Massachusetts General Laws Chapter 40A Section 9 and the Mashpee Zoning Bylaw §174-25(l)(4) on behalf of Mark and Donna Lopez, property owners of the subject parcel. The parcel consists of 284,184+/-sq.ft. area, located on the west side of Meetinghouse Road and to the east of Mashpee River.

7:45 PM – Modi, LLC (Continued from July 17, 2019)

Modi, LLC has filed an Application for Special Permit to construct a coffee shop with facilities for processing and packaging coffee along with a future industrial tenant at 10 Evergreen Circle, Lot B (Map 19 Block 10) as required by Section 174-25 (l)(16) and Section 174-45.6 of the Mashpee Zoning Bylaw. The property is located in the C-3 Zoning District and is within the Light Industrial Overlay District.

New Business

- Vote to set public hearing date for consideration of an application made by Blue Sky Towers II, LLC to erect a personal wireless service facility at 101 Red Brook Road (Map 104, Lot 2)
- C. Rowley - July Invoice
- Sign road taking plans approved at the May 2019 Town Meeting for Leatherleaf Lane, Bog River Bend, Miller Farm Road and Ferngully Path.



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Old Business

- Proposed Development Agreement with Mashpee Commons
 - Correspondence from the Board of Selectmen
 - Development Agreements General Structure and Content

Chairman's Report

- EDIC – Temporary Sign Bylaw

Board Member Committee Reports

- One Cape Reports
- Cape Cod Commission, Community Preservation Committee, Design Review, Plan Review, Environmental Oversight Committee, Greenways/Quashnet Footbridge, Historic District Commission, Military Civilian Advisory Council.

Updates from Town Planner

- Discussion on amending standards for development in C-3 Districts and the requirements established in Section 174-31, special footnote 14 at a future Town Meeting.

Additional Topics (not reasonably anticipated by Chair)

Adjournment

MASHPEE TOWN CLERK

AUG - 5 2019

RECEIVED BY 12:30

ADU Proposal

Amanda Kaiser <amandak2080@gmail.com>

Wed 8/7/2019 12:25 PM

To: Evan Lehrer <ELehrer@mashpeema.gov>;

Cc: Evan Lehrer <ELehrer@mashpeema.gov>; Terrie Cook <tmcook@mashpeema.gov>;

To the Members of the Board of the Planning Board,

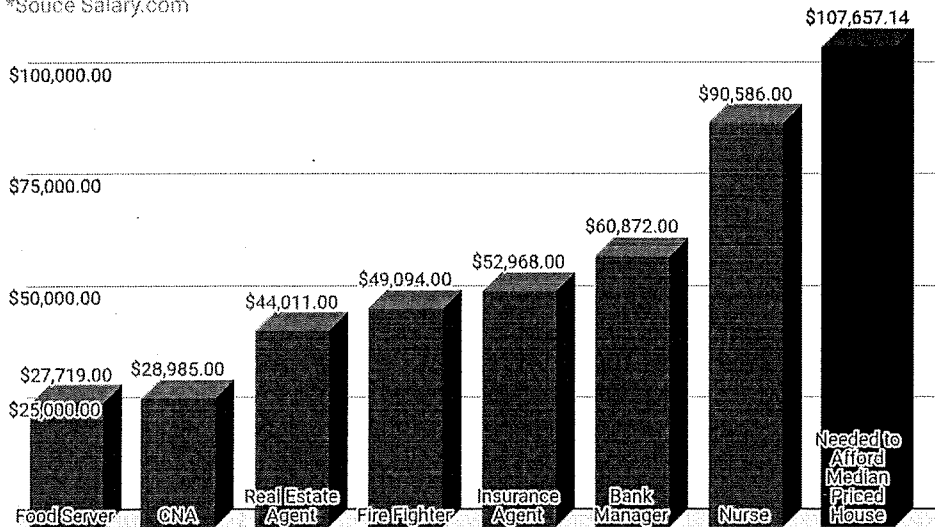
As a resident of the town of Mashpee and a young professional building a career around improving the economy of Cape Cod, housing is a major concern and I am pleased the town is considering changes to the accessory dwelling unit bylaw. I strongly encourage adoption of a bylaw that makes accessory apartments, whether attached or detached, by right rather than special permit or by design review.

Why do I so strongly support this proposal? One by one, I've watched as my friends have moved off-Cape. They've moved off-Cape because they can't make enough money to buy or rent housing on Cape Cod. They've moved off-Cape because they can't afford to raise a family here. The demand for housing on Cape Cod far outstrips the supply. This creates ever-rising prices. **This is a pattern that has already played out in other communities. Inaction is a choice that will allow the burgeoning housing crisis on Cape Cod to unfold without mitigation.**

The median home price for a single family home in Mashpee is already \$445,000. Most financial advisers agree that no more than 28% of an individual's income should be devoted to their mortgage payment. To afford the estimated monthly payment on an average home in Mashpee, a person would need to earn more than \$100,000. That's a hopeless hurdle for the people who are staffing our kitchens and restaurants - a critical area of our tourism-based economy. It prices out the certified nursing assistants that are helping our rapidly aging population. It's more than working professionals like insurance agents and bankers can afford. The real estate agents that are selling the houses can't afford to buy them. Emergency responders like firefighters and ER nurses don't make enough to make the income requirements for the mortgage on an average Mashpee home. **Average people can't afford our average homes. We must take action to try to increase the housing supply in our town.**

Estimated Annual Income

*Source Salary.com



I care very much for my town and the need to balance housing with the environment and neighborhood character. A by right ADU bylaw achieves a perfect balance of all three: it creates housing rapidly, without waiting for onerous permitting process or state or national funding sources, preserves open space and prohibits homeowners from adding any more bedrooms than their septic can handle, and requires the accessory unit blend in with the architectural details of the existing house and be substantially smaller in size so it blends in with the neighborhood.

However, many homeowners don't bother applying for a permit when they think it's going to be a complicated or expensive process. **The existing process (special permit) treats the homeowner as though they have the time and resources of a private developer, when most Mashpee people I know have very tight margins with which to build such a structure.** Therefore any effort to go backwards towards anything other than by right is just adding another hurdle at a time **we need to remove barriers** and make it as easy as possible to add this type of environmentally and neighborhood friendly housing.

Thank you for listening to my concerns.

Sincerely,
Amanda Kaiser
174 Lowell Road, #99

Mashpee, MA

Article ____:

To see if the Town will vote to amend §174-45.4 of the Mashpee Zoning Bylaw as follows:

Delete the word 'Special' and replace with 'Building' and delete the phrase "by the Board of Appeals" in the first sentence to read,

"A Building Permit authorizing one (1) accessory apartment may be granted if consistent with the following:"

Delete the word 'Special' and replace with the word 'Building' in the second sentence of Subsection A to read

"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 occupancy of the principal dwelling unit."

Delete Subsection B in its entirety and replace with, "The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms. The principal dwelling unit and accessory apartment shall meet all conservation, and historic requirements if applicable."

In the first sentence of Subsection C add the word 'and' between the words 'use' and 'installation' to read,

"The design, installation, and use of an accessory apartment shall be secondary and incidental to the principal use of the structure as the owner's home."

In the second sentence of Subsection C add the word 'may' between the words 'apartment' and 'be' and the phrase 'or constructed within a new or pre-existing detached structure' after the word 'home' to close the sentence to read,

"An accessory apartment may be located within the same structure as said home or constructed within a new or pre-existing detached structure."

In the third sentence of Subsection C delete the word 'Special' and replace with the word 'Building' to read,

"The gross floor area of the accessory apartment shall be not less than three hundred (300') square feet nor more than forty percent (40%) of the gross floor area of said structure on the date the Building Permit application is filed."

In the first paragraph of Subsection E add the phrase 'located within the same structure as the applicant's home' after the word 'apartment' and before the word 'shall' to read,

“Modifications to the exterior of an existing principal structure resulting from the installation of an accessory apartment located within the same structure as the applicant’s home shall be consistent with the principal structure’s predominant character as a single-family home.”

Insert a new paragraph in Subsection E to read,

“Detached accessory apartments shall be consistent with the principal structure’s dominant design character, will contribute to the subject property’s lot coverage maximum and shall comply with the dimensional criteria established in § 174-31.”

In Subsection F delete the phrase ‘in addition to any other off-street parking requirement’ and end sentence. Insert new sentence to read, “All parking for accessory apartments shall be off-street.”

In Subsection G delete the word ‘Board’ and replace with the words ‘Building Commissioner’ to read as follows,

“No new driveway or curb cut shall be created to service the accessory apartment, unless the Building Commissioner determines that, due to severe topographic or other constraints on the lot, the required parking cannot be provided without relief from this provision and unless any necessary town or state curb cut permit is approved.

Delete Section H in its entirety.

Delete Section I in its entirety.

Recodify Subsection J to Subsection H

Amend new subsection H to read as follows,

“The accessory apartment shall not be occupied until a Certificate of Occupancy has been issued by the Building Inspector. Upon passage of a Rental Property Bylaw, the accessory apartment shall not be rented until first registering with the Board of Health and a Rental Certificate has been obtained.”

Insert new Subsection I to read,

“An accessory apartment shall not be used for boarding and lodging, or other commercial use. An accessory apartment and principal dwelling to which it is accessory may be rented for periods not shorter than one month at a time, and are prohibited from any use as rental units on a weekly or daily basis. Property owners who fail to comply with this requirement shall be subject to a three-hundred dollar (\$300) fine each day that this violation persists.”

Insert new Subsection J to read,

“An accessory apartment is not intended for sale. The principal dwelling and accessory apartment and lot on which they are located shall remain in common or single ownership, and

shall not be severed in ownership, including that the lot or buildings thereon shall not be placed in a condominium form of ownership.”

Insert new Subsection K to read,

“Monitoring and Enforcement. A determination that the owner has failed to comply with the forgoing criteria shall be evidence that the rights and benefits conferred hereunder are null and void and the elements that make the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing elements determined to be unpermitted. A property owner who fails to comply shall also be subject to fines and penalties established under any rental property bylaw.”

Insert new Subsection L to read,

“Pre-existing legal units. The rights and requirements of this bylaw hereby transfer to any property owner who has constructed or has been granted the rights to construct an accessory apartment under a Special Permit from the Board of Appeals prior to the adoption of this bylaw. The Building Commissioner or his designee shall convey notice of such to said property owners by December 31, 2020.”

Insert new Subsection M to read,

“Amnesty. In an effort to meet local housing needs, real property containing an accessory apartment as described in this Section, for which a validly-issued Variance, Special Permit, Building Permit, Occupancy Permit within seven (7) years of the date of the adoption of this bylaw. An Occupancy Permit shall not be granted unless the Building Commissioner has determined that the accessory apartment meets all state and local building codes. The accessory apartment must follow all applicable rental property bylaws and Board of Health Regulations. Amnesty is for accessory apartments not permitted prior to the passage of this bylaw and shall not be granted unless the septic loading capacity for existing structure(s) and the existing approved septic flow for the property, both comply with the requirements of the Mashpee Board of Health regulations and 310 CMR 15.00 – The State Environmental Code, Title 5. Failure to comply with all pertinent State and local rules and regulations shall result in forfeiture of the accessory dwelling unit and/or the removal of the bedroom(s) causing exceedance to the approved septic flow capacity of the property”

Submitted by the Board of Selectmen

Explanation

This article would allow for the development of accessory apartments as a by right use. It would also allow for the development of accessory apartments in newly constructed or pre-existing

detached structures. Accessory apartments would also be allowed to be constructed within the principal structures existing envelope. It also defines standards limiting short term rentals.

Article ____:

To see if the Town will vote to amend §174-45.4 of the Mashpee Zoning Bylaw as follows:

§174-45.4 Accessory Apartment:

A ~~Special Permit~~**Building Permit** authorizing one (1) accessory apartment per lot may be granted ~~by the Board of Appeals~~ if consistent with the following:

- A. In order for an accessory apartment to be permitted, in addition to meeting all of the requirements under subsections B-L, the principal dwelling unit shall not be occupied by anyone other than the property owner as listed on the latest recorded deed. On an annual basis coinciding with the initial date of issuance of the **Building Permit Special Permit**, the property owner shall submit to the Building Inspector sufficient evidence to demonstrate occupancy of the principal dwelling unit.
- B. **The principal dwelling unit and accessory apartment shall meet all wastewater treatment requirements for the combined number of bedrooms. The principal dwelling unit and accessory apartment shall meet all conservation, and historic requirements if applicable.**
~~The Applicant must provide documentation, endorsed by the Board of Health or its agent, that the proposed accessory apartment conforms to with all state and town health and sewage disposal regulations.~~
- C. **Unit Size.** The design, installation, **and** use of an accessory apartment shall be secondary and incidental to the principal use of the structure as the owner's home. An accessory apartment **may** be located within the same structure as said home **or constructed within a new or pre-existing detached structure.** The gross floor area of the accessory apartment shall be not less than three hundred (300') square feet nor more than forty percent (40%) of the gross floor area of said structure on the date the **Building Permit Special Permit** application is filed.
- D. **Interior Design.** The accessory apartment shall be self-contained, with separate sleeping, cooking and sanitary facilities for the exclusive use of the occupant(s). Provided that the requirements of subsection B are met, there shall be a maximum of two (2) bedrooms in an accessory apartment. Rooms which might be converted at some future time to a bedroom, such as studies, studios, libraries and the like, shall be counted as bedrooms for the purposes of this Section.

- E. **Exterior Design.** Modifications to the exterior of an existing principal structure resulting from the installation of an accessory apartment **located within the same structure as the applicant's home** shall be consistent with the principal structure's predominant character as a single-family home.

Detached accessory apartments shall be consistent with the principal structure's dominant design character, will contribute to the subject property's lot coverage maximum and shall comply with the dimensional criteria established in § 174-31.

Appropriate landscaping may be required in order to provide a buffer between the applicant's lot and abutting properties.

- F. **Parking.** Notwithstanding the provision of § 174-39, at least one (1) off-street parking space shall be provided for the accessory apartment. All parking for Accessory Apartments shall be off-street. ~~in addition to any other off-street parking requirement.~~

- G. No new driveway or curb cut shall be created to service the accessory apartment, unless the **Building Commissioner Board** determines that, due to severe topographic or other constraints on the lot, the required parking cannot be provided without relief from this provision and unless any necessary town or state curb cut permit is approved.

~~H. Any application for a Special Permit under this Section shall require the submission of three (3) original copies of the application, plans and documentation required under §174-24C.3 for Special Permit application to the Board of Appeals.~~

~~I. The Special Permit granted under this section shall run with the property owner and shall lapse upon sale and/or transfer to another property owner.~~

- H. **The accessory apartment shall not be occupied until a Certificate of Occupancy has been issued by the Building Inspector. Upon passage of a Rental Property Bylaw, the accessory apartment shall not be rented until first registering with the Board of Health and a Rental Certificate has been obtained.**

~~I. A single accessory apartment per existing principal structure is exempt from the Plan Review requirement of §174-24.B.~~

- I. **An accessory apartment shall not be used for boarding and lodging, or other commercial use. An accessory apartment and principal dwelling to which it is accessory may be rented for periods not shorter than one month at a time, and are prohibited from any use as rental units on a weekly or daily basis. Property owners who fail to comply with this requirement shall be subject to a three-hundred dollar (\$300) fine each day that this violation persists.**

- J. **An accessory apartment is not intended for sale. The principal dwelling and accessory apartment and lot on which they are located shall remain in common or single**

ownership, and shall not be severed in ownership, including that the lot or buildings thereon shall not be placed in a condominium form of ownership.

- K. **Monitoring and Enforcement.** A determination that the owner has failed to comply with the forgoing criteria shall be evidence that the rights and benefits conferred hereunder are null and void and the elements that make the accessory apartment a separate dwelling unit shall be removed from the property within 90 days of said determination, with the owner to comply with all requirements of the State Building Code and Town Zoning in removing elements determined to be unpermitted. A property owner who fails to comply shall also be subject to fines and penalties established under any Rental Property General Bylaw.

- L. **Pre-existing legal units** The rights and requirements of this bylaw hereby transfer to any property owner who has constructed or has been granted the rights to construct an accessory apartment under a Special Permit from the Board of Appeals prior to the adoption of this bylaw. The Building Commissioner or his designee shall convey notice of such to said property owners by December 31, 2020.

- L. **Amnesty.** In an effort to meet local housing needs, real property containing an accessory apartment as described in this Section, for which a validly-issued Variance, Special Permit, Building Permit, Occupancy Permit or Rental Certificate does not exist, may apply to the Building Department for an Occupancy Permit or to the Health Department for a Rental Certificate to continue legal use as an accessory apartment. Amnesty is for accessory apartments not permitted prior to the passage of this bylaw and shall not be granted unless the septic loading capacity for existing structure(s) and the existing approved septic flow for the property, both comply with the requirements of the Mashpee Board of Health regulations and 310 CMR 15.00 – The State Environmental Code, Title 5. Failure to comply with all pertinent State and local rules and regulations shall result in forfeiture of the accessory dwelling unit and/or the removal of the bedroom(s) causing exceedance to the approved septic flow capacity of the property

Submitted by Board of Selectmen

EXPLANATION:

This article would allow for the development of accessory apartments as a by right use. It would also allow for the development of accessory apartments in newly constructed or pre-existing detached structures. Accessory apartments would also be allowed to be constructed within the

principal structures existing envelope. It also defines standards limiting short term rentals and establishes enforcement criteria.

**Mashpee Planning Board
Minutes of Meeting
July 17, 2019 at 7:00 p.m.
Mashpee Town Hall-Waquoit Meeting Room
16 Great Neck Road North
Approved 8/21/19**

Present: Chairman Mary Waygan, Vice Chairman Joe Cummings, Dennis Balzarini, John (Jack) Phelan, Joseph Callahan, Robert (Rob) Hansen (Alt.)
Also: Evan Lehrer-Town Planner, Charles Rowley-Consultant Engineer

CALL TO ORDER

The Town of Mashpee Planning Board meeting was opened with a quorum in the Waquoit Meeting Room at Mashpee Town Hall by Chairman Waygan, at 7:00 p.m. on Wednesday, July 17, 2019. The Chair welcomed attendees and stated that the meeting was being videographed and recorded and noted that, if the public were to address the Board, to do so stating their name, address and comment. The Pledge of Allegiance was recited. The Chair announced that, with Public Hearings listed on the agenda, the public would have the opportunity to address the Board. The Chair noted that the 7:10 p.m. and 7:15 p.m. hearings would be continued.

APPROVAL OF MINUTES—July 3, 2019

MOTION: Mr. Balzarini made a motion to approve the minutes as presented. Mr. Callahan seconded the motion. All voted unanimously.

PUBLIC HEARINGS

7:10 p.m. Cape & Islands Engineering Application for Definitive Subdivision at 103 Meetinghouse Road, Assessor’s Map and Block 45-50-0.

The appointed time having arrived, the Chair opened the Public Hearing and read for the record the Public Hearing Notice and request. The Chair read correspondence received from Matt Costa of Cape & Islands Engineering, dated July 16, 2019, requesting a continuance for another two weeks. The Chair noted that additional correspondence was received from The Trustees and Division of Fisheries & Wildlife. The Chair explained that ownership properties were being transferred and the State Legislature had been referenced in the letter requesting the continuance. As a result, the Board would be unable to accept public comment but could provide copies of the correspondence and recommended any comments be directed to the Town Planner.

MOTION: Mr. Balzarini made a motion to continue to August 7th at 7:20 p.m. Mr. Cummings seconded the motion. All voted unanimously.

The Chair provided correspondence to interested parties.

7:15 p.m. Cape & Islands Engineering Application for Special Permit for Cluster Subdivision to Create Three Building Lots and Two Open Space Parcels

The Chair opened the Public Hearing and read for the record the Public Hearing Notice and request.

MOTION: Mr. Balzarini made a motion to place on the agenda for 7:25 p.m. on August 7th. Mr. Cummings seconded the motion. All voted unanimously.

7:30 p.m. Modi, LLC Application for Special Permit to Construct Coffee Shop with Facilities for Processing and Packaging Coffee, with Future Industrial Tenant at 10 Evergreen Circle, Lot B (Map 19 Block 10) Located in the C-3 Zoning District, within the Light Industrial Overlay District

The Chair opened the Public Hearing and read for the record the Public Hearing Notice and request from Modi, LLC. Jan Aggerbeck, owner of Modi, LLC/Cape Cod Coffee, summarized his business established in 1970, and its expansion to roasting. Mr. Aggerbeck wished to relocate to a new site where the business could grow and offer both roasting and coffee service. Richard Tabaczynski, civil engineer for the project, helped to develop the site plans and coordinated the lighting and landscape plans. Mr. Tabaczynski described the site plans, including the loading and parking areas, the above ground infiltration for ground water and the green space and landscape areas. Parking requirements were met, based on the use of the building, offering 50 spaces with a requirement of 34 spaces. Enclosed trash area, sidewalks and stop signs were also identified on the site plan. Mr. Tabaczynski stated that the building met all setback requirements, including a covered porch that would surround the building. Regarding the landscape plan, landscaping would be placed around the building with beds and trees as well as street trees with small planting beds. There would be a fire pit and outdoor seating, with landscaping located in those areas. Plantings would also be placed in the parking areas for aesthetic purposes. The basin would be grassed with no special plantings. There would be lawn areas and a fence along the southern lot line and split rail fence to enclose the front of the building for outdoor use. Utilities would be placed underground and the denitrification system would be located at the rear of the building. Two separate stormwater systems would be installed, one for roof runoff that would flow to underground chambers and the parking lot discharge through several catch basins, in accordance with requirements.

Mike Hillsinger, architect, discussed changes to include window detail changes and the addition of a decorative trellis, to break up the wall. Bollards were also added to the back of the building. A black roof was planned, along with grey board and batten siding with black window frames. The side of the building facing Route 130 (east elevation) would be a farmhouse style with the wrap around porch, whereas the rear (west elevation) would be more basic. The two sides facing roadways (Route 130 and Evergreen) would be more dressed up, because the building was located on a corner lot.

Mr. Balzarini inquired about the septic and leaching fields and potential overflows damaging the septic system. Mr. Rowley stated that the runoff would enter the surface disposal area, traveling away from the onsite sewer system.

Mr. Cummings inquired whether the Fire Department should have access to all four sides of the building. Mr. Phelan responded that, by code, 250 feet was needed from the parking area. Mr. Cummings inquired about the street sign and it exceeding the 20 square foot maximum. Mr. Aggerbeck responded that they would be relocating the existing sign, as it was already approved by the Town, replacing #348 with #10. The Chair indicated that the sign would be added to a list for potential relief. There was discussion regarding signage regulations and maximums. Mr. Lehrer would clarify the matter further.

The Chair inquired about the potential future industrial tenant and whether there was too much parking impacting buffers. Mr. Aggerbeck responded that Cape Cod Coffee would be occupying 8,500 square feet, with 1,500 potentially available to a potential tenant. The Chair inquired whether Mr. Aggerbeck would be willing to accept a condition that the use would be compatible with the current food use, to avoid such uses as toxic waste processing. Mr. Aggerbeck responded that he would want the tenant to be compatible, otherwise they would likely use the space themselves.

The Chair stated that not matching the landscaping plan and the site plan made it difficult to interpret and asked that dimensions be added to the landscaping plan. Additionally, the Chair noted that there was a modification to the Bylaw regarding the Overlay District, not yet approved by the Attorney General, and inquired whether or not it applied to this project. Mr. Aggerbeck confirmed that they would like to add outdoor seating, but that it was not necessary. The Chair responded that the eating place was allowed but that it needed to have vegetated visual screening due to the abutting residential area. In addition, the design needed to comply with the design guidelines of the Cape Cod Commission. Mr. Lehrer noted that some changes had been made to the design, based on the Cape Cod Commission design guidelines, such as the arbors or landscaping, to break up the long blank wall. Mr. Lehrer agreed to forward the guidelines to Planning Board members.

Mr. Phelan inquired about the rope barriers listed on the plan and Mr. Hillsinger responded that the rope barrier would be located only on the porch. The Chair inquired about the overhead doors and Mr. Hillsinger responded that they would be open during summer months, and not used for loading or unloading. Mr. Phelan inquired further about the egress flow of the area in case of an emergency, particularly with the location of the fire pits. Mr. Tabaczynski responded that there was a gate and stepping stones to access the parking area at the rear. The Chair suggested that the plan required more labels. Mr. Phelan suggested the addition of building dimensions and Mr. Hillsinger responded that the building was 162 feet by 60 feet.

Mr. Lehrer stated that the request to waive the buffer requirements from the nearest residential parcel from 100 feet to 50 feet required notice to abutters for when the Board would be discussing the matter. The Chair stated that the Board could consider the possibility of the reduction on August 7 and Mr. Lehrer would then notice the abutters at least 14 days. The Chair inquired whether there were additional waivers. The Chair was unsure if the buffer was a waiver or variance and Mr. Lehrer read the Standards for C-3 Districts.

Mr. Phelan inquired whether there would be buffering along the 6 foot fence located on the south side, and it was confirmed that it would be the fence only. Due to the location of the abutting May Institute, who is providing on-site skills training, and the potential for sound and noise issues at Cape Cod Coffee, Mr. Phelan suggested that additional buffering may be preferable.

Mr. Hansen referenced the RAB and lighting details and inquired about the set of lights closest to the dumpsters that may not shed sufficient light for employee accessibility. Mr. Hillsinger suggested that the lighting could be adjusted by providing a different head style on the post and would not significantly change the plan.

Mr. Lehrer noted that zoning in the C-3 district defined the front of the building as the side facing Route 130.

Copies of Mr. Rowley's letter were provided to the project proponent. Upon review of the site location, Mr. Rowley referenced the land space requirement and the necessity for a 10 foot natural buffer for the rear and side lines in the Commercial Zoning District. Site plan 5-4-4 showed the clearing limits to the boundary of the lot. If the area was to be cleared, landscaping would need to be enhanced to create a buffer. In addition, the buffer in front of Route 130, west of Great Neck Road, required a 50 foot undisturbed natural buffer. Sheet 4 or 5 showed contour line changes with grades from 6 feet to 2 feet, emphasizing that the natural buffer needed to remain and could not be made into a lawn as depicted, or relief granted from the Zoning Bylaw. The buffer located at the back line of the fence, and side line where drainage was located, required loam and seeding and could be considered a landscaped area.

Regarding the entrances to the parcels from Evergreen Circle, templates for the Fire Department's tower truck showed that navigation would not be possible without running over the curbs. Adjustments to the entrance closest to Route 130, with a wider island, may allow access for the fire truck. The more southerly entrance could have an increased radius in order to accommodate the apparatus, however, neither change would address the internal circulation challenges which could be addressed by the Fire Department. Mr. Aggerbeck stated that the Fire Chief had reviewed the plan and accepted the layout, but Mr. Phelan indicated that the Fire Chief likely was unaware of the turning radius. The Chair asked that Mr. Rowley follow up with the Fire Chief so that comments could be provided in writing.

Mr. Rowley referenced the front view of the building, and the possibility of parking being located elsewhere, but that the Bylaw provided the Board with the latitude to allow for the location of the parking in Section 174-37. There were some issues regarding curbing and grading matters that could be addressed directly with the project's engineer. There was consensus from Board members that Mr. Rowley work with the engineer on minor details.

Mr. Rowley noted that the project proponent planned to request a waiver from the Board of Health to install the reserve area at the time of the construction, which could impact the site construction. Mr. Rowley suggested that any necessary adjustments should be shared with the Planning Board.

Regarding the landscape plan, Mr. Rowley noted inconsistencies surrounding the patio area, with different shapes being shown on different plans. The Operations and Maintenance Plan included with the Stormwater Management Program should be incorporated by Board approval.

Evergreen Circle's water quality report and calculations of the square footage of the site plan exceeded the 10,000 square foot figure provided by Holmes McGrath. Including the porch and covered pavilion, Mr. Rowley calculated a figure of 11,784 square feet or 8,650 square feet without the porch and pavilion. A determination was needed to determine whether or not the plans were compliant or non-compliant with the nitrogen assumptions. Mr. Tabaczynski stated that they had been in receipt of a letter dated November 15, 2017 from Holmes McGrath that listed nitrate assumptions indicating that the building would occupy 20% of the land area, totaling 15,000 square feet. Mr. Rowley suggested

that further review would be needed if there were updates to the letter. The Chair inquired whether the subdivision had been reviewed by the Cape Cod Commission and Mr. Lehrer confirmed that he would provide the Board and Mr. Rowley with their decision. Mr. Tabaczynski stated that nitrogen loading from a roof top was significantly less than loading from paved areas, lawns and septic systems. Mr. Tabaczynski stated that the building calculations were 0.75 ppm loading rate, and would be negligible compared to 35 ppm loading rate for a septic system.

The Chair invited public comment and announced that the hearing would be continued to the first meeting in August, and also invited the public to submit comments through the Town Planner or Planning Department staff. There was no public comment.

Mr. Hansen inquired about the front building elevation and main entrance and Mr. Hillsinger responded that the main entrance was located on the side. Mr. Hansen inquired about a “fixed” door and Mr. Hillsinger responded that it was an unusable door placed to create symmetry and control traffic.

The Chair suggested a condition that a proposed tenant would be compatible with respect to health and safety, requested that the project proponent develop a list of waivers needed and Mr. Lehrer would confirm notifying abutters and inquire further about variances. Mr. Lehrer noted that the Zoning was clear that the Planning Board had discretion to make a determination regarding the variance. The Chair further added that the project proponent would add landscape elements to the site plan, particularly the buffers, add dimensions to the building and to the landscaping plan. The Chair advised reviewing Bylaw changes approved in May and how best to address those changes. The Chair would follow up with Town Counsel to confirm when those changes would take effect. Mr. Tabaczynski inquired whether their design was in compliance and the Chair responded that the guidebook highlighted areas such as architecture, landscaping, energy efficiency and recommended addressing the matter in a statement. Mr. Aggerbeck expressed his desire to remain in Mashpee and was seeking approval to move forward with a funding deadline in August. The Chair recommended converting the landscaping plan into colorized sketches for abutters, as well as reaching out to the abutters directly to share the information in advance of the next Planning Board meeting. Mr. Aggerbeck encouraged any interested parties to also reach out to him with any questions, adding that they had designed the structure in such a way that would be appealing to all, including the use of smokeless equipment. The Chair encouraged the project proponent’s team to work with Mr. Rowley to address issues discussed. Mr. Rowley suggested reviewing footnote 14 under Section 174-31 regarding the 50 foot buffer, and that under certain conditions, the Planning Board could make modifications with careful consideration. Mr. Lehrer referenced Section 174-25.1, Subsection 4. Mr. Rowley referenced the project proponent’s potential time crunch, offering his willingness to meet at Town Hall as convenient.

MOTION: Mr. Balzarini made a motion to continue this to August 7th at 7:45 p.m. Mr. Callahan seconded the motion. All voted unanimously.

APPROVAL NOT REQUIRED

Jonathan Pelloni, 28 Blue Castle Drive, Assessors Map and Block 104-11-0

Jonathan Pelloni, 20 Blue Castle Drive, Assessors Map and Block 104-1-0A-0-Jonathan Pelloni, attorney for property owners Duco Associates at 28 Blue Castle Drive and Ellen Brady at 20

Blue Castle Drive, was present to request an Approval Not Required for the two properties. Blue Castle Drive was an unpaved private road and Mr. Pelloni was seeking a determination from the Planning Board as to whether the roadway provided adequate access to both lots. Mr. Pelloni stated that, through the approval of the Ockway Highlands Subdivision, determination had been made, by implication, acknowledging that the road would be sufficient for use for the development. Significant concerns included safe passage of the road, which were addressed through the permitting process. Mr. Pelloni was seeking approval from the Board that the road provided adequate access to the lots.

Mr. Balzarini stated that the road had been in use for 25-30 years and its condition had been improved with the recent site preparations for the approved development.

Mr. Rowley referenced Section 81-L, confirming that the Board would need to determine if the frontage met one of three categories: 1) shown on a subdivision plan approved by the Planning Board, which it did not; 2) a way certified as a Town way, which it was not; or 3) a way in existence before the adoption of Subdivision Control but provided suitable access with grade or construction for the purposes of the lots being constructed. Mr. Rowley stated that the Planning Board's decision did not negate the requirement to satisfy the Zoning Bylaw by acquiring a building permit with the Zoning Board of Appeals or the Building Commissioner.

There were no additional questions.

MOTION: Mr. Balzarini made a motion to endorse the ANR for 28 Blue Castle Drive dated May 9, 2019. Mr. Callahan seconded the motion. All voted unanimously.

MOTION: Mr. Balzarini made a motion to endorse the ANR for 20 Blue Castle Drive dated May 9, 2019. Mr. Callahan seconded the motion. All voted unanimously.

The Plans were signed by Planning Board members.

NEW BUSINESS

Set Public Hearing Date for Special Permit Application for Kevin Andrade-Mr. Lehrer confirmed that there were not yet any Public Hearings scheduled for the proposed meeting. Mr. Phelan inquired whether he could submit comments if he were in receipt of the plans, but absent from the meeting and the Chair confirmed that he could miss one Public Hearing session, and follow up by reviewing the documents and testimony and signing a letter certifying his review of the meeting. Mr. Hansen confirmed that he would be in attendance.

MOTION: Mr. Balzarini made a motion to schedule the Public Hearing for August 21st at 7:10 p.m. Mr. Callahan seconded the motion. All voted unanimously.

October Town Meeting, Submitted Warrant Articles-The Chair confirmed that the Bylaw Review Committee would be putting forth 31 amendments to the Town's Bylaw. The Chair confirmed that one of the amendments would adjust the deadline for Zoning Bylaws, moving it from July to August. Within the packet, there were two proposed amendments to the Zoning Bylaws, Temporary Seasonal Sign Bylaw and the Accessory Dwelling Unit Bylaw. The Chair had been in Contact with

Selectman Sherman regarding waiting on the Temporary Seasonal Sign Bylaw. Regarding the ADU, Mr. Balzarini suggested that abutters should be notified of an ADU separate from the primary residence. Mr. Lehrer stated that the by right use was intended to simplify the process for the owners and to create more rental units, but noted that the Board could consider making a detached accessory apartment a separate use in the table to be reviewed by Plan Review or through the Special Permit process. Mr. Phelan stated that there would only be a single apartment with 1-2 bedrooms. Mr. Balzarini stated his preference that new construction of a detached accessory apartment require notification of abutters. Mr. Lehrer stated that the design criteria for the unit would continue to be restrictive, including being limited to 40% of gross floor coverage of the principal residence. The Chair was in agreement with Mr. Balzarini, and suggested developing a compromise. The Chair suggested a workshop to allow comments and further discussion. Mr. Phelan agreed that there could be language added about new construction, but that it should not be overcomplicated. The Chair noted that concern had been expressed about the one month requirement from residents attending the previous meeting and suggested opening the matter for public comment. Mr. Lehrer indicated that a three month minimum would be a compromise but anything more could restrict the seasonal workforce. There was consensus to add the matter to the next agenda on August 7, to accept public comment. The Chair would follow up with Selectman Gottlieb to confirm the plans of the Board, and the item would remain on the agenda.

Mashpee Commons Intent to Apply for Development Agreement-The matter was discussed at a joint meeting with the Board of Selectmen and Mr. Phelan reported that the Planning Board would serve as the lead, but that other parties would be involved to develop a mutual discussion. It was suggested that the Planning Board begin their meeting one hour earlier to enable group discussion about Mashpee Commons. There was discussion about the needs of the Town and the needs of Mashpee Commons. The Chair requested that Mr. Lehrer distribute the local Bylaw for the Development Agreement identifying the Planning Board as the lead, though Mr. Phelan indicated that everyone was already aware of the Bylaw. The Chair asked that Mr. Lehrer distribute all related documentation and links to the Board members. There was consensus to begin meeting with Mashpee Commons before the proposal was submitted to the Cape Cod Commission. The Chair stated that all matters for consideration in the Development Agreement included all chapters in the Local Comprehensive Plan and all of the Technical Bulletins, and asked that Mr. Lehrer develop a list.

Mr. Lehrer stated that it was a proposed agreement among three parties and Selectman Gottlieb had inquired as to who would lead the meetings. Selectman Gottlieb planned to speak with Kristy Senatori and the Chair confirmed that she would communicate Chair to Chair to clarify the information. Mr. Balzarini stated that the Cape Cod Commission should be working for the Town. The Chair stated that the Development Agreement would be written, but final approval would be by the Board of Selectmen. The Chair asked for Mr. Lehrer's technical assistance, as well as assistance identifying any necessary consultants to research or review plans or prior research. Previously, Mashpee Commons funded consultants for review of their work. Mr. Balzarini suggested inviting Mashpee interested Committees/Boards to the first meeting and Mr. Phelan recommended establishing ground rules at the first meeting. The Chair inquired about other Development Agreements and Mr. Balzarini believed that Yarmouth was the only other Agreement. Mr. Phelan added that no more than 2 members of a Committee should attend. The Chair would follow up with Selectman Gottlieb.

One Cape Registration-Mr. Lehrer stated that 4 members had confirmed attendance and the invoice was ready for signature and \$360 (\$90 each) had been authorized for payment. Mr. Balzarini may sign up under a separate registration.

MOTION: Mr. Balzarini made a motion to make the payment. Mr. Phelan seconded the motion. All voted unanimously.

OLD BUSINESS

CHAIRMAN'S REPORT

The Chair reported that she had attended the Mashpee EDIC meeting, noting that efforts to utilize Town-owned land for a hotel may instead be utilized for housing. The Chair offered to share model Zoning Bylaws with Selectman Sherman to develop local action units, to adjust setbacks and develop affordable housing and gave the Town more control over the type of housing developed.

At a recent Board of Selectmen meeting, there was discussion regarding noise attenuation efforts for the pickle ball courts. There was also discussion about a possible proposal reducing Community Preservations funds to 2% and adding 2% for wastewater.

BOARD MEMBER COMMITTEE UPDATES

Cape Cod Commission-No update

Community Preservation Committee-As discussed above

Design Review Committee-Mr. Callahan reported that the Committee reviewed a 7,000 square foot warehouse on Evergreen Circle, as well as an application for a proposed 9,993 commercial building on Route 151 for a Dollar Tree. Interest was expressed in ensuring a more Cape Cod design for the Dollar Tree. Both matters were in the early stages and would be reviewed again.

Plan Review-Mr. Lehrer reported that he had voted against the Dollar Tree proposal because the applicant was creating their own hardship due to its size and today's restrictions, and requesting a lengthy list of relief and variances. Mr. Lehrer suggested a smaller building or other location may be better suited for the proposal.

Environmental Oversight Committee-Mr. Cummings reported that the helium balloon bylaw would be considered at October Town Meeting. Mr. Cummings also reported that Solar Bee would be donating an additional Solar Bee for one year. Sampling for July and August would occur in Santuit and Ashumet Ponds and 4 ½ million quahogs would be placed in Mashpee River. Efforts would also be made to clean up Johns Pond.

Greenway Project & Quashnet Footbridge-No update

Historic District Commission- No meeting

MMR Military Civilian Community Council-MMR Joint Land Use Study-Mr. Phelan reported that the name had changed to Community Advisory Council and required an appointment from the Governor. Mr. Phelan was awaiting confirmation from the Town Manager regarding his appointment. The Council would meet twice per year. Mr. Lehrer will correct the Council name on the agenda.

UPDATES FROM TOWN PLANNER

Mr. Lehrer reported that he would be presenting Form Based Codes at the One Cape Summit.

ADDITIONAL TOPICS

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Callahan seconded the motion. All voted unanimously. The meeting adjourned at 9:14 p.m.

Respectfully submitted,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS PROVIDED

Additional documentation may be available in the Planning Department

- Application Approval Not Required and Accompanying Documentation, 28 Blue Castle Drive
- Application Approval Not Required and Accompanying Documentation, 28 Blue Castle Drive
- Public Hearing Notice, Special Permit, 103 Meetinghouse Road
- 7/16/19 Matt Costa, Cape & Islands Engineering, Letter Requesting Continuance for 103 Meetinghouse Road
- 7/17/19 Letter from Robert Warren of The Trustees, Referencing 103 Meetinghouse Road
- 7/17/19 Letter Division of Fisheries & Wildlife, Referencing 103 Meetinghouse Road
- Public Hearing Notice, Definitive Subdivision of Land, 103 Meetinghouse Road
- Public Hearing Notice, Special Permit Application, Modi, LLC
- Modi, LLC Application for Special Permit and Accompanying Documentation
- Site Plans, Cape Cod Coffee
- Lighting Layout, Cape Cod Coffee
- Landscape Design, Cape Cod Coffee
- 7/12/19 Charles Rowley Letter Regarding Cape Cod Coffee Site Plan Review
- Article 27 Bylaw Amendment



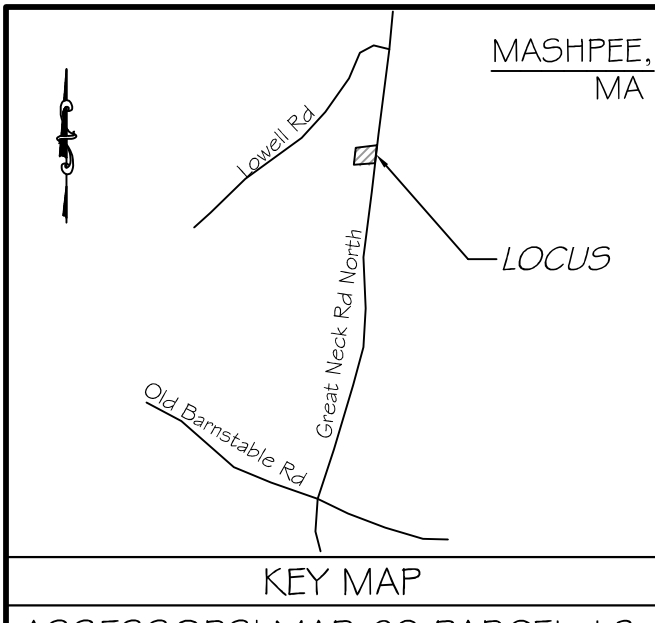
**Mashpee Planning Board
Public Hearing Notice**

Under the provisions of Massachusetts General Laws Chapter 85, Sections 3A and 3B, the Mashpee Planning Board will hold a public hearing on Wednesday, August 7, 2019 at 7:10 p.m. at the Mashpee Town Hall, 16 Great Neck Road North, to consider approval of proposed name for the private way at the parcel of land currently addressed as 341 Great Neck Road North. The proposed street name is Mendes Way.

Submitted by
Mary E. Waygan, Chair

Mashpee Planning Board

Publication dates: Friday, July 19, 2019
 Friday, July 26, 2019



OWNER OF RECORD:
 LEONARD MENDES
 177 CAMMETT WAY
 MARSTONS MILLS, MA 02648

REFERENCES:
 DEED BOOK 14314 PAGE 261
 ASSESSORS' MAP 60 PARCEL 13
 PLAN BOOK 216 PAGE 15
 PLAN BOOK 48 PAGE 73-F2

ZONING CLASSIFICATION:

ZONE:	RESIDENTIAL (R-5)
MINIMUM LOT SIZE:	80,000 SQ FT
MINIMUM LOT FRONTAGE:	150 FT
MINIMUM FRONTYARD SETBACK:	40 FT
MINIMUM SIDERYARD SETBACK:	15 FT
MINIMUM BACKYARD SETBACK:	15 FT
MAXIMUM LOT COVERAGE:	20%

-- LOCUS DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE AS SHOWN ON FEMA FLOOD INSURANCE MAP COMMUNITY PANEL # 25001C0538J EFFECTIVE DATE JULY 16, 2014.

-- LOCUS DOES NOT FALL WITHIN THE NATURAL HERITAGE AND ENDANGERED SPECIES PROGRAM (NHESP) AREAS OF ESTIMATED HABITATS OF RARE SPECIES AND PRIORITY HABITATS OF RARE SPECIES.

-- LOCUS DOES NOT FALL WITHIN THE ZONE II GROUNDWATER RECHARGE PROTECTION AREA.

THIS IS TO CERTIFY THAT TWENTY DAYS HAS ELAPSED SINCE THE NOTICE OF APPROVAL FROM THE ZONING BOARD OF APPEALS WAS RECEIVED AND RECORDED AND THAT NO NOTICE OF APPEAL HAS BEEN FILED IN THIS OFFICE.

MASHPEE TOWN CLERK _____

DATE _____

LEGEND

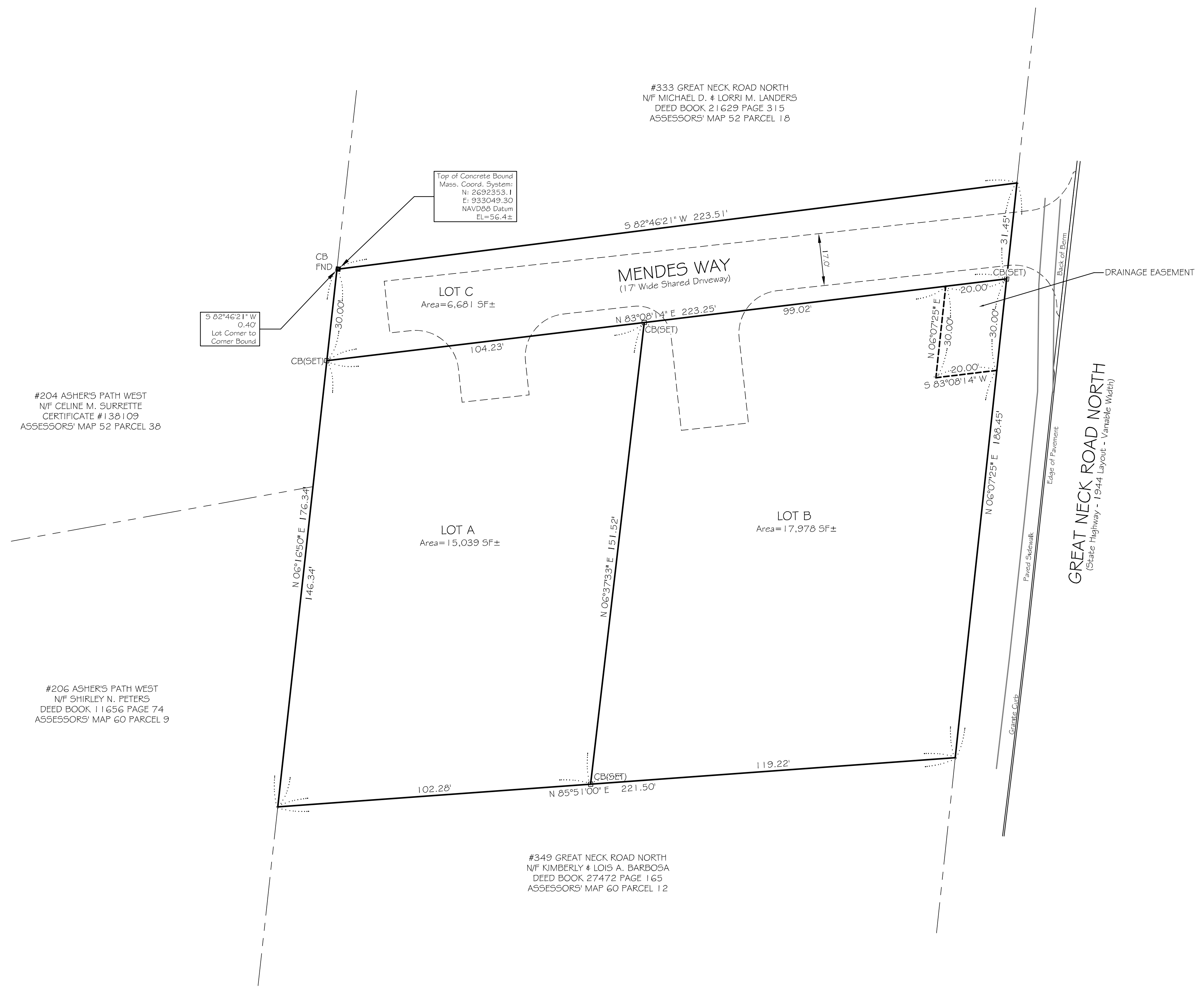
CB ■	CONCRETE BOUND
FND	FOUND
CB(SET)	SURVEYORS BOUND, TO BE SET

FOR REGISTRY USE

I CERTIFY THAT THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE REGISTRARS OF DEEDS EFFECTIVE JANUARY 1, 1976 AND AMENDED JANUARY 7, 1988.

DATE _____

L.S. _____



MASHPEE ZONING BOARD OF APPEALS

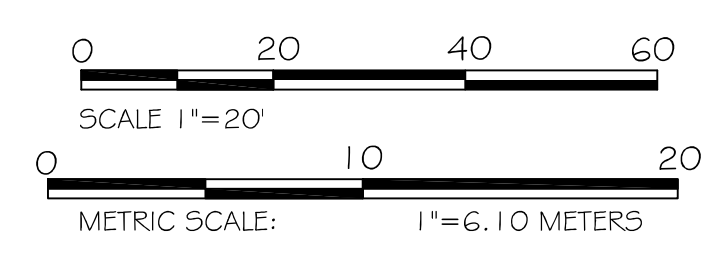
DATE APPROVED: _____

DATE SIGNED: _____

THE SUBDIVISION IS SUBJECT TO A COVENANT TO BE RECORDED HEREWITH

APPROVAL SUBJECT TO A COMPREHENSIVE PERMIT DECISION DATED _____ PURSUANT TO MGL CH. 40B, §. 20-23 RECORDED AT THE BARNSTABLE COUNTY REGISTRY OF DEEDS IN BOOK _____ PAGE _____

DEFINITIVE SUBDIVISION
PLAN OF LAND
 OF
341 GREAT NECK ROAD NORTH, MASHPEE, MA
 FOR
HABITAT FOR HUMANITY
OF CAPE COD, INC.
 JANUARY 31, 2019
 (REVISED 6/4/2019: LOT C ADDED)



MADE BY
J.M. O'REILLY & ASSOCIATES, INC.
 1573 MAIN STREET, P.O. BOX 1773
 BREWSTER, MASSACHUSETTS 02631
 PHONE: 508-896-6601 FAX: 508-896-6602



348 Main Street (Rt 130)
Mashpee, MA 02649
(508) 477-2400
www.CapeCodCoffee.com

August 6, 2019

Dear Chair Waygan

I am writing to request the public hearing scheduled for August 7, 2019 at 7:45 PM for Modi, LLC. be continued until August 21, 2019. Subsequent conversations from our first meeting with the Planning Board have resulted in a request to the Zoning Board of Appeals for a variance from the provisions of Sec. 174-25.1 (1). We would like to approach the Planning Board with a plan that reflects the deliberation and decision of the ZBA.

Thank you for your thoughtful consideration of this request

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'J' and 'A'.

Jan Aggerbeck
Cape Cod Coffee & Modi LLC
348 Main Street (Route 130)
Mashpee, MA 02649
(508) 477-2400 office
(508) 330-3711 mobile
Jan@CapeCodCoffee.com
CapeCodCoffee.com

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: csr63@verizon.net

August 1, 2019

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

Re: Services for month of July, 2019

Attendance at two regular meetings \$ 390.00

Plan Review

Cape Cod Coffee, 10 Evergreen Circle:

7/12 Review of site plan, drainage design and site details, preparation of report
to Planning Board 5 hrs. 500.00

7/24 Staff meeting with Town Planner, Town Manager, Asst. Town Manager,
Fire Chief, Building Inspector and project representatives to discuss report and
consideration of plan adjustments. 2.0 hrs. 200.00

103 Meetinghouse Road, Definitive Plan

7/15 Review of plan, preparation of report and submittal of same.
2.5 hrs. 250.00

Total Amount Due \$1340.00

Charles L. Rowley, PE, PLS
Consulting Engineer and Land Surveyor

5 Carver Road
PO Box 9
West Warcham, MA 02576

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

August 1, 2019

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

Re: Southport Services for month of July, 2019

7/8/19 Inspection of Atlantic Court driveway material for quality and
compaction prior to paving, 2 driveways,
Stony Brook, 2 driveways, material quality and compaction.

1.0 hr. \$ 100.00



CAPE & ISLANDS ENGINEERING

CIVIL ENGINEERING - LAND SURVEYING - ENVIRONMENTAL PERMITTING

INCORPORATED

SUMMERFIELD PARK
800 FALMOUTH ROAD, SUITE 301C
MASHPEE, MA 02649
(508) 477-7272 FAX (508) 477-9072
email: info@CapeEng.com

August 1, 2019

Mr. Evan Lehrer, Town Planner
Town of Mashpee
16 Great Neck Road North
Mashpee, MA 02649

**RE: Request to Withdraw Without Prejudice,
103 Meetinghouse Road, Mashpee, MA – Map 45 ~ Parcel 50
Definitive Subdivision Plan & Special Permit**

Dear Mr. Lehrer and Planning Board Members:

On behalf of the Applicant, we request to withdraw the above referenced applications without prejudice.

The applicant intends on re-submitting in the near future after the land swap process progresses and we request that at the time of re-filing the application fees be waived.

Thank you for your consideration. If you have any questions or need any additional information, please feel free to contact me.

Sincerely,

Matthew C. Costa, P.L.S., R.S.
President

Cc: Mark and Donna Lopez



TOWN OF MASHPEE

OFFICE OF SELECTMEN

16 Great Neck Road North
Mashpee, Massachusetts 02649
Telephone - (508) 539-1401
bos@mashpeema.gov

July 31, 2019

Ms. Mary Waygan, Chair
Mashpee Planning Board
Town Hall
16 Great Neck Road North
Mashpee, MA 02649


Dear Chair Waygan and the Honorable Members of the Planning Board:

The Board of Selectmen voted to support the Mashpee Commons petition to enter into a development agreement with the Cape Cod Commission and the Town. While the Board of Selectmen would ultimately execute such an agreement on behalf of the Town, the bylaws designate the Planning Board, or its designees, as the body to represent the Town in development agreement negotiations. As we discussed at the most recent joint board meeting, it is the request of the Selectmen that the Planning Board expand the negotiating team to include representatives of the other regulatory and non-regulatory board and committee members whose areas of expertise would add value to the negotiation of a development agreement. Specifically, it is our request that the Planning Board add representation from the Board of Selectmen, the Board of Health, the Conservation Commission, the Sewer Commission, the Affordable Housing Trust, and the Zoning Board of Appeals to the negotiating team representing Mashpee.

We are cognizant of the time demands on the Planning Board to conduct its regular business. As a result, we suggest the negotiations occur as a series of special meetings focused exclusively on the development agreement issues. We have spoken to the Cape Cod Commission and they have indicated a willingness to meet in accordance with a schedule that meets the needs of the negotiating team. We are hopeful that this process can commence expeditiously and will result in an outcome that is mutually beneficial for all parties.

Thank you in advance for the hard work that will follow in what we hope will be a productive conversation.

Sincerely,


Andrew R. Gottlieb
Chair
Board of Selectmen

cc: Mashpee Commons
Kristy Senatori, Cape Cod Commission
Board of Health
Conservation Commission
Board of Appeals
Sewer Commission
Affordable Housing Trust
Town Manager Rodney Collins
Town Planner Evan Lehrer

Development Agreement Process Highlights

What is it?

The development agreement is a voluntary, binding contract.

It is a tool which may be used by the Commission, municipalities, state agencies and developers to define the scope and substance of the proposed developments.

Purpose

Development agreements have several purposes.

- For the developer, a development agreement can assure that applicable development review regulations will not change over the necessary construction period.
- From the public perspective, such assurances encourage the developer to plan comprehensive projects and to provide major infrastructure and public benefits earlier in the project.

Parties

Cape Cod Commission

Qualifying Applicant

State Agency

Municipality

A municipality may enter into a development agreement only after:

- (1) obtaining certification from the Commission that its Local Comprehensive Plan is consistent with the Regional Policy Plan; and
- (2) adopting a by-law, approved by the Commission, establishing a procedure for negotiating development agreements and authorizing a procedure for execution thereof by the municipality.

A development agreement that is inconsistent with local zoning shall require either a zoning amendment to remove the inconsistency or the development agreement shall be approved by the same entity and the same quantum of votes as would be required to amend the zoning bylaws of the Town.

Unless otherwise provided in a Town's bylaws, a municipality through its Board of Selectmen/ or for the town of Barnstable through its Town Manager, may appoint **a negotiating board** composed of members of its municipal boards and commissions as the Selectmen/Town Manager believe may best represent their town's interests.

Project Benefits

A development agreement is a contract under which the Qualified Applicant agrees to provide certain benefits which contribute to one or more of the following:

- infrastructure;
- public capital facilities;
- land dedication or preservation;
- fair, affordable housing either on-site or off-site;
- employment opportunities;
- community facilities;
- recreational uses; or
- other benefits to serve the proposed development, municipality, and county,
- including site design standards to ensure preservation of community character.

Development Agreement Elements

The development agreement shall establish

- the permitted uses,
- densities, and
- all other aspects of the development
- to limit off-site impacts attributable to the development,
- the duration of the agreement, and any other terms or conditions mutually agreed upon between the Qualified Applicant and all other parties to the agreement.
- The development as specifically described within an approved development agreement shall not be required to be subject to further Development of Regional Impact review pursuant to section 12 of the Act.
- A development agreement may contain a provision for Transfer of Development Rights as that term is defined in the Cape Cod Regional Policy Plan, Barnstable County Ordinance 91-6, as amended.

Development Agreement Process

A Qualified Applicant shall file a **Notice of Intent to file a Development Agreement** application.

The Cape Cod Commission Committee on Planning and Regulation shall determine whether the proposed development is suitable and qualifies for the Development Agreement process. In making this determination, the committee must find that

- no development permit, as that term is defined by the Act, is pending,
- and shall also consider the following factors:
- Whether the project would benefit from comprehensive review of the foreseeable and planned development to allow for planning of efficient infrastructure;

- Whether the project exhibits two or more of the following characteristics:
 - Involves a large area of development (25 acres or more);
 - Includes multiple uses and/or structures; and
 - Involves multiple properties under control by the same Qualified Applicant;
- Whether construction of the project is anticipated to be built in phases over a period exceeding 7 years;
- Whether a project has future expansions that are not fully or definitively defined but should be presented up front to avoid segmentation as described in section 2(a)(iii) of the Commission's Enabling Regulations Governing Review of Developments of Regional Impact;
- Whether a project has received a Final Environmental Impact report, certified as adequate by the Secretary of Energy and Environmental Affairs, if required under sections 61-62(h) of chapter 30 of the Massachusetts General Laws
- Whether the Committee on Planning and Regulation has received testimony from any municipal agency (as that term is defined in the Act) in which the proposed development is to be located indicating whether it recommends the proposal as appropriate for a Development Agreement

The Committee on Planning and Regulation shall make a recommendation to the Cape Cod Commission, which shall vote at a noticed public hearing whether a proposed development is suitable for consideration as a development agreement with the Commission and therefore the Qualified Applicant may proceed with a Development Agreement Application.

If the Commission determines that a proposed project is suitable to be the subject of a development agreement, the Qualified Applicant shall have one year from the date of that determination to file a development agreement application with the Commission and to pay the applicable fee in accordance with the Cape Cod Commission Enabling Regulations, Barnstable County Ordinance 90-12, as amended.

An applicant shall meet with Commission staff at a pre-application meeting to review the application and its materials prior to its submission.

The Development Agreement Application shall include:

- A fully completed Development Agreement Application Form and its required attachments, including a certified list of abutters, prepared by the Assessors in the town or towns where such abutting land is located, unless such items are waived by the Executive Director or his/her designee;
- A legal description and a recent survey of the land subject to the agreement and the names of its legal and equitable owners;
- The proposed duration of the agreement;

- The development uses currently permitted on the land and development uses proposed on the land, including residential densities, and building densities and height;
- A description of public capital facilities and private infrastructure and facilities that will serve the development, including who shall provide such capital facilities, the date any new facilities will be constructed, and a schedule to assure capital facilities adequate to serve the development are available concurrent with the impacts of the development;
- A description of any reservation or dedication of land and waters for public purposes, which may include recreational, conservation, agricultural, aquacultural, and historic purposes, or such other public uses which the Commission specifically approves;
- A description of all local development permits needed for the proposed development of the subject property(ies);
 - A statement acknowledging that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the Qualified Applicant or Participating Parties of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction;
 - A Final Environmental Impact Report, certified as adequate by the Secretary of Energy and Environmental Affairs, if required under sections 61-62h of chapter 30 of the general laws;
 - Additional data necessary to assess the impact of the proposed development, as determined by Commission staff at a pre-application meeting.
- Within ten business days of certification by Commission staff that a completed application has been filed, the chair will appoint a subcommittee pursuant to Section 4(a)(12) of the Act, to represent the Commission in negotiating a development agreement.
- The development agreement will be subject, however, to final approval by the Commission.
- The authorized subcommittee and Participating Parties shall conduct a public hearing to review relevant information on applicable subjects to be reviewed under the Act, the RPP, the LCP and local zoning.
- The subcommittee and Participating Parties shall receive relevant public testimony to inform their decision.
- At least one public hearing shall be held in at least one of the municipality(ies) in which the proposed development is located.
- When the Development Agreement is being negotiated by the Applicant with both the CCC and a municipality, the Applicant shall meet separately with both the subcommittee and the municipality in a public meeting to identify areas of compliance and noncompliance with regulatory standards applicable to the subjects identified pursuant to subsection (d).

- The subcommittee shall review the proposed development for consistency with the Act, the RPP and the LCP.
- The subcommittee may recommend and the Commission may approve a development agreement which is inconsistent with the Act or the Regional Policy Plan or a Local Comprehensive Plan if the inconsistency is necessary to enable a substantial segment of the population to secure adequate opportunities for
 - housing,
 - conservation,
 - environmental protection,
 - education,
 - recreation or
 - balanced economic growth and
 - the interests protected by the Act, RPP or LCP can be advanced or protected by an alternate approach, which shall include appropriate mitigation.
- The Participating Parties shall review the proposed development for consistency with local zoning, the LCP and applicable state law.
- A municipality may recommend approval of a development agreement that is inconsistent with that town's development by-laws, provided, however, that such recommendation shall be subject to the amendment of the town development by-laws or the grant of appropriate relief under the town development by-laws to eliminate or excuse such inconsistency.
- The subcommittees and Participating Parties shall meet with the Qualified Applicant in a public meeting so that the subcommittee may make findings with respect to consistency with the Act, the RPP and the LCP, and the Participating Parties may make findings with respect to the local zoning and applicable state law. The subcommittee and Participating Parties shall reconcile any conflicts between the two separate reviews. The subcommittee may request that a draft development agreement be drafted by Commission staff following this meeting for subsequent joint review.
- A draft development agreement shall at a minimum, contain the following:
 - A description of the public benefits and improvements, which the Qualified Applicant has agreed to provide as consideration for the Development Agreement;
 - A statement that the Development Agreement shall have the benefit of a freeze of the development standards specified in the Development Agreement for a specified term of years;

- A statement of compliance with the RPP, the Act, the LCP and local zoning, or in the instance that waivers are granted, a statement of compliance with the standards set forth in section 5(e);
 - A statement that the development agreement shall become effective only following the issuance of a certificate by the Commission Clerk and/or the applicable Town clerk relative to the agreement as provided by section 5 and 6 of these regulations.
- If at any time (including after being remanded), the subcommittee determines that entering into a Development Agreement is no longer in the best interests of the Commission, it shall so inform the Commission which may vote at a public meeting to terminate its participation in the negotiation of a Development Agreement. Prior to taking a vote on such termination, the Commission shall give the Applicant an opportunity to be heard. The Commission may remand the negotiation back to the subcommittee, or vote on the recommended termination.
 - A municipality may terminate its participation in the negotiation of a Development Agreement by majority vote of its Board of Selectmen/or for the Town of Barnstable in writing by the Town Manager to the Commission Clerk.
 - A state agency may give notice of termination of the negotiation process by letter from its appointed head of agency.
 - A Qualified Applicant may terminate its participation by certified letter, return receipt requested, to the Commission Clerk.
 - Once a development agreement has been drafted, the subcommittee and participating parties shall meet in public meeting to review the draft;
 - the subcommittee shall recommend to the Commission whether it should authorize signature of the Development Agreement.
 - The Qualified Applicant shall sign the draft development agreement recommended by the subcommittee to indicate their agreement to enter into the contract, unless otherwise provided in a Town's bylaws.
 - The Commission shall notice and hold a public hearing to consider a development agreement by publication as required by Sections 5(a) and (d) of the Act.

The Commission may hold joint hearings with local, state, and/or federal authorities and coordinate its regulatory functions with those agency(ies) pursuant to Section 4(a)15 of the Act.

The Commission may authorize a development agreement by a simple majority vote of the Commission members present, so long as a quorum exists.

The signature of the Chairman or Vice-Chairman of the Commission, as authorized by such a vote, shall bind the Commission to the development agreement once the agreement is effective.

Following the Commission's approval of a development agreement, that agreement shall be presented to each other Participating Party for its consideration of approval.

A municipality may approve a Development Agreement by majority vote of its Board of Selectmen/ or the Town of Barnstable by signature of its Town Manager.

The signature of the majority of the Board of Selectmen/Town Manager, as authorized by such a vote, shall bind the municipality to the development agreement once the agreement is effective.

A development agreement may be amended or rescinded as provided below. Requirements for hearings, notice, costs and filing and recording of the amendments and rescissions of development agreements shall be followed as provided in sections 5 and 6 above.

Modification categories

- **Minor Modification:** Amendments that are de minimus changes or technical corrections, as determined by both the Commission and/or the Lead Community, may be made without following the notice and public hearing requirements provided in Sections 5 and 6 above. Such changes may be authorized by the Executive Director of the Commission, a majority vote of the Board of Selectmen or for the Town of Barnstable by signature of its Town Manager, and endorsement of the Head of a State Agency.
- **Major Modification:**
 - When the Commission is a party to the development agreement, any party to the development agreement may petition to amend the development agreement. The participating parties may petition to rescind the development agreement; the Commission may petition to rescind the development agreement only in the event of failure of consideration. Such petition shall be made in writing and shall state, in specific detail, the petitioner's reasons for amendment or rescission.
 - The petitioning party shall provide notice to all parties to the development agreement.
- Amendments and rescissions must be ratified by all parties to the original development agreement. Any development agreement may contain provisions further regulating the amendment and/or rescission of a development agreement.

A development agreement is a binding contract, which is enforceable by the contracting parties only and their successors and assigns in the appropriate Massachusetts courts.

MASHPEE COMMONS LIMITED PARTNERSHIP

Andrew Gottlieb, Chairman
Board of Selectmen
Town of Mashpee
16 Great Neck Road North
Mashpee, MA 02649

Dear Mr. Chairman,

I am writing to request the Town's support for our filing a Notice of Intent to apply for a Development Agreement with the Cape Cod Commission and to encourage the Town to join as an active partner in the process. The first step in the process is to notify the Cape Cod Commission of the intent to file for a Development Agreement with the CCC and the Town of Mashpee.

Based on work done over the last several years and the feedback gathered from the multiple public charrettes, the team at Mashpee Commons has been working through different zoning concepts and models for appropriate expansion of Mashpee Commons.

The right type of development has the potential to:

- make significant strides toward addressing the housing crisis
- spark economic development
- add year-round jobs
- help restore the water quality of the Mashpee River
- create a controllable and appropriate level of growth to keep property taxes down

Arriving at the best outcome will require looking beyond a zoning change. Broader issues concerning economic development, fiscal impact of any proposed development, and how on-site wastewater capacity fits with the Towns overall wastewater plans need to be addressed. The best process is one that is comprehensive and inclusive. The Development Agreement process (summary attached) is the best way to achieve that goal.

Sincerely,



2010 OCT 19 AM 11:57



Goals and Objectives

This RPP adopts 14 goals to guide and plan for the future of the region in a manner consistent with the vision and growth policy of this RPP. The goals and objectives derive from the values and purposes of the Cape Cod Commission Act, preserving and enhancing the region's assets.

Organized around the region's natural, built, and community systems, these goals and objectives form the structure upon which the region's planning work relies, serve as touchstones to guide implementation actions, and set the measures by which the regulatory review process takes place.

<h2>Natural Systems</h2>	WATER RESOURCES	WILDLIFE & PLANT HABITAT
	OCEAN RESOURCES	
	WETLAND RESOURCES	OPEN SPACE

<h2>Built Systems</h2>	COMMUNITY DESIGN	TRANSPORTATION
	COASTAL RESILIENCY	ENERGY
	CAPITAL FACILITIES & INFRASTRUCTURE	WASTE MANAGEMENT

<h2>Community Systems</h2>	CULTURAL HERITAGE
	ECONOMY
	HOUSING

Natural Systems To protect and restore the quality and function of the region's natural environment that provides the clean water and healthy ecosystems upon which life depends.

GOAL	OBJECTIVES
<p>Water Resources</p> <p>To maintain a sustainable supply of high quality untreated drinking water and protect, preserve, or restore the ecological integrity of Cape Cod's fresh and marine surface water resources.</p>	<i>Protect and preserve groundwater quality</i>
	<i>Protect, preserve and restore fresh water resources</i>
	<i>Protect, preserve and restore marine water resources</i>
	<i>Manage and treat stormwater to protect and preserve water quality</i>
	<i>Manage groundwater withdrawals and discharges to maintain hydrologic balance and protect surface and groundwater resources</i>
<p>Ocean Resources</p> <p>To protect, preserve, or restore the quality and natural values and functions of ocean resources.</p>	<i>Locate development away from sensitive resource areas and habitats</i>
	<i>Preserve and protect ocean habitat and the species it supports</i>
	<i>Protect significant human use areas and vistas</i>
<p>Wetland Resources</p> <p>To protect, preserve, or restore the quality and natural values and functions of inland and coastal wetlands and their buffers.</p>	<i>Protect wetlands and their buffers from vegetation and grade changes</i>
	<i>Protect wetlands from changes in hydrology</i>
	<i>Protect wetlands from stormwater discharges</i>
	<i>Promote the restoration of degraded wetland resource areas</i>
<p>Wildlife and Plant Habitat</p> <p>To protect, preserve, or restore wildlife and plant habitat to maintain the region's natural diversity.</p>	<i>Maintain existing plant and wildlife populations and species diversity</i>
	<i>Restore degraded habitats through use of native plant communities</i>
	<i>Protect and preserve rare species habitat, vernal pools, 350-foot buffers to vernal pools</i>
	<i>Manage invasive species</i>
	<i>Promote best management practices to protect wildlife and plant habitat from the adverse impacts of development</i>
<p>Open Space</p> <p>To conserve, preserve, or enhance a network of open space that contributes to the region's natural and community resources and systems.</p>	<i>Protect and preserve natural, cultural, and recreational resources</i>
	<i>Maintain or increase the connectivity of open space</i>
	<i>Protect or provide open space appropriate to context</i>

Built Systems To protect and enhance the built environment and infrastructure necessary to support the region and healthy activity centers.

GOAL	OBJECTIVES
<p>Community Design</p> <p>To protect and enhance the unique character of the region’s built and natural environment based on the local context.</p>	<i>Promote context-sensitive building and site design</i>
	<i>Minimize the amount of newly disturbed land and impervious surfaces</i>
	<i>Avoid adverse visual impacts from infrastructure to scenic resources</i>
<p>Coastal Resiliency</p> <p>To prevent or minimize human suffering and loss of life and property or environmental damage resulting from storms, flooding, erosion, and relative sea level rise.</p>	<i>Minimize development in the floodplain</i>
	<i>Plan for sea level rise, erosion, and floods</i>
	<i>Reduce vulnerability of built environment to coastal hazards</i>
<p>Capital Facilities and Infrastructure</p> <p>To guide the development of capital facilities and infrastructure necessary to meet the region’s needs while protecting regional resources.</p>	<i>Ensure capital facilities and infrastructure promote long-term sustainability and resiliency</i>
	<i>Coordinate the siting of capital facilities and infrastructure to enhance the efficient provision of services and facilities that respond to the needs of the region</i>
<p>Transportation</p> <p>To provide and promote a safe, reliable, and multi-modal transportation system.</p>	<i>Improve safety and eliminate hazards for all users of Cape Cod’s transportation system</i>
	<i>Provide and promote a balanced and efficient transportation system that includes healthy transportation options and appropriate connections for all users</i>
	<i>Provide an efficient and reliable transportation system that will serve the current and future needs of the region and its people</i>
<p>Energy</p> <p>To provide an adequate, reliable, and diverse supply of energy to serve the communities and economies of Cape Cod.</p>	<i>Support renewable energy development that is context-sensitive</i>
	<i>Increase resiliency of energy generation and delivery</i>
	<i>Minimize energy consumption through planning and design (including energy efficiency and conservation measures)</i>
<p>Waste Management</p> <p>To promote a sustainable solid waste management system for the region that protects public health, safety, and the environment and supports the economy.</p>	<i>Reduce waste and waste disposal by promoting waste diversion and other Zero Waste initiatives</i>
	<i>Support an integrated solid waste management system</i>

Community Systems To protect and enhance the linkages between society, the natural environment, and history vital to the way of life on Cape Cod by supporting development of amenities and life opportunities necessary to support vibrant and diverse communities.

GOAL	OBJECTIVES
<p>Cultural Heritage To protect and preserve the significant cultural, historic, and archaeological values and resources of Cape Cod.</p>	<p><i>Protect and preserve forms, layouts, scale, massing, and key character defining features of historic resources, including traditional development patterns of villages and neighborhoods</i></p> <p><i>Protect and preserve archaeological resources and assets from alteration or relocation</i></p> <p><i>Preserve and enhance public access and rights to and along the shore</i></p> <p><i>Protect and preserve traditional agricultural and maritime development and uses</i></p>
<p>Economy To promote a sustainable regional economy comprised of a broad range of businesses providing employment opportunities to a diverse workforce.</p>	<p><i>Protect and build on the Cape’s competitive advantages</i></p> <p><i>Use resources and infrastructure efficiently</i></p> <p><i>Foster a balanced and diverse mix of business and industry</i></p> <p><i>Encourage industries that provide living wage jobs to a diverse workforce</i></p> <p><i>Expand economic activity and regional wealth through exports, value added, import substitution, and local ownership</i></p>
<p>Housing To promote the production of an adequate supply of ownership and rental housing that is safe, healthy, and attainable for people with different income levels and diverse needs.</p>	<p><i>Promote an increase in housing diversity and choice</i></p> <p><i>Promote an increase in year-round housing supply</i></p> <p><i>Protect and improve existing housing stock</i></p> <p><i>Increase housing affordability</i></p>



The Cape Cod Commission Act (Act) charges the Cape Cod Commission with reviewing certain proposed developments which, because of their size or other characteristics, are presumed to have development effects beyond their local communities. These proposed developments are called Developments of Regional Impact (DRI). The DRI review requirements are set forth in Section 13(d) of the Act.

An important component of the Act's DRI review requirements is a review for consistency with the Regional Policy Plan in effect at the time a DRI is reviewed. The Commission regularly updates the RPP to establish a current and coherent set of regional planning policies,

goals, and objectives to guide development throughout Barnstable County. The RPP is implemented in large part through the Commission's regulatory program.

This RPP focuses on the review of developments in relation to their surroundings, which are determined based on the Cape Cod Placetype within which the proposed project is located. Employing a context-sensitive review process will ensure that new development is harmonious with and enhances the unique character of the region and protection of its natural and cultural resources, which are critical to the regional economy and way of life.

THE ROLE OF THE GOALS AND OBJECTIVES OF THE RPP

This RPP has been drafted to align directly with the goals and purposes of the Act. Specifically, this RPP adopts fourteen (14) goals and corresponding objectives under each goal to guide and plan for the future of the region in a manner consistent with the vision and growth policy of the Commission.

Organized around the region's natural, built, and community systems, these goals and objectives form the structure upon which the region's planning work relies, guide implementation actions, and provide a framework by which the regulatory review process takes place.

The Goals and Objectives in Section 6 of this plan are the measures by which the Cape Cod Commission will make its determination whether a DRI is consistent with the RPP; for purposes of DRI and other regulatory reviews undertaken by the Commission, consistency with applicable goals and objectives constitutes consistency with the RPP.

The Commission determines the applicability and materiality of the RPP's goals and objectives to a project on a case by case basis. As the RPP has broad, general application to DRIs and other regulatory matters of regional significance, not

every goal or objective may apply, be material, relevant or regionally significant, or apply in the same way or with the same focus or extent to every project or designation, given the specific facts and circumstances present in any given project.

THE ROLE OF TECHNICAL GUIDANCE IN REGULATORY REVIEW

Separate from, but in support of this RPP, the Commission has developed Technical Guidance. The Technical Guidance contains Placetype Maps, Technical Bulletins and references to resource areas mapped by federal, state and local governments. There is a Technical Bulletin for each of the fourteen goals of the RPP. The primary application of the Technical Guidance is during DRI or other regional regulatory review, and its primary purpose is to assist the Commission in its determination of whether a project is consistent with applicable RPP goals and objectives, and alternatively, to detail how an applicant could design and pursue its project to meet the applicable RPP goals and objectives. The Technical Bulletins detail methods by which the goals and objectives of the RPP may be met. Except where otherwise specified in the Technical Bulletin, the methods by which goals and objectives of the RPP are met are not prescriptive, but rather are examples of

methods that further the goals and objectives of the RPP and assist in evidencing consistency with the RPP. Applicants may work with the Commission to develop alternative methods of evidencing RPP consistency. In some limited circumstances, there may be methods that are considered essential to achieving a particular goal and objective, and therefore required to be implemented; these are noted within the text of the applicable Technical Bulletin.

THE ROLE OF THE CAPE COD PLACETYPES IN REGULATORY REVIEW

Cape Cod Placetypes is an organizing principle that informs the Commission's regulatory review. The same Placetypes discussed in Section 8 of this plan, which frame the goals and objectives for land use form and function, are incorporated into the review of DRIs under the RPP. The Placetypes are determined in two ways; some are depicted on a map adopted by the Commission as part of the Technical Guidance for review of DRIs, and the remainder are determined using the character descriptions set forth in Section 8 of this plan and the

Technical Guidance. Placetype maps will be reviewed and updated as appropriate within 24-36 months after adoption of the RPP.

The Placetype for a given project is established at the outset of DRI review and provides the lens through which the Commission will review the project under the RPP. The applicability of goals and objectives may vary based on how projects are classified by Placetype. The means for achieving consistency with these goals and objectives may vary from site to site and project to project, typically depending on the relevant Placetype and whether certain sensitive resources are present on a given project site.

THE ROLE OF RESOURCE AREAS IN REGULATORY REVIEW

Also contained within the Technical Guidance are resource areas which illustrate resources such as Zone II water supply areas, rare species habitat, flood hazard zones, and wetland resource areas. These areas are identified throughout the Technical Guidance and are also used as a lens by which DRI review is conducted when identified. Placetypes and resource areas may be amended from time to time as new information becomes available.

RPP CONSISTENCY AND PROBABLE BENEFIT/ DETRIMENT DETERMINATIONS

In order to grant DRI approval, the Act requires that the Commission find that the probable benefit of a proposed development is greater than its probable detriment. The Commission must also find that a proposed development is consistent with the RPP (among other stated requirements). This RPP update provides a goal-oriented approach to DRI regulatory review. It is intended that this approach will provide the Commission with more flexibility in determining whether proposed development is consistent with the RPP when considering the particular location, use and impacts associated with that development.

The Commission's review and analysis of a DRI under the RPP goals and objectives also inform its benefits/detriment analysis and determination. In considering the impacts of a development, the Commission will consider the various goals and objectives in the RPP applicable to a project in order to determine whether the project is consistent

with the RPP, as the goals and objectives are not separate and independent from one another, but instead constitute a coherent, inter-related and integrated approach to planning for development in the region.

Though the Commission's determination that a development is consistent with the RPP does not in itself determine that the probable benefit of a development is greater than its probable detriment (or that the Commission has determined that there is any particular benefit or detriment associated with that development), the Commission may factor into its benefits/detriment determination those considerations identified through its RPP review and analysis, in addition to any other regional benefits, detriments, concerns or impacts within the broad purview of the Commission under the Act that are associated with the specific circumstances of the project.

This framework is intended to vertically align local and regional planning and regulatory efforts to maximize the region's ability to achieve common planning and development goals.

WAIVER AND FLEXIBILITY

When special circumstances warrant, and upon the request of the project applicant, the Commission may waive full and literal compliance or consistency with any specific RPP goal or objective applicable to a project, and otherwise allow a project to meet such goal or objective to the maximum extent feasible, provided the applicant demonstrates that:

1. such waiver will not result in substantial detriment to or substantial derogation from the purposes and values intended to be protected or promoted by such goal or objective, and
2. that the intent of the goal or objective will be met through some alternate approach, including appropriate mitigation; and
3. that the waiver is necessary to fulfill, protect or promote another compelling regional purpose, goal, objective or value from the Act or RPP that could not be achieved without such waiver.

In considering the grant of such waiver, the Commission may factor into its decision-making any hardship claimed and demonstrated by an applicant that would render such full and literal compliance or consistency impracticable. In determining such hardship, the Commission will consider, among other things:

1. whether that without the desired relief, full and literal enforcement would result in substantial hardship, financial or otherwise, to the project applicant;
2. the extent to which the claimed hardship is specific to the project, not generalized in nature, and the extent to which the hardship might be self-created; and
3. whether the requested waiver relates directly, and is the minimum relief necessary, to address the stated hardship.

REVIEW GOALS AND OBJECTIVES

Natural Systems

GOAL	OBJECTIVES
<p>Water Resources</p> <p>To maintain a sustainable supply of high quality untreated drinking water and protect, preserve, or restore the ecological integrity of Cape Cod's fresh and marine surface water resources.</p>	<i>Protect and preserve groundwater quality</i>
	<i>Protect, preserve and restore fresh water resources</i>
	<i>Protect, preserve and restore marine water resources</i>
	<i>Manage and treat stormwater to protect and preserve water quality</i>
	<i>Manage groundwater withdrawals and discharges to maintain hydrologic balance and protect surface and groundwater resources</i>
<p>Ocean Resources</p> <p>To protect, preserve, or restore the quality and natural values and functions of ocean resources.</p>	<i>Locate development away from sensitive resource areas and habitats</i>
	<i>Preserve and protect ocean habitat and the species it supports</i>
	<i>Protect significant human use areas and vistas</i>
<p>Wetland Resources</p> <p>To protect, preserve, or restore the quality and natural values and functions of inland and coastal wetlands and their buffers.</p>	<i>Protect wetlands and their buffers from vegetation and grade changes</i>
	<i>Protect wetlands from changes in hydrology</i>
	<i>Protect wetlands from stormwater discharges</i>
	<i>Promote the restoration of degraded wetland resource areas</i>
<p>Wildlife and Plant Habitat</p> <p>To protect, preserve, or restore wildlife and plant habitat to maintain the region's natural diversity.</p>	<i>Maintain existing plant and wildlife populations and species diversity</i>
	<i>Restore degraded habitats through use of native plant communities</i>
	<i>Protect and preserve rare species habitat, vernal pools, 350-foot buffers to vernal pools</i>
	<i>Manage invasive species</i>
	<i>Promote best management practices to protect wildlife and plant habitat from the adverse impacts of development</i>
<p>Open Space</p> <p>To conserve, preserve, or enhance a network of open space that contributes to the region's natural and community resources and systems.</p>	<i>Protect and preserve natural, cultural, and recreational resources</i>
	<i>Maintain or increase the connectivity of open space</i>
	<i>Protect or provide open space appropriate to context</i>

Built Systems

GOAL	OBJECTIVES
<p>Community Design</p> <p>To protect and enhance the unique character of the region's built and natural environment based on the local context.</p>	<i>Promote context-sensitive building and site design</i>
	<i>Minimize the amount of newly disturbed land and impervious surfaces</i>
	<i>Avoid adverse visual impacts from infrastructure to scenic resources</i>
<p>Coastal Resiliency</p> <p>To prevent or minimize human suffering and loss of life and property or environmental damage resulting from storms, flooding, erosion, and relative sea level rise.</p>	<i>Minimize development in the floodplain</i>
	<i>Plan for sea level rise, erosion, and floods</i>
	<i>Reduce vulnerability of built environment to coastal hazards</i>
<p>Capital Facilities and Infrastructure</p> <p>To guide the development of capital facilities and infrastructure necessary to meet the region's needs while protecting regional resources.</p>	<i>Ensure capital facilities and infrastructure promote long-term sustainability and resiliency</i>
	<i>Coordinate the siting of capital facilities and infrastructure to enhance the efficient provision of services and facilities that respond to the needs of the region</i>
<p>Transportation</p> <p>To provide and promote a safe, reliable, and multi-modal transportation system.</p>	<i>Improve safety and eliminate hazards for all users of Cape Cod's transportation system</i>
	<i>Provide and promote a balanced and efficient transportation system that includes healthy transportation options and appropriate connections for all users</i>
	<i>Provide an efficient and reliable transportation system that will serve the current and future needs of the region and its people</i>
<p>Energy</p> <p>To provide an adequate, reliable, and diverse supply of energy to serve the communities and economies of Cape Cod.</p>	<i>Support renewable energy development that is context-sensitive</i>
	<i>Increase resiliency of energy generation and delivery</i>
	<i>Minimize energy consumption through planning and design (including energy efficiency and conservation measures)</i>
<p>Waste Management</p> <p>To promote a sustainable solid waste management system for the region that protects public health, safety, and the environment and supports the economy.</p>	<i>Reduce waste and waste disposal by promoting waste diversion and other Zero Waste initiatives</i>
	<i>Support an integrated solid waste management system</i>

Community Systems

GOAL	OBJECTIVES
<p>Cultural Heritage</p> <p>To protect and preserve the significant cultural, historic, and archaeological values and resources of Cape Cod.</p>	<p><i>Protect and preserve forms, layouts, scale, massing, and key character defining features of historic resources, including traditional development patterns of villages and neighborhoods</i></p> <p><i>Protect and preserve archaeological resources and assets from alteration or relocation</i></p> <p><i>Preserve and enhance public access and rights to and along the shore</i></p> <p><i>Protect and preserve traditional agricultural and maritime development and uses</i></p>
<p>Economy</p> <p>To promote a sustainable regional economy comprised of a broad range of businesses providing employment opportunities to a diverse workforce.</p>	<p><i>Protect and build on the Cape's competitive advantages</i></p> <p><i>Use resources and infrastructure efficiently</i></p> <p><i>Foster a balanced and diverse mix of business and industry</i></p> <p><i>Encourage industries that provide living wage jobs to a diverse workforce</i></p> <p><i>Expand economic activity and regional wealth through exports, value added, import substitution, and local ownership</i></p>
<p>Housing</p> <p>To promote the production of an adequate supply of ownership and rental housing that is safe, healthy, and attainable for people with different income levels and diverse needs.</p>	<p><i>Promote an increase in housing diversity and choice</i></p> <p><i>Promote an increase in year-round housing supply</i></p> <p><i>Protect and improve existing housing stock</i></p> <p><i>Increase housing affordability</i></p>