



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

**Meeting of the Mashpee Planning Board
Wednesday, September 25, 2019
Waquoit Meeting Room, 7:30 PM**

Call Meeting to Order

7:30PM – Waquoit Meeting Room – Mashpee Town Hall

- Pledge of Allegiance

Approval of Minutes

- Review and approval of meeting minutes from August 21, 2019 and September 4, 2019

Presentation

- Cape Cod Commission presentation on updated Local Comprehensive Planning Regulations

New Business

- Sign Special Permit Decision – Modi LLC – 10 Evergreen Circle
- Sign Special Permit Decision – Kevin Andrade/Best Buy Beverage – 11 Evergreen Circle

Old Business

Chairman's Report

Board Member Committee 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

RECEIVED BY _____
SEP 18 2019
MASHPEE TOWN CLERK

**Mashpee Planning Board
Minutes of Meeting
August 21, 2019 at 7:00 p.m.
Mashpee Town Hall-Waquoit Meeting Room
16 Great Neck Road North
Approved 10/2/19**

Present: Chairman Mary Waygan, Vice Chairman Joe Cummings, Dennis Balzarini, Joseph Callahan, Robert (Rob) Hansen (Alt.)

Also: Evan Lehrer-Town Planner, Charles Rowley-Consultant Engineer

Absent: John (Jack) Phelan

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, August 21, 2019. The Chair stated that the meeting was being videotaped and recorded and noted that, if the public addressed the Board, to do so stating their name, address and comment. The Chair asked that Board members speak clearly into the microphone as the Board Secretary would be drafting minutes from the video. The Pledge of Allegiance was recited.

APPROVAL OF MINUTES—July 17, 2019 and August 7, 2019

The August 7 minutes were not available. The Chair referenced the July 17 minutes regarding discussion about the Development Agreement, noting that after Mr. Phelan indicated that he had all necessary related documentation, she asked that all other members be in receipt of the supporting documentation and Mr. Lehrer agreed to provide the information the next day.

MOTION: Mr. Balzarini made a motion to accept as amended. Mr. Callahan seconded the motion. All voted unanimously.

PUBLIC HEARINGS

7:10 p.m. Best Buy Beverage

Application for a Special Permit filed by Kevin Andrade to construct a commercial building to be used for retail use, redemption center and office space to be located at 11 Evergreen Circle, currently identified as Lot A on the plan titled Definitive Subdivision Plan, Evergreen Circle, prepared for Evergreen Industrial Park, #588 Main Street (Route 130) approved on 11/20/17 by Mashpee Planning Board. This application is made pursuant to Sections 174-25 C (1) and under Section 174-25 E (12) under the Mashpee Zoning Bylaw. The property is located in the C-3 Zoning District and is within the Light Industrial Overlay District.

The appointed time having arrived, the Chair opened the Public Hearing and read the request and Public Hearing Notice. The Chair inquired about the noticing date and abutter's letter, suggesting there may have been a typographical error in the Notice which should have read 174-24 C (1). Mr. Lehrer would check the abutter's letters. The project proponent was in agreement that it should have been 174-24 C (1).

The Chair recognized the project proponent. Raul Lizardi, Cape and Islands Engineering, represented the applicant. Mr. Lizardi confirmed that the project had been presented to the Plan Review and Design Review Committees, as well as the Board of Health. Mr. Lizardi stated that the property was located at the northern corner of the newly developed Evergreen Circle, and Main Street (Route 130) and located in the C-3 business district. The proposed building would total approximately 9,900 square feet and would be utilized for Best Buy Beverage, currently located nearby on Echo Road. The business would be moving to the new location, and feature the same uses as their existing site, a bottle redemption center and approximately 2,000 square feet for office space. Under Section 174-24 C (1), these uses required Special Permit granting from the Planning Board, due to its location.

Mr. Lizardi stated that the project was simple and the site was fairly level and sandy soils typical of Mashpee. Groundwater was located fairly deep. The site was not located in Zone 2 and drainage would be created with four basins using surface drainage swales, as well as subsurface systems. Utilities would be provided underground with Evergreen, except for the fire service from Main Street, as recommended by the Water District.

Mr. Balzarini inquired about whether there would be sufficient parking spaces and Mr. Lizardi confirmed that the office parking requirements totaled 7 spaces and the retail requirements totaled 20 spaces and bottle redemption required 5 spaces, for a total of 32, which was the number of spaces proposed. Mr. Balzarini inquired about large vehicles collecting the recycling and Mr. Lizardi responded that the site was developed with a looped driveway and large entrance to allow for a semi-trailer truck to access the loading zone area. Mr. Lizardi confirmed that there was 200 feet from the center of Route 130 to the proposed entrance and the average length trailer was typically 50-55 feet in length. Mr. Balzarini asked Mr. Rowley if it would be sufficient space to avoid backing up traffic and Mr. Rowley responded that he would review it with a template to confirm it would be sufficient space.

Mr. Callahan had no questions.

The Chair stated that Mr. Rowley would be working on a report regarding this application. Mr. Lehrer confirmed that the abutter letter did read Section 174-25 C (1). The Chair asked that Mr. Lehrer follow up with Town Counsel regarding the best way to address the matter of re-noticing the abutters.

Mr. Hansen referenced the other properties being listed on Evergreen's single signpost and inquired about additional signage planned by the project proponent. Mr. Lizardi stated there would be no stand-alone signage on the driveway but there would be a sign similar to the existing sign located on the face of the building. Mr. Lizardi confirmed that there would be 100 feet of undisturbed land with existing vegetation. Mr. Hansen inquired whether the sign would then be seen and Mr. Lizardi responded that it was primarily pitch pines with canopies at the top,

so it was possible for it to be seen. The Chair asked if there were additional comments regarding the signage, to please share with the Board.

The Chair referenced the May 2019 Town Meeting and amendments to Mashpee Zoning Bylaw Articles 26 and 27 regarding the Light Industrial Overlay District and Table Uses and changes to architectural and site design changes, as recommended by the Cape Cod Commission. The Chair recommended acquiring the changes from the Town Planner. Mr. Lizardi confirmed that he was familiar with the design standard recommendations. The Chair highly recommended that the project proponent's design meet the new standards set in the Bylaw.

Mr. Rowley confirmed that a water quality report had been completed for the overall Evergreen subdivision. The Chair asked that the project proponent submit the letter as part of the record to confirm compliance. Mr. Lizardi confirmed that the Fire Department had reviewed the plan at Site Plan Review and Design Review and there were no objections noted. The Chair asked Mr. Lehrer for meeting minutes. Mr. Rowley inquired whether the Fire Department used their template to assess the turning radius and Mr. Lizardi responded that it was believed to be the WB 50 turning movement for larger trucks so it would not be an issue. Mr. Rowley recommended a letter from the Fire Department and Mr. Lizardi responded that he would request a letter. There was consensus from the Board that Mr. Rowley could consult with Mr. Lizardi regarding the plan.

Mr. Lehrer noted that he had discussed the Cape Cod Commission's Design Guidelines at Plan and Design Review, but at that time, they had not yet been approved by the Attorney General but had since be approved and established retroactive to Town Meeting.

The Chair opened the matter to Public Comment.

Bob Laline, Main Street and across from the project, was present to learn more about the project. The Chair encouraged Mr. Laline to share his comments because the Planning Board wished to know how the project could impact their property or living environment. The Chair noted that the property owner had a right to develop their property, but if they were seeking relief, they would need to show justification to allow for the relief. The Chair inquired if relief was being sought and Mr. Lizardi responded that a list had been submitted with the application, listing the items. The Chair referenced the Zoning Compliance table, Mr. Lizardi confirmed that they were not seeking relief for setbacks and lot coverages and would be meeting those regulations. Mr. Laline attended a prior meeting regarding a 40% buffer requirement that was reduced by 14%, allowing the removal of trees to dig a ditch for runoff, adding that his property often floods. It was confirmed that this was not the project seeking relief from the buffer requirement. Mr. Lizardi confirmed that they were protecting the 100 foot buffer offset from the residential areas and was not the site with the large depression. Mr. Laline stated his preference that zoning be maintained for these projects, specifically expressing concerns about drainage and signage issues. As a long-time resident, Mr. Laline also expressed preference for a fence so that he would not have to look at large commercial buildings and asked that the Town give

consideration to residents who have lived on their properties for up to 30 years, in the residential area. The Chair asked that the project proponent consider the comments shared about fencing and landscaping. Mr. Lizardi confirmed that a landscaping plan, in addition to preserving existing vegetation, had been submitted and reviewed by Design and Plan Review. The Chair shared the landscaping plans with Mr. Laline and encouraged him to follow up with Mr. Lehrer with any comments or concerns, to be shared with the Planning Board.

There was no additional comment. Mr. Rowley noted that the list of waivers was covered on the plan and questioned whether they were applicable. Mr. Lizardi responded that they asked for relief because they sometimes do not provide specific details. Mr. Rowley confirmed that he would work with Mr. Lizardi to resolve any questions and the Chair encouraged the project proponent to consider comments made by the abutter. Mr. Cummings referenced the abutter's concerns about the signage, specifically if it was a distraction to drivers on the road. Regarding drainage, Mr. Rowley stated that there was no drainage on Route 130 that would be impacted by the site and all drainage generated by the site would be contained on site. Mr. Laline stated that the Town's water drained onto the site adjacent to the Best Buy Beverage site.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to September 4th at 7:05 p.m. Mr. Cummings seconded the motion. All voted unanimously.

**7:20 p.m. Modi, LLC (Continued from 8/7/19)
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) as required by Sections 174-25 (I)(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. The Board will also consider a request to reduce the required 100 foot undisturbed naturally vegetated buffer adjacent to any residentially zoned parcel outside of the C-3 District to 50 feet. This waiver request is made pursuant to Section 174-25.1(4).**

The appointed time having arrived, the Chair opened the Public Hearing and read the request from Modi, LLC. Kevin Kirrane, attorney, and Patrick Johnson from Atlantic Engineering were present to represent the project proponent for this Special Permit request. Mr. Kirrane stated that it was his understanding that the hearing was continued to clarify interpretation regarding 40% undisturbed natural space as required by the Bylaw. Mr. Kirrane stated that the applicant presented a plan to the Zoning Board of Appeals seeking a variance from the Bylaw requirement to maintain 40% of the site as natural undisturbed land, and was then granted a variance by the ZBA to reduce 40% natural undisturbed land to 26%. The plan submitted showed that the reduction would enable the applicant to provide additional parking on site. The Chair stated that the last plan presented to the Planning Board showed 40% undisturbed natural land, so the reduction had not yet been discussed by the Board. Mr. Kirrane stated that reducing the undisturbed land to 26% required modification to drainage and to allow for filling in the depression at the front of the site where water gathered, draining from Route 130. Mr. Kirrane

stated that he had received an email from DPW Director Catherine Laurent stating that filling in the area would not impact road drainage or contribute to drainage issues on other properties. Mr. Kirrane had submitted for the record the approved variance from the ZBA. Mr. Kirrane further noted that reduction of the undisturbed land also fulfilled a need to increase parking on site to for future potential uses. The revised landscaping plan was still being developed, and would include screening around the area of the depression in order to maintain a landscaped buffer at the front. Concerns had been raised by the abutters regarding screening and the project proponent had agreed to increase landscaping in the buffer areas. Plans were shared with the public at the request of the Chair. Screening would also be placed around the outdoor seating area. Mr. Kirrane added that the project proponent was also seeking relief from a 100 to a 50 foot buffer. Reference was made to the Standards of Development in the C-3 District.

Mr. Balzarini inquired about the increase in parking spaces and it was confirmed that there would be 46 parking spaces, though 35 was required. Mr. Balzarini inquired about access and it was confirmed that there were two points of access. Mr. Balzarini inquired about delivery trucks and the project proponent, Jan Aggerbeck responded that delivery vans would be used. Mr. Balzarini expressed concern about access for larger vehicles and, since there would be an additional tenant. The Chair inquired whether the Board wished to add a condition regarding larger vehicle access. Mr. Rowley suggested that small adjustments could be made to better accommodate larger vehicles and Mr. Kirrane confirmed that they would work with Mr. Rowley to address the matter. Reference was made to the original plan and Mr. Kirrane stated that parking had to be reconfigured to maintained the 26% undisturbed natural vegetation.

Mr. Hansen inquired about adjustments to lighting in the trash area and it was confirmed that changes were made. Mr. Hansen suggested that the area of replanting trees around the depression area appeared to be thinner than the existing conditions. Mr. Kirrane suggested that the final landscaping plan would show a greater depth of landscaping, adding that they wished to accommodate concerns expressed by the abutters. Mr. Callahan expressed the same concern.

The Chair referenced the June 15th plan showing 45.5% undisturbed land and the new plan showing 26% undisturbed land. Mr. Kirrane explained that the original plan included landscaped land with undisturbed natural area. The need for the reduction with the ZBA was a result of clarification between landscaped area and undisturbed natural area. The Chair expressed concern about reducing the undisturbed area from 45% to 26% and asked that the project proponent carefully consider the feedback from the abutters regarding their quality of life. The Chair added that she would consult with Town Counsel and expressed frustration that the project proponent did not notify the Planning Board of their plans to request a variance from the ZBA. The Chair noted that she had recommendations for the site but instead, the project proponent sought a decision for another board, making it harder for the Planning Board to provide further comment. Mr. Kirrane stated that they would be happy to consider comments from the Chair.

The Chair noted that coffee roaster did not appear in the use table for Light Industrial zoning, but that food incubator/food manufacturing/food processing did appear on uses, and would follow up with Town Counsel to confirm that it was an allowable use. Mr. Kirrane believed it was an allowable use. Additionally, changes made to the Bylaw in May 2019 and approved by the Attorney General, required consideration of design standards. The Chair previously requested a summary from the project proponent about the appearance of the building and architectural and site design standards, Articles 26 and 27. Mr. Kirrane inquired whether the Plan and Review Committees were aware of the design standards and the Chair responded that she had notified the project proponent and anticipated that the building would comply with the guidelines, but a summary was needed in writing. Mr. Kirrane spoke with the architect who would look into the matter further.

Mr. Cummings had no comment.

Regarding use, Mr. Lehrer confirmed that the proposed use of coffee roasting was an allowable use in the Bylaw. Regarding seeking relief from the ZBA without notifying the Planning Board, Mr. Lehrer stated that the project proponent believed their plan was compliant based upon advice from the Planning Department. After the first Public Hearing, and the matter of 40% undisturbed area, Mr. Lehrer advised the applicant to seek relief from the section. The Chair asked that Mr. Lehrer first consult with the Chair because the hearing had been continued in order to receive the report from the Town's Consultant Engineer. Mr. Lehrer stated that applicants had a right to seek relief from any board.

Mr. Rowley referenced the ZBA decision granting the variance and referencing 6 pages of plans, noting that the plans presented tonight were different than what was considered by the ZBA. Mr. Rowley inquired whether the ZBA had reviewed the plans with the 26% undisturbed area and Mr. Kirrane responded that the ZBA received a sketched plan and it would not conflict with the decision of the Planning Board. Regarding traffic movements noted by Mr. Balzarini, the plan showed the route of the fire truck through the site. Mr. Rowley stated that he had not yet been in receipt of the new plans for review, and would need to do so in order to issue a new report.

The Chair stated that there was a request to reduce the required 100 foot undisturbed naturally vegetated buffer adjacent to a residential zoned parcel in C-3 to 50 feet. It was Mr. Kirrane's opinion that the natural buffer was not applicable, but would supplement with landscaping. Mr. Rowley had not yet reviewed that aspect of the plan. Mr. Kirrane stated that they were seeking relief in order to fill in the hole on site. Mr. Kirrane stated that they were seeking relief from the 100 feet and not the undisturbed natural area, adding that the site was not next to any residentially zoned parcel. Mr. Kirrane confirmed that the applicant was seeking relief from 174-25.1 Sub Section 4. The Chair stated that it was not included in the Public Hearing Notice. Mr. Lehrer stated that the Zoning did not allow development within 100 feet of a residentially zoned parcel, while requiring a 100 foot buffer, but that the Planning Board could waive it to 50 feet. Mr. Lehrer confirmed that the abutters were appropriately noticed and it was his opinion that the section of the bylaw cited in the Notice applied but Mr. Kirrane believed differently. Mr.

Kirrane confirmed that Design Review had considered the matter and the Chair asked that documentation be submitted from Design Review. Mr. Lehrer confirmed that Design Review had approved the plans, but not specifically the reduction. Mr. Kirrane stated that the original plans considered by Design Review did not include the undisturbed natural buffer, but did include landscaping. Mr. Johnson confirmed that 50 feet was shown on the map. The Chair noted that reducing to 50 foot would not touch the property. Mr. Kirrane added that they would not be seeking a full 50 foot reduction because they would be providing landscaping, where the hole was being filled. It was Mr. Balzarini's opinion that the hole would look better filled, with landscaping added, especially with larger trees.

The Chair inquired whether the front designed area was intended to draw in the customer or for customers on site. Mr. Aggerbeck stated that the intent was to make the area attractive for customers to linger and be protected from the sound of traffic, adding that the existing trees did not provide a buffer due to their height.

The Chair recommended that the project proponent review the minutes from the last meeting. Mr. Phelan had inquired about correspondence from the Fire Department regarding access and Mr. Lehrer would be providing the DRI decision from the Cape Cod Commission. The Chair had suggested a condition to ensure a compatible use for any incoming tenant. Mr. Johnson confirmed that turning radius had been confirmed with Mr. Rowley. The Chair suggested the possibility of having to re-advertise the relief if it had nothing to do with the naturally undisturbed buffer, but Mr. Lehrer disagreed.

The Chair invited public comment.

Kathy Petersen, Main Street, confirmed that there originally had been a full natural buffer, but the original owner of the property clear cut the trees, leaving only the tall trees. Ms. Petersen expressed concern about visibility with plans to offer out door games and a fire pit to customers, adding that she had met with Mr. Aggerbeck. Ms. Petersen stated that the original intent was industrial, as a coffee maker, but expressed concern with plans to make it more of a family friendly destination. Ms. Petersen agreed that filling in the hole, with proper landscaping would be an improvement. Ms. Petersen expressed concern about the speed of Route 130 with children playing outside. Ms. Petersen also expressed concern about noise with increased traffic entering and exiting the site, 8 a.m. to 8 p.m. The Chair referenced Article 27 that allowed outside seating for an established eating place in an industrial area, but would require appropriate visual screening areas abutting a residential zone. Mr. Kirrane stated that it was the intent of the applicant to provide screening.

Bob Laline, Main Street, voiced his concern regarding the buffer and encouraged all to read Section 174 and the 100 foot buffer requirement, and the 40% requirement. Mr. Laline noted that all of the other businesses were set back, as required, and it would be unfair to allow this applicant relief from what was required. Mr. Laline referenced the front of the building on Route 130 and another front on Evergreen Circle. Mr. Laline suggested that the porch on the front

facing Route 130, and the plan included also picnic tables and a fire pit out in front of the porch. Mr. Laline expressed concern about the traffic as well as the second tenant and reference to it possibly being a tasting facility. Mr. Laline was concerned about addressing planning now without knowing the details about another tenant, as well as seeing many different and changing plans. Mr. Laline also stated his preference for a more natural buffer rather than a landscaped buffer. Mr. Laline would prefer that the site be more set back and also expressed concern about the water problems experienced in the area and a potential impact to his property.

The Chair announced that Mr. Lehrer was in receipt of a letter from DPW Director Catherine Laurent and read the letter for the record. The DPW was in the process of redesigning the drainage system at Evergreen Circle and Route 130. Mr. Kirrane stated that all of their drainage would remain on site. Mr. Aggerbeck would have liability issues with children so every effort would be made so that they did not access Route 130. In addition, Mr. Kirrane pointed out that there were a number of businesses along Route 130 that did not have sufficient buffering, and the applicant would be providing adequate landscaping to address the concerns of the residents. The Chair added that a split rail fence had been proposed on the plan and Mr. Kirrane added that they would add landscaping around the fence. The Chair asked if the landscape architect had been directed to block the visual of the project and it was confirmed that was the case. Mr. Johnson expected that the plans would be available next week and agreed to share them with the abutters. Mr. Kirrane pointed out that there were impacts, that there were areas where commercial and residential zones would be abutting.

Tom Rullo, North Way, stated that he knew the owner and referenced his effort to create a nice looking building in Mashpee. Chief Rullo noted the challenge of creating screening while also maintaining buffer space, adding that the natural vegetation had already been removed. Chief Rullo also noted that a successful business was good for the entire town, it helped the tax base and assist with future sewerage needs.

The Chair stated that any additional comments could be forward to Mr. Lehrer. The Chair read a letter of support into the record from Jill Leshard, noting the addition of new jobs in Mashpee and Cape Cod Coffee's support of local non-profits and businesses.

Cindy Jones, Great River Road, stated that Cape Cod Coffee was a business that also gave back to the community, and was an honor to have as part of Mashpee.

John Cotton, Nobska Road, also stated that Cape Cod Coffee had been a true community partner, involved with non-profits and consistently played a role in the community, including in the schools.

Nicole Spencer, West Way, stated her support for Cape Cod Coffee, adding that they served as an example of the type of business that Mashpee would want to have in the community.

There was confirmation that the applicant would provide the appropriate plans to Mr. Rowley. Mr. Rowley requested to speak with Ms. Laurent regarding the Town's plans for drainage. Mr. Aggerbeck confirmed that he would provide Mr. Lehrer with the landscaping plans to share with the abutters and would attend a scheduled meeting. Mr. Aggerbeck also stated that they had received one extension from the bank, but would like to be scheduled for a meeting prior to the 18th.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to September 4th at 7:30 p.m. Mr. Callahan seconded the motion. All voted unanimously.

The Chair asked that Mr. Lehrer send a letter, with the whole paragraph, to the abutters.

NEW BUSINESS

Charles Rowley, July Invoice for Southport- An invoice was received for Southport in the amount of \$100.

MOTION: Mr. Balzarini made a motion to pay Charles Rowley for his services to Southport in the amount of \$100. Mr. Cummings seconded the motion. All voted unanimously.

Planning Board members signed the authorization.

Request for Release of Open Space Parcel 1 from the Covenant-Evergreen Energy LLC- The Chair announced that the Board had a copy of the Release of Covenant Agreement for Open Space Parcel 1, dated November 15, 2017 and owned by Evergreen Energy LLC. Mr. Lehrer confirmed that the building lots had been released, but the open space conservation lot had not yet been released. Mr. Lehrer stated that Evergreen would be seeking to transfer the title to the Conservation Commission this week, requiring that the lot be released by the Planning Board. The Conservation Commission approved of the transfer and the Board of Selectmen would also need to accept the deed, but first required release by the Planning Board. The Chair inquired about a modification to the plan and Mr. Lehrer confirmed that the Open Space Parcel originally was not intended to be transferred to the Conservation Commission, until the stripping of the land was discovered. After working with the Conservation Commission to develop a restoration plan for the land, Evergreen opted to transfer that parcel to the Conservation Commission, which was also accepted by the Cape Cod Commission. The Chair stated that requests were typically submitted in writing and Mr. Lehrer indicated that it was sent by email, which was not received by Board members. Mr. Lehrer confirmed that the email was received from Michael and Jeffrey Ford, attorneys for Evergreen Energy LLC. The Chair asked that the email be located for consideration by the Board.

There was a recess taken at 8:50 p.m. and the meeting reconvened at 8:54 p.m. to locate the email.

MOTION: Mr. Balzarini made a motion to release Open Space Parcel 1 from the Covenant. Mr. Callahan seconded the motion. All voted unanimously.

The Chair will notarize the signatures on the document and have it ready tomorrow for recording.

OLD BUSINESS

Proposed Development Agreement with Mashpee Commons, Presentation by Cape Cod

Commission-Chairman Waygan reported that the Chair of the Board of Selectmen was working with the Cape Cod Commission to schedule a presentation regarding Development Agreements. The Chair recommended that Board members review the most recent BOS meeting regarding the matter. The Chair submitted a letter to the BOS and Buff Chace of Mashpee Commons.

CHAIRMAN'S REPORT

October 2019 Town Meeting Warrant-The Chair reported that there would be a meeting tomorrow with the Board of Selectmen to discuss wastewater and Warrant Articles.

Employment of Outside Consultants-The Chair was also in discussion with the Town Manager about the Board's ability to hire additional consultants. The Chair referenced the Mashpee Rotary Safety Audit. Mr. Rowley had been a participant and suggested the solutions offered may not adequately address the traffic needs. The Chair recommended Board members review the study. Mr. Lehrer stated that the output of the rotary study was specific to road safety, adding that the crash data showed that most accidents occurred at the entries to the rotary. It was Mr. Balzarini's opinion that, with only two lanes on Route 28, there would always be a bottle neck. Mr. Lehrer noted that the rotary was created as a one lane rotary but was used as a two lane rotary. The Chair also reported to Mr. Collins the need to have both rooms for Planning Board meetings and Board of Selectmen agendas would be forwarded to members of the Planning Board by way of Mr. Lehrer. Agendas and packets of materials would also be available online.

BOARD MEMBER COMMITTEE UPDATES

Cape Cod Commission-Mr. Callahan referenced the road study project, noting that there would be a big meeting tomorrow. The Chair inquired about the online open comments for the Cape Cod Commission's LCP Guidelines but Mr. Lehrer responded that he believed they had already been adopted.

Community Preservation Committee-A proposal to lower the surcharge for Community Preservation funds to 1% would be considered at tomorrow night's Board of Selectmen meeting. There had been multiple proposals suggested to change the configuration of the funding.

Design Review Committee-No meeting

Plan Review-No meeting

Environmental Oversight Committee-Mr. Cummings reported that Santuit Pond water quality issues would be monitored by new technology developed in Woods Hole. Funding was expected from the Mass Municipal Vulnerability Preparedness Program. Although there was some theft, $\frac{3}{4}$ of the plots in the community gardens had been sold. It was reported that none of the estuaries were meeting water quality standards and Popponesset was in the worst shape.

Shellfish programs were doing well, but were not expected to meet the 30% goal. It was expected that Phase I and Phase II would be met with the success of the shellfish program. There was discussion regarding the need to place a wastewater facility in the area of the transfer station, and the challenges associated with addressing the wastewater issue in Mashpee.

Greenway Project & Quashnet Footbridge-No meeting

Historic District Commission- No meeting

Military Civilian Advisory Council- No update

UPDATES FROM TOWN PLANNER

Mass Municipal Vulnerability Preparedness Program-Mr. Lehrer stated that funding had been received and a scope of work and contract was awaiting a signature before moving forward with the workshops. It was recommended not to have workshops during travel times for seasonal residents, but possibly during late spring and/or early summer.

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-Mr. Lehrer proposed that the undisturbed natural buffer could be waived in place of a comprehensive landscape plan in parts of Great Neck Road, Route 130, Route 28 and Route 151. It was Mr. Rowley's opinion that the natural buffer, because of the footnote 14, should have been retained for Cape Cod Coffee, but Town Counsel had ruled otherwise. Mr. Rowley suggested that footnote 14 may need to be revised. Mr. Lehrer stated footnotes varied for C-3 and C-2. The Chair stated that she would be seeking additional feedback from Town Counsel.

Local Comprehensive Plan, New Guidance from Cape Cod Commission-Mr. Lehrer believed that the new LCP Guidelines had been adopted by the Cape Cod Commission and requested that they address the Planning Board regarding any changes. October 2 was the proposed meeting date.

ADDITIONAL TOPICS

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Callahan seconded the motion. All voted unanimously. The meeting adjourned at 9:24 p.m.

Respectfully submitted and drafted from video,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS PROVIDED

Additional documentation may be available in the Planning Department

-Minutes July 17, 2019

-Charles Rowley Invoice for Southport Services for July 2019

-Kevin Andrade Application for Special Permit and Plans

- Release of Covenant Agreement for Open Space Parcel 1 at Evergreen Circle and Supporting Documentation
- Mary Waygan Memo Dated 8/15/19 to Andrew Gottlieb, Regarding Mashpee Commons
- Mary Waygan Letter Dated 8/15/19 to Buff Chace, Regarding Mashpee Commons

**Mashpee Planning Board
Minutes of Meeting
September 4, 2019 at 7:00 p.m.
Mashpee Town Hall-Waquoit Meeting Room
16 Great Neck Road North
Approved 10/16/19**

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 7:02 p.m. on Wednesday, September 4, 2019. The Chair welcomed attendees and the Pledge of Allegiance was recited. The Chair stated that the meeting was being videotaped and recorded and noted that, if the public addressed the Board, to do so stating their name, address and comment. Comments should be made through the Chair, after being acknowledged, and may be addressed directly by the Board, the project proponent, staff, consultant engineer or taken under advisement.

APPROVAL OF MINUTES—August 7, 2019

MOTION: Mr. Balzarini made a motion to accept the August 7th minutes as presented. Mr. Callahan seconded the motion. All voted unanimously.

PUBLIC HEARINGS

7:05 p.m. Best Buy Beverage (Continued from 8/21/19)

Application for a Special Permit filed by Kevin Andrade to construct a commercial building to be used for retail use, redemption center and office space to be located at 11 Evergreen Circle, currently identified as Lot A on the plan titled Definitive Subdivision Plan, Evergreen Circle, prepared for Evergreen Industrial Park, #588 Main Street (Route 130) approved on 11/20/17 by Mashpee Planning Board. This application is made pursuant to Sections 174-24 C (1) and under Section 174-25 E (12) under the Mashpee Zoning Bylaw. The property is located in the C-3 Zoning District and is within the Light Industrial Overlay District.

The appointed time having arrived, the Chair opened the Public Hearing and read the Public Hearing Notice and request. Raul Lizardi-Rivera, Cape and Islands Engineering, represented the applicant and returned to address additional information requested by the Board. Mr. Lizardi-Rivera confirmed that plans had been revised and submitted, including the water quality report previously submitted by Evergreen, turning movement reports for emergency vehicles and revised building elevations and footprint, which reflected the standards requested by the Cape Cod Commission. Projections and awnings added character to what was previously a plain rectangular building and traditional materials replaced what were initially metal walls. Mr. Lizardi-Rivera confirmed that all comments provided by Mr. Rowley were addressed except for 1) fire/water service off of Route 130 instead of Evergreen Circle, due to water pressure concerns expressed; 2) grading adjustment at the entrance that would have placed the driveway at an 8% slope, but showing that the water would be directed to the waterway with some adjustments; and 3) changes to the landscape material, including ground cover species.

The Chair invited Board and staff members to comment. Mr. Callahan stated that the applicant addressed concerns expressed by the Board. Mr. Phelan agreed that most of the issues were addressed. Mr. Cummings had no concerns. Mr. Balzarini appreciated the changes to the exterior.

Mr. Lehrer agreed that the proposed architectural designs were an improvement over what was previously submitted and were in compliance with the Cape Cod Commission Design Guidelines. Mr. Lehrer noted that the narrative was abbreviated and asked that more information be included as to why the design choices were made. Mr. Lehrer added that, as a site located in the C-3 District, 40% of the lot was required to remain undisturbed natural, adding that Mr. Rowley had initially pointed out that the calculation did not appear on the plans.

Mr. Lizardi-Rivera discussed the architectural changes made to the building, originally intended to be metal, and would include a central portion made up of cedar shingles, with the wings featuring vinyl siding. The two entrances were shifted to the corners with awnings above, to create a projection. The bottom of the façade would also feature barn board. The building sign would now be facing Evergreen Circle.

The natural open space calculations had been added to Sheet 1 and met zoning compliance of 50%, including improvements and had been considered by Plan and Design Review where more native species were requested in the landscaping. Mr. Lehrer inquired whether the 50% calculation was undisturbed, as required and Mr. Lizardi-Rivera responded that it was disturbed but replaced with landscaping. Mr. Lehrer inquired how much of the land would be undisturbed and how much would be landscaped but Mr. Lizardi-Rivera was unsure of the exact calculations. Mr. Lehrer reiterated that 40% needed to remain undisturbed, unless relief was being sought and granted. The Chair requested that the calculations be provided to the Board. Mr. Lizardi-Rivera stated that the land on Main Street had already been disturbed previously. There was disagreement regarding zoning interpretation of disturbed and undisturbed land, if the land had already been disturbed. The Chair stated that the note would need to be added to match the zoning bylaw in the zoning compliance table and Mr. Rowley agreed that compliance needed to be shown. The Chair believed that the intent of the Bylaw was that the final product be left in its final state but Mr. Lehrer suggested that use of “undisturbed” meant prior to development of the site. Mr. Lizardi-Rivera stated that the C-3 district was completely disturbed. Mr. Phelan agreed with both viewpoints.

Mr. Rowley referenced the location of the water main and sprinkler system, and the need to clear the trees that would impact the undisturbed area, adding that it would be fine if it was a Water District preference, as there would be little difference. Regarding drainage, Mr. Rowley expressed concern about the shifts in the crown shedding the water to one side, suggesting the possibility that plowed snow may block the drainage areas, directing water to Evergreen Circle, which was not designed to manage additional flow from other sites. Mr. Rowley had suggested that the low point be adjusted and the runoff contained within the site. There was agreement for Mr. Rowley and Mr. Lizardi-River to work on the matter further.

There was no public comment.

Mr. Lizardi-Rivera inquired whether the Public Hearing could be closed, action taken and revisions be included in the conditions due to a closing for the property. Mr. Lizardi-Rivera stated that he would be agreeable to incorporating Mr. Rowley's comments into the plan and change the zoning compliance table. Mr. Lehrer inquired whether the Board wished to take a vote without the draft decision. The Chair stated that they could close the Public Hearing, excluding further discussion regarding the draft decision at the next meeting. Mr. Lehrer would draft a decision including the conditions.

MOTION: Mr. Balzarini made a motion to close the Public Hearing. Mr. Cummings seconded the motion. All voted unanimously.

There were no additional comments from Board members.

MOTION: Mr. Balzarini made a motion to approve the project as amended with two changes; 1) that the Zoning Compliance Table is amended to reflect the proper verbiage regarding the undisturbed natural space and 2) that the low point for the drainage area closest to Evergreen Circle will be modified to eliminate runoff toward Evergreen Circle. Mr. Callahan seconded the motion. All voted unanimously.

Mr. Callahan will sign the signatory page.

**7:10 p.m. Blue Sky Towers II, LLC
Application for a Special Permit to erect a Personal Wireless Service Facility as required by Section 174-25 (H)(9); 174-45.3 of the Mashpee Zoning Bylaw at 101 Red Brook Road, Mashpee Fire Station #2 consisting of a 150' monopole. This Public Hearing is being reopened by the Planning Board following referral to the Cape Cod Commission as a Development of Regional Impact (DRI).**

The appointed time having arrived, the Chair opened the Public Hearing for Blue Sky Towers II, LLC and read for the record the Public Hearing Notice and request. The Chair read a statement regarding the process as to how the matter would be discussed and considered during the Public Hearing, beginning with a presentation from the project proponent. The Chair explained that a prior proposal had been submitted, but withdrawn without prejudice. All testimony, materials or information submitted previously would need to be submitted again for Board consideration.

Attorney Elizabeth Thompson, representing Blue Sky Towers II, LLC, described the proposal for a 150 foot monopole telecommunications tower to be located at Mashpee Fire Station #2 at 101 Red Brick Road. Verizon Wireless cellular service would be located at 146 feet, T-Mobile at 136 feet and Mashpee emergency management system at 100 feet. Space remained for two additional providers. Equipment for the facility would be located at the base of the tower, surrounded by fencing.

The project proposal was in response to an RFP award issued by the Town of Mashpee to allow greater control of the site and to generate revenue for the Town and increase wireless access for the Town. The project proponent was required to identify any alternative sites that would be feasible and discovered that there was no existing cell tower or roof tops available in the search area to accommodate the coverage gap, requiring Blue Sky Towers to consider raw land sites. It was determined that the proposed site was the only feasible location.

Ms. Thompson referenced a site in New Seabury where Verizon previously held a lease, but the lease had been terminated by New Seabury, and New Seabury was not interested in pursuing a new agreement when Verizon again approached them. Ms. Thompson recently reached out again to New Seabury management, who initially expressed interest in the proposal, but the identified site was listed as an Agreement for Judgement under the Cape Cod Commission and New Seabury, and fell under conservation and/or recreation restrictions. Ms. Thompson provided details in Exhibit 50.

Ms. Thompson referenced the DRI decision from the Cape Cod Commission, who approved the cell tower in October 2018. Ms. Thompson read portions of their decision. Once the project proponent learned that the proposed site did not lie within the Wireless Overlay District, they sought relief and were granted a variance from Mashpee's Zoning Board of Appeals to build the 150 foot cell tower.

Ms. Thompson cited the Telecommunications Act of 1996, suggesting that the Board had to consider the TCA due to the existing significant gap of coverage in Mashpee. Additionally, Ms. Thompson stated that there was case law that would support the interpretation, with further information available in Exhibit 60. Ms. Thompson stated that, this was the only feasible proposal, not only as a matter of convenience but for critical emergency life-saving operations, specifically for the area of South Mashpee.

Keith Vallente, a radio frequency engineer representing Verizon, referenced a report and maps to visually identify the needs of Verizon, located in Exhibit 9. Mr. Vallente discussed three existing towers, 140 feet in Falmouth, 70 feet in East Falmouth and Mashpee South Industrial Drive at 142 feet. Although the cell towers provided some coverage to the area, the topography and distance made it unable to support reliable communications, creating a coverage gap in the southern portion of Mashpee. The cell tower site at Red Brook Road would increase coverage for 1,400 additional residents over an area of 2.2 miles and create a more robust network in the area. Mr. Vallente noted that Verizon was greatly challenged by providing sufficient coverage with increased usage of multiple wireless devices. Mr. Vallente also described the way in which coverage areas on the fringe of cell towers offered erratic service, creating more of a burden to the distant cell tower. A cell tower in closer range would provide better coverage.

Mr. Cumming and Mr. Balzarini referenced the maps and inquired further about the existing towers and continued gaps in coverage despite the addition of the new cell tower. Mr. Cummings inquired about using lower posts closer to areas where more coverage was needed. Mr. Vallente, referenced the map and stated that coverage would be degraded in some areas where it would be less reliable due to a high spot, but would still exist. Mr. Balzarini inquired about coverage for other providers with their location lower on the tower and Ms. Thompson responded that T-Mobile would present their coverage, but that no other provider had yet been contracted.

Mr. Callahan inquired whether the area under the service threshold would allow phone calls. Mr. Vallente responded that there were a number of factors to determine coverage level, and could depend upon number of users at one time, network loading and what users were doing at a particular time. Ms. Thompson added that there was no perfect site to serve every deficient spot, particularly with a large gap. Ms. Thompson added that there was a mandate by the Federal government to cover every area, as they can, with reasonable speed, until a secondary future plan could be developed.

Mr. Balzarini inquired whether the site in New Seabury could have closed the coverage gap. Ms. Thompson stated that there was a proposal, but that she did not state that it would cover everything. Mr. Balzarini inquired why the Federal mandate would not apply to the New Seabury site and Ms. Thompson responded that the site was not feasible because there was not a willing landlord and the site considered had conservation restrictions. Mr. Balzarini inquired about the wildlife sanctuary located near the proposed site and Ms. Thompson responded that it did not sit within the boundary area and reference Exhibit 5.

Mr. Cummings inquired about the use of Verizon antennas on telephone poles in New Seabury and Ms. Thompson stated that she was unaware of any such arrangement. Ms. Thompson referenced Exhibit 10 regarding a letter and feasibility of using alternative technology, and the reasons it would not work. Likewise, Exhibit 14 was a report from T-Mobile stating that alternative technology would not be feasible.

There was discussion regarding the information provided by the cellular services to Blue Sky Towers, and the Radio Frequency Engineers hired by the cellular services to conduct the studies and information regarding closing the coverage gap.

Richard Karreocke, representing T-Mobile, referenced his Exhibits 12, 13 and 14. Mr. Karreocke described T-Mobile's need to extend coverage and its location at 135 feet, with the proposed cell tower. Existing coverage was currently offered at three sites, at 130 feet in 550-B Falmouth, 165 feet 512-A Industrial Drive Mashpee and 93 feet in 511-C Falmouth.

Mark Correnti, Residential Appraiser, provided a report located in Exhibit 17. Mr. Correnti stated that he considered existing cell towers, comparing properties and analyzing home sales. Mr. Correnti noted that buyers set the market values. Referencing 9 Nancy Lane with a view of a cell tower, Mr. Correnti indicated that the property sold quickly and above the comparison. A home at 12 Windmere Way also had a view of a cell tower and had a similar sale as its comp. Additional properties at 114 Dover Road and 2 Oxfordshire Place, in sight of cell towers, also featured sales similar to their comps. Mr. Correnti added that there were no filed tax abatements in Mashpee, due to the proximity of the cell towers. Mr. Correnti indicated that buyers were paying full price for properties. Mr. Correnti also referenced his June 13 letter that highlighted information from the National Institute of Science Law and Public Policy and a cell tower study from New Zealand.

Mr. Balzarini inquired about the location of the comps and Mr. Correnti confirmed that they were not located within proximity of a cell tower. Mr. Phelan inquired about the height of the towers in the pictures and Mr. Correnti believed that they were 150 feet and 250 feet. Mr. Callahan inquired whether his company performed other cell tower market studies and Mr. Correnti confirmed that they did.

Ms. Thompson explained the results of the photo simulation package, which included balloons at varying heights and simulations of the fully loaded cell tower at 150 feet and 125 feet, painted light blue, painted light grey and as a monopine.

126/216 Red Brook Road-obscured visibility
95-103 Degrass Road-can be seen
56 Blue Castle Drive-can be seen
48-56 Blue Castle Drive-not visible
1182 Gray Road, 66 Red Brook Road, 701 Great Neck Road South, 50 Sippis Road, 664 & 575
Great Neck Road South, 5 Driftwood Way-not visible
112 Summersea Road-some seasonal visibility
118-120 Polaris Road-not visible

Ms. Thompson noted that all locations were chosen in consultation with the Town and the Cape Cod Commission. The Chair inquired about the NEPA screening report. Ms. Thompson responded that there was a separate analysis of historic homes and it was determined that there were no impacts to historic homes. The Chair ask that the report be provided, referencing a concern previously expressed about a particular camera angle of a historic home. Ms. Thompson responded that images were provided in the photo simulations, but that the report could also be provided electronically. Ms. Thompson noted that the locations depicted included the Aiken Gertrude House, the Amos Horatio House, Children's Museum and the Landing at Gertrude Way.

There was consensus from the Board for the Chair to open to Public Comment.

Tom Rose, Mashpee Police Captain, stated that south Mashpee had terrible cell and radio service. Captain Rose specifically referenced the recent micro burst and the lack of service necessary to assist with coordinating safety efforts. Captain Rose expressed concern about the lack of service for reasons of safety.

Howard Kahalis, Mashpee and Boston resident, stated that he paid taxes to Mashpee and agreed with Captain Rose that there was no cell service on the day of the micro burst, and expressed concern about being able to locate his grandchildren. Mr. Kahalis questioned scheduling meetings after the summer, when New Seabury residents were not in town. Mr. Kahalis stated that, as taxpayers, they were entitled to cell service for safety reasons, adding that it would be a breach of fiduciary relationship should any Planning Board member vote against the proposal, suggesting that any injuries or deaths resulting from voting against the cell tower would be the responsibility of the Planning Board. The Chair asked that Mr. Kahalis not threaten Planning Board members and make the issue personal. Mr. Kahalis stated that he was in favor of the proposal.

Andrew Gregory McKelvey, member of the Finance Committee and resident of Popponesset, stated that often cell service was available with WIFI or with the help of a cell booster. However, with the loss of power, there was very limited cell service in the area and he expressed concern regarding safety, particularly for people with medical issues. The recent microburst created a significant challenge for safety and accessibility to cell service. Mr. McKelvey supported the proposed cell tower.

Maureen Holland, Uncle Percy's Road, shared her experience during the microburst, including being unable to leave her property. Ms. Holland expressed safety concerns if she had needed to reach anyone by cell phone and stated her support for the proposed project.

Denise Peterson, resident of Popponesset, confirmed that she also had no cell service during the microburst, expressing concern if she had needed access to emergency responders, particularly as trees were down and children were outside playing. Ms. Peterson added that, with no electricity, her landline also did not work. Ms. Peterson asked Planning Board members to vote for the cell tower for safety reasons.

Leland Muldowney, Water Way, stated his support for the cell tower, noting that he was a telecommuter who was not able to work from his home without cell service. In addition, Mr. Muldowney pointed out that home values could be diminished by not having adequate cell service.

Scott Benstein, Paddock Circle, expressed concerns about cell service and safety when his parents visit, in case there was a need for access for medical reasons and stated his support for the cell tower.

Bill Peterson, resident of Popponesset, described the tree loss and potential danger as a result of the micro burst and expressed concern about children playing outside afterwards, and the potential need for access to communication in case of an emergency. Mr. Peterson felt as though they were being treated like second class citizens adding that, for three days, they had no access to communication as a result of the microburst and limited road access. Mr. Peterson stated that, as a former law enforcement officer, adequate access was not being provided for the area of Popponesset

Marlene Perkins, Bowsprit Point, expressed concern regarding safety and lack of cell service at the beach. Ms. Perkins stated that no cell service available at the beach impacted the entire community and emphasized that she was in favor of the cell tower.

Laraine Michaelson, Degross Road, stated that those who opposed the cell tower did not do so because they felt that Popponesset was undeserving of cell service but because they were concerned about the location of the cell tower. Ms. Michaelson inquired whether there had been consideration of placing the facility at the New Seabury Highwood water tower at 111 Rock Landing Road, to allow greater access to cell service. Ms. Michaelson referenced other lawsuits against cell towers due to health and safety issues. Ms. Michaelson further pointed out that property values referenced in the report reflected details from 2015, when concerns regarding cell tower were not available. Ms. Michaelson stated that, as an abutter to the cell tower, she was not opposed to cell service for New Seabury but that she was opposed to the proposed location for this cell tower.

Dana Roberts, Degross Road, confirmed that the water tower at 111 Rock Landing Road was owned by the Mashpee Water District, and featured 60.5 acres, which could serve as a site for the cell tower. In addition, the site provided a 40-50 foot elevation above the hill of concern, and could address the areas of concern in New Seabury and Popponesset that were lacking coverage. It was Mr. Robert's opinion that, based on the maps of service provided, 25% of New Seabury still would not receive cell service with the cell tower. Mr. Roberts also noted that the maps were mislabeled showing New Seabury located at Degross Road. Mr. Roberts also inquired about the hiring of an independent RF engineer and the Chair responded that she would ask the Board if they wished to do so. Mr. Roberts also noted that the project proponent responded specifically to the Town's RFP for a cell tower at the Fire Station, suggesting that it was unlikely they considered other sites, but that the priority should be providing service to residents of New Seabury.

Ms. Thompson asked to respond to the speakers and the Chair responded that she would allow Ms. Thompson to respond at the end of Public Comment. The Chair added that she would ensure that the Town Planner forward to Ms. Thompson any materials submitted this evening. Ms. Thompson felt it would be better to respond to each speaker but the Chair wished for the public to speak consecutively.

Terry Ronhock, Sunset Circle, stated that she had attended all meetings and reviewed all materials related to the proposal. Ms. Ronhock agreed that there was no question that New Seabury and Popponeset residents should receive proper service, however, there was question whether the proposal could appropriately solve the problem at the site chosen. Ms. Ronhock discussed the Telecommunications Act, and that denials be based on a reasoned approach, such as the failure to use existing structures within the general service area of the proposed cell tower. Ms. Ronhock referenced the outdoor distributed antenna system that would attach to existing telephone poles, which would address coverage and capacity in a greater area, closer to the water line. The system would also triangulate off of the poles, so would also be particularly helpful for the purposes of safety. This system had been previously considered by New Seabury's Peninsula Club. Ms. Ronhock had inquired previously with David Maxim, RF engineer, about the system, but he had responded that he was hired to review only the monopole system, adding that the system was technically feasible but a burdensome cost to the carrier. Ms. Ronhock noted that it was a system that had been successfully used in Provincetown and Dennis and other areas around the Cape and asked that this alternate system be considered for Mashpee. Ms. Ronhock also inquired about why the need for additional emergency radio repeaters had not been previously discussed, which could have been placed in other areas as needed. Ms. Ronhock referenced prior sites considered and expressed frustration that the 150 foot tower was being placed in a zone that did not allow for cell towers, and use of the site for cell towers being voted down by residents and asked that the Planning Board deny the Blue Sky Towers project in order to consider more viable options.

Inessa Arsentyeva, Old Great Neck Road, expressed concern about the proposed location and its location in the middle of a wildlife area and inquired about research on the project's impact to the Wildlife Refuge and its endangered species.

Michael Ronhock, Sunset Circle and Degross Road, expressed his disappointment about the previous application being withdrawn, believing that all information was to be rolled over into the new application. The Chair confirmed that materials submitted previously, which would apply to the current application, would need to be resubmitted in order to be considered by all parties. Mr. Lehrer stated that he had brought all correspondence submitted previously by residents and asked to enter it into the record. Mr. Lehrer provided the packet to Mr. Ronhock to review and resubmit it to the Planning Board so that it could also be reviewed by the project proponent. Ms. Thompson stated that she would like to review the letters of support to be resubmitted. It was confirmed that both parties would review what was submitted previously.

Mr. Ronhock agreed that no one wanted the lack of cell service to create an issue of safety. Mr. Ronhock stated that the site had not been selected by science, but instead was selected by convenience. Mr. Ronhock read a statement from the 1996 Federal Communication Act, Section 704, making Federal and State property available. Mr. Ronhock submitted a list of 10-12 parcels owned by the

Federal, State and Town government, located in the area, which totaled 468.33 acres and inquired whether those sites had been considered for use. It was Mr. Ronhock's opinion that the cell tower did not have to be located in anyone's backyard with that many acres available for a cell tower. Mr. Ronhock referenced a previous parcel of conservation land in Mashpee that had been used for infrastructure to create drainage pits. Mr. Ronhock noted that coverage maps continued to show that many areas in Popponesset would still lack coverage with the addition of the proposed cell tower. Mr. Ronhock also referenced the Middle Class Tax Relief Act of February 2012, Section 6409 regarding cell towers, which allowed an additional 10 feet in height to approved cell towers. Mr. Ronhock also referenced the outdoor antennae system that was considered at New Seabury.

Jane Lebel, Lisa Lane, stated that she had attended all previous meetings and felt that the Town should look at all options to ensure that all areas received appropriate cell service coverage.

Erik Lubrano, Blue Castle Drive, believed that Blue Sky had not proven that the proposed site would be the best site for the project and felt that the location was inefficient for the necessary coverage. Mr. Lubrano inquired whether the real estate assessment included discussion with the homeowner to determine whether they were advised to ask for a lower price due to the presence of a cell tower. Mr. Lubrano asked that the Planning Board not vote in favor of the project.

There was no further comment from the Public so the Chair turned to Board members for questions and comment.

Mr. Callahan inquired about the height variance from the ZBA and Ms. Thompson confirmed that the ZBA had approved a height variance of 150 feet. Ms. Thompson confirmed that the variance was found in Exhibit 7 and the DRI was located in Exhibit 6.

Mr. Phelan inquired about the additional percentage increase that could be utilized without additional approvals. Ms. Thompson responded that additional information would be submitted to address the various issues stated. Ms. Thompson indicated that Section 64019 allowed an increase of 20%, but that the project proponent needed only the 150 feet at this time.

The Chair stated that she would be submitting, for the record, the Zoning Bylaw, Mashpee's RFP for a cellular wireless equipment at Fire Station #2 issued in 2016, Lease Agreement between Mashpee and Blue Sky Tower in 2017, the failed Town Meeting vote October 2018 to amend the Bylaw to place the site in an overlay district, ZBA variance appealed by abutters to the Superior Court in March 2019, Massachusetts Chapter 40 Zoning Act and Istotrope Report on the Application to the Cape Cod Commission for the DRI. The Chair asked that the documents be placed on the record for access to the public, the project proponent and to Board members. The Chair also referenced monitoring the cell tower and removal if abandoned, and asked that it be incorporated into the discussions and a plan provided, as found in Mashpee Bylaw Section 174, 45L and Section 174, 45M.

The Chair expressed concern about the Cape Cod Commission's DRI decision as it related to Page 6, Finding 25, stating that the cell tower was in the overlay district. The Chair has asked the Cape Cod Commission to reconsider the decision and strongly recommended that the applicant request a modification. Ms. Thompson responded that she had spoken with Chief Regulatory Officer Idman

who indicated that the location of the wireless overlay district had no impact on the decision. The Chair referenced Cape Cod Commission Act Section D3, and expressed concern that it could be an issue. Ms. Thompson stated that she would ask Mr. Idman to state his opinion in writing. The Chair confirmed that she had been in receipt of his opinion, to which she disagreed, and again recommended that the project proponent seek a modification from the Cape Cod Commission.

Regarding the RFP of 2016, the Chair inquired whether additional sites had been referenced and Ms. Thompson confirmed that it was only the one public site put out to bid, in order to rectify the coverage gap. The Chair inquired whether other sites were discussed with the Town and Ms. Thompson responded that she was not involved in the negotiations regarding the RFP, adding that an RFP was typically for one location. The Chair asked that Ms. Thompson follow up with Blue Sky Towers to find out whether other sites were discussed and Ms. Thompson responded that she could provide information regarding other alternative sites that were identified by Blue Sky Towers and carriers. The Chair asked also who they met with in the Town but Ms. Thompson recommended that the Chair consult with the Town, adding that the RFP was a sealed process until released to the public.

Regarding the coverage area, the Chair inquired whether an analysis had been completed about the amount of conservation space, open space and undeveloped land and Ms. Thompson responded that Federal case law required that the carriers were the only ones that could determine the coverage gap and what was sufficient for their coverage. In addition, although people may not reside in the wilderness areas, the areas were in use and there could be a need for cell service, particularly in case of an emergency.

The Chair referenced the lease and the revenue generation of \$2,000 per month. Ms. Thompson confirmed the monthly revenue, adding that there was a capital improvement contribution, which the Chair indicated was in the amount of \$100,000 to the Fire Department.

Regarding the balloon tests, the Chair expressed concern about serious impacts to 95-103 Degross and 56 Blue Castle and inquired whether the project proponent had met with abutters to mitigate the impacts. Ms. Thompson stated that they had not met with the abutters but prior to their application, their project engineer had hosted a meeting, but may not have noticed sufficiently because no one attended. Ms. Thompson stated that the project proponent had been open to any camouflaging techniques preferred to lessen impacts to neighborhoods, adding that infrastructure could not be made invisible and would have some impact on residential views. The Chair noted that comments could still be submitted while the Public Hearing was open. The Chair asked that more information regarding the posting of the meeting be provided and Ms. Thompson stated that it was not a requirement but they did so as a good will gesture. Regarding the lease, the Chair inquired whether there was any discussion regarding the location of the tower and Ms. Thompson responded that it was set by the Town and identified as the least impactful location on the parcel.

Mr. Cummings inquired about the information regarding use of Town, State or Federal property and Ms. Thompson confirmed that she would provide further details, but that there were no Federal or State lands located within the search range that would be a feasible alternative to satisfy the gap. Mr. Cummings also inquired about the viability of the Rock Landing water tower as a site and Ms. Thompson responded that it was not viable due to an RFP needing to be issued for the site, but the RFP

issues was for the Fire Station. In addition, the water tower was located within the Conservation and Open Space restricted area, and moving the tower from one site to another, would likely still have impacts to others. Mr. Cummings inquired about the outdoor antennae distributing systems and Ms. Thompson referenced Exhibits 10 and 14, from the engineers, which indicated that the technology would not be a feasible alternative. Mr. Cummings inquired about increasing the height of the Falmouth antenna and Ms. Thompson responded that they had no control over that tower, and that it would not accomplish the goal to fill the coverage gap.

Mr. Balzarini expressed concern that the coverage maps continued to show gaps in coverage and Ms. Thompson responded that those areas were considered less than acceptable coverage, but there was no one tower that could cover every pocket of coverage, so the goal was to do the best that they could, with other solutions to be considered in the future. Mr. Balzarini expressed concern that another tower could be considered for the future, possibly in New Seabury. Ms. Thompson emphasized that there was no feasible option in New Seabury with one reason being that a private property owner could not be forced into allowing a cell tower. Mr. Balzarini stated that if the tower was approved, he preferred a tree.

The Chair acknowledged Mr. Lehrer who stated that the Water District served as a quasi-government agency, but operated independently of the Town, so was similar to a private landowners. Mr. Lehrer stated his belief that the Water District had been approached but opted not to lease the water tower to a cell phone tower developer. Mr. Lehrer wished to clarify public comments regarding federally owned property but the Chair stated her preference that the project proponent respond to public comments and that Mr. Lehrer provide his technical review of the proposal. Mr. Phelan suggested that Mr. Lehrer share his comments and the Chair expressed her concern that the Town Planner was not a neutral party. Mr. Lehrer stated that he was offering objective information regarding regulations for properties identified by the public for consideration. Mr. Lehrer clarified that the Town Meeting vote in October 2018, which failed, was to include the parcel in question within the wireless overlay, not to support or deny the project being considered. Due to the parcel not being located within the overlay, it was necessary to seek a variance from the ZBA, which was granted. Federal or state properties previously mentioned were likely within the Wildlife Refuge or Tribal properties and would likely have conservation restrictions. Mr. Lehrer added that Chapter 84 allowed for the development of conservation land with the approval of the Conservation Commission. Mr. Lehrer confirmed that he had been in receipt of quotes should the Board wish to hire an RF engineer.

Regarding conservation parcels, Mr. Phelan inquired whether the sites had been considered and Ms. Thompson stated that the restrictions were pursuant to a court settlement and different from seeking approval from the Conservation Commission. The site at the fire station was preferable because it would not have conservation restrictions.

Mr. Rowley was recognized and reported the results of his technical review of the plan dated July 24, 2019. Mr. Rowley stated that the paving detail on the plan should be incorporated into the full set of plans, rather than an attachment. All prior issues had been addressed. Ms. Thompson stated that the sheet detail was included in the exhibits.

Regarding the Board hiring an RF engineer, Ms. Thompson respectively requested that the Board waive the requirement as another review would be duplicative and excessive since an initial review was completed independently for the Cape Cod Commission. Should the Board choose to hire an RF engineer, the project proponent would only allow to a limited amount of funds. In reference to public comment made, the RF engineer would not review the coverage maps and would only consider documentation related to FCC standard guidelines. The Chair stated that the Board was allowed to hire a consultant as it related to a Special Permit application. Ms. Thompson responded that wireless Special Permits were limited specifically to an RF engineer and suggested consultation with Town Counsel. The Chair stated that she had been in contact with Town Counsel. The Chair inquired whether the Board wished to hire a consultant. Mr. Phelan inquired whether the information was already contained in the packet and the Chair responded that they had been in receipt of the Isotropes Analysis that reviewed a similar project. Ms. Thompson clarified that they had submitted voluminous information responding to Mr. Maxim's report, adding that his findings could be found in the DRI decision. There was consensus not to hire a consultant.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to Wednesday, October 2 at 7:20 p.m. Mr. Cummings seconded the motion. All voted unanimously.

Mr. Phelan asked that all information be forwarded to the Board and Mr. Lehrer responded that all exhibits and documents would be added to their binders. Exhibits would also be added to the website.

A recess was taken at 10:13 p.m. and the meeting reconvened at 10:20 p.m.

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 appointed time having arrived, the Chair opened the Public Hearing and read the request from Modi, LLC. Kevin Kirrane, attorney, and Patrick Johnson from Atlantic Engineering were present to represent the project proponent for this Special Permit request. Mr. Kirrane stated that some changes had been made to their plans, at the request of abutters, including the retention of a 100 foot undisturbed buffer between the proposed facility and the nearest abutters. In addition, the outside seating area would be screened with a 6 foot fence, as shown on the plan. Concerns expressed previously have been addressed and the project would conform to the requirements of the Bylaw.

The Chair inquired about the right angle of the fence, which at the corner changed into a split rail fence, as requested. A retaining wall would protect a hole, which would remain in a natural undisturbed state, with the lot maintaining a 26% natural state.

Mr. Balzarini stated that the project would be a family-friendly asset to the Town. Mr. Kirrane stated that a summary was provided demonstrating how the building would conform to the design guidelines set by the Cape Cod Commission.

Mr. Phelan felt that issues seemed to be addressed and he had no further concerns and Mr. Callahan agreed.

Mr. Lehrer provided a draft decision. Mr. Rowley reported that he reviewed the plans with Mr. Johnson and recommended approval. Mr. Rowley suggested that stormwater operations and maintenance plan be included with the decision and include the language “responsibility of all successive property owners as shown,” as drafted in Condition #6.

The Chair invited Public Comment.

Kathleen Pearson, Main Street, inquired about the additional potential tenant that would be moving in to the facility. Mr. Kirrane confirmed that a future tenant was not yet locked in. The Chair read the condition that would require any tenant be of compatible use and not negatively impact the sanitary use of the facility or detrimental impact to surrounding properties. Mr. Lehrer read through the conditions of the Draft Decision. There was discussion regarding the signage and replication of Cape Cod Coffee’s previous sign.

There were no additional comments.

MOTION: Mr. Balzarini made a motion to close the Public Hearing. Mr. Callahan seconded the motion. All voted unanimously.

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

NEW BUSINESS

Charles Rowley, August Invoice- An invoice dated September 3 was received in the amount of \$1,440 for regular Planning Board business in August.

MOTION: Mr. Balzarini made a motion to pay Charles Rowley \$1,440. Mr. Phelan seconded the motion. All voted unanimously.

Planning Board members signed the authorization.

Set Public Hearing Date for Zoning Article Proposals for October 2019 Town Meeting

MOTION: Mr. Balzarini made a motion to set the Public Hearing for October 2 at 7:10 p.m. Mr. Callahan seconded the motion. All voted unanimously.

OLD BUSINESS

CHAIRMAN’S REPORT

No report at this time.

BOARD MEMBER COMMITTEE UPDATES

No updates at this time

UPDATES FROM TOWN PLANNER

No updates at this time

ADDITIONAL TOPICS

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Callahan seconded the motion. All voted unanimously. The meeting adjourned at 10:40 p.m.

Respectfully submitted,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS PROVIDED

Additional documentation may be available in the Planning Department

- 9/3/19 Charles Rowley Invoice for August
- Kevin Andrade, Best Buy Beverage Application and Plans
- 8/30/19 Charles Rowley Report for Evergreen Energy LLC Site Plan Review
- Blue Sky Towers II, LLC Application Located at Town Clerk and Planning Department
- Modi, LLC Application Packet
- Modi, LLC Public Hearing Notice
- 8/27/19 Atlantic Engineering Response to Site Plan Review
- 5/7/19 Design Review Minutes Regarding Modi, LLC
- 5/7/19 Plan Review Minutes Regarding Modi, LLC
- 8/22/19 Evan Lehrer Request for Town Counsel Review, Adjacent Properties
- 8/23/19 Legal Opinion Adjacent Properties
- 8/22/19 Evan Lehrer Request for Town Counsel Review, Undisturbed Natural State
- 8/23/19 Legal Opinion Undisturbed Natural State
- 8/27/19 Jack Phelan Participation in a Session of an Adjudicatory Hearing
- Draft Decision, Modi, LLC
- 9/4/19 Charles Rowley, Cape Cod Coffee Plan Review
- Design Guidelines, Cape Cod Coffee
- 9/4/19 Terrie Cook Memo Regarding October Town Meeting Zoning Bylaw Warrant Articles



Special Permit Decision

Modi LLC

**Coffee Shop with Facilities for Roasting, Processing and Packaging Coffee
10 Evergreen Circle, Mashpee, MA 02649**

I. Proposal.

This decision concerns the application of Modi, LLC., 348 Main Street, Mashpee, MA 02649 (the "Applicant") for approval of a special permit to construct a coffee shop with facilities for roasting, processing and packaging coffee as well as a space for a future industrial tenant consisting of a single two-story building totaling 9,938 square feet. The property is identified on the Mashpee Assessors Maps as Map 19, Block 10. The property owner is identified as Evergreen Energy, LLC. of 81 Echo Road, Mashpee, MA 02649. The application was made pursuant to Sections 174-25(I)(16) and 174-45.6 of the Mashpee Zoning Bylaws.

II. Jurisdiction.

The application was made and this decision is issued by the Mashpee Planning Board pursuant to Article VI, Section 174-24.C.(9)(c) of the Mashpee Zoning Bylaws as they existed on September 4, 2019, the date on which this special permit was approved by the Mashpee Planning Board. Where reference is made herein to the Mashpee Zoning Bylaw, it shall refer to the provisions thereof as they existed on said date. The project is located in the C-3 Limited Commercial zoning district and within the Light Industrial Overlay District.

III. Chronology.

The application for this special permit was filed with the Town Clerk on June 17, 2019. The plans were reviewed by the Design Review Committee on 05/07/2019 and by the Plan Review Committee on 05/07/2019. The Design Review Committee recommended approval conditional upon the sign meeting all zoning requirements and that modifications be made to the northern elevation. That condition was satisfied and indicated on plan sheet titled, "Exterior Elevations, sheet A-4, drawn by ConServ Group Inc., dated 6/21/19 by showing trellises along the northern elevation of the building and by indicating the signage dimensions on the plans. The Plan Review Committee recommended approval.

A hearing was opened before the Mashpee Planning Board at the Mashpee Town Hall, 16 Great Neck Road, North, Mashpee, Massachusetts on July 17, 2019. Notice was duly given to abutters in accordance with Massachusetts General Law Chapter 40A. Notice was given by publication in the Mashpee Enterprise, a newspaper of general circulation in the town of Mashpee on June 21 and 28, 2019.

On August 14, 2019 Modi, LLC petitioned the Zoning Board of Appeals for relief from Section 174.25.1(1) of the Mashpee Zoning Bylaw. The Zoning Board of Appeals granted the relief as requested to allow 26% of the subject lot remain as natural undisturbed vegetation.

IV. Decision and Findings.

On September 4, 2019 the Planning Board closed the public hearing and voted to make the following findings and grant the special permit as described below. The members of the Planning Board were recorded as follows: Mary Waygan, Dennis Balzarini, Joseph Cummings, John Phelan, and Joseph Callahan were recorded as voting in favor of the decision. No members were recorded as voting against.

1. The Property is located in the C-3 Limited Commercial zoning district and within the Light Industrial Overlay District. The proposed uses are allowed in those districts.
2. The proposed special permit application satisfies the requirements of Massachusetts General Law Chapter 40A, in that it complies with the general purposes and intent of the Mashpee Zoning By-Law.
3. These lots were created pursuant to a definitive subdivision approved by the Planning Board after review by the Cape Cod Commission as a development of regional impact in 2011.
4. In an email dated August 31, 2019 to the Mashpee Town Planner Evan Lehrer, Mashpee Fire Chief Tom Rullo wrote, "Based on the updated plans the building and lot with Fire Department vehicle flow path meets the Department needs and is thereby approved."
5. The applicant requested waivers of the provision of Subsection 174-25.1(4) requiring a 100' foot buffer strip to be left in its undisturbed natural state adjacent to any residentially zoned parcel outside of this district. On September 4, 2019 the applicant withdrew this request as the plans as amended do not require said waiver.
6. The project is consistent with the Cape Cod Commission's design guidelines, "Designing the Future While Honoring the Past" and its addendum "Contextual Design for Cape Cod" as required by 174-45.6(E) of the Mashpee Zoning Bylaw.
7. In conformance with the provisions of Article VI, Section 174-24.C.(2) of the Zoning Bylaw, the Planning Board finds that the proposal will not adversely affect public health or safety, will not cause excessive demand on community facilities, will not significantly decrease surface or ground water quality or air quality, will not have significant adverse impact on wildlife habitat, estuarine systems, traffic flow, traffic safety, waterways, fisheries, public lands or neighboring properties, will not cause excessive levels of noise, vibration, electrical disturbance, radioactivity or glare, will not destroy or disrupt any species listed as rare, endangered or threatened by the Massachusetts Natural Heritage program or any known historic or archaeological site, will not produce amounts of trash, refuse or debris in excess of the town's landfill and waste disposal capacities, will properly dispose of stumps, construction debris, hazardous materials and other wastes, will provide adequate off street parking, will not cause excessive erosion or cause increase runoff into neighboring properties or into any natural river, stream, pond or water body and will not otherwise be

detrimental to the town or the area.

V. Conditions.

1. The project shall be constructed in conformance with the "Site Plans for Cape Cod Coffee Located at Lot B/#10 Evergreen Circle, Mashpee, MA 02649," by Atlantic Design Engineers, Sandwich, MA, Dated June 21, 2019, Revised August 2, 2019, Revised August 19, 2019, Revised August 27, 2019, Revised September 3, 2019:
 - "Existing Conditions Plan, Sheet 2 of 6", by Atlantic Design Engineers, Sandwich, MA
 - "Site Layout Plan, Sheet 3 of 6," by Atlantic Design Engineers, Sandwich, MA
 - "Utility, Grading, Drainage, & Erosion Control Plan, Sheet 4 of 6," by Atlantic Design Engineers, Sandwich, MA"
 - "Septic Design Plan, Sheet 5 of 6", by Atlantic Design Engineers, Sandwich, MA
 - "Details Plan, Sheet 6 of 6", by Atlantic Design Engineers, Sandwich, MA
 - "Landscape Plan, Sheet L1.0," by ML Curadossi Landscape Design & 3D Imaging, Plymouth, MA, Dated 6/20/2019, Revised 8/27/2019, Revised 09/04/2019.
 - "Exterior Elevations, Sheet A-4" by ConServ Group Inc, Sagamore Beach, MA, dated 6/21/2019.
2. The Board has made no determination with regard to conformance with Section 174-25.1(1) of the Zoning By-law and this permit does not obviate the need for conformance with the provisions of said Section 174-25.1(1) before building or occupancy permits are issued unless any necessary variances are granted by the Zoning Board of Appeals. The Zoning Board of Appeals granted relief from this section to reduce the requirements of undisturbed natural vegetation from 40% to 26% (V-2019-45). At least 26% of the total area of this parcel shall be left undisturbed in its natural state.
3. Signage along Main Street shall be constructed only according to the specifications provided on Sheet A-4 titled, "Exterior Elevations" Proposed New Facility for Cape Cod Coffee 10 Evergreen Circle, Mashpee, MA 02649 by ConServ Group Incorporated.
4. Any tenant to occupy the commercial/industrial space shall be a use compatible with the primary use of coffee roasting and food service and shall not be any use that will negatively impact the applicant's ability to operate a sanitary facility or any use that will have a detrimental impact on surrounding properties.
5. As the Department of Public Works will be redesigning the drainage system at Route 130 to eliminate discharge of stormwater onto private property, the applicant must coordinate work with the Department of Public Works to avoid any impacts on Route 130 and the right-of-way.

6. The Stormwater Operation and Maintenance Plan shown on Sheet 4 of 6 titled, "Utility, Grading, Drainage, & Erosion Control Plan," shall run with the property so that future operation and maintenance will be the responsibility of all successive property owners for the project as shown.
7. Any future modifications or changes to the site plans shall require Planning Board approval. Changes that are de minimus changes or technical corrections as determined by the Planning Board may be made without the notice and public hearing requirements of MGL Chapter 40A Sections 9 and 11 and the Mashpee Zoning Bylaw 174-24 (C)1.
8. All conditions of this special permit shall be binding not only upon the applicant but also on all successors-in-interest and assigns of the applicant.
9. No occupancy or building permits shall be issued while there exists any substantial violation of the conditions of this special permit unless the Board, by a favorable vote of 4 members at a regular meeting, should allow such issuance.
10. Within 60 days of the approval of this decision, the applicant shall provide to the Board a copy of this decision as recorded with the Barnstable County Registry of Deeds, including an indication as to the book and page at which it was recorded.

VI. Signature and Filing.

This special permit modification decision has been approved by the Mashpee Planning Board on this ____th day of September 2019.

A true copy
Attest

Member, Mashpee Planning Board

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Date

On this ____ day of September 2019, before me, the undersigned notary public, personally appeared _____, a member of the Mashpee Planning Board, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he/she) signed it voluntarily for its stated purpose.

Notary Public

My Commission expires: _____
Date of expiration

A copy of this decision has been duly filed on _____, 2019 with the Town Clerk of Mashpee.

Town Clerk

Notice of this decision was mailed on _____, 2019 to the applicant, to the parties in interest designated in M.G.L. Chapter 40A, Section 11 and to all persons at the hearing who requested such notice. Any appeal shall be made pursuant to Section 17 of the Chapter 40A of the Massachusetts General Laws within twenty (20) days after the date of said filing.

I, _____, Town Clerk of the Town of Mashpee, hereby certify that a copy of this decision was filed with the office of the Town Clerk on _____, 2019 and that no appeal of that decision was filed within twenty (20) days thereafter.

Date

Town Clerk

Upon expiration of the statutory appeal period with no appeal having been filed, this special permit decision has been signed by the Mashpee Planning Board on _____, 2019 and may be recorded.



Special Permit Decision

Kevin Andrade
Commercial Building for retail, redemption center and office space
11 Evergreen Circle, Mashpee, MA 02649

I. Proposal.

This decision concerns the application of Mr. Kevin Andrade, P.O. Box 956, East Falmouth, MA, 02536 (the "Applicant") for approval of a special permit to construct a commercial building for retail use, redemption center, and office space consisting of a single one-story building totaling 9,212 square feet. The property is identified on the Mashpee Assessors Maps as Map 19, Block 10. The property owner is identified as Evergreen Energy, LLC. of 81 Echo Road, Mashpee, MA 02649. The application was made pursuant to Sections 174-24(C)(1) and 174-25(E)(12) of the Mashpee Zoning Bylaws.

II. Jurisdiction.

The application was made and this decision is issued by the Mashpee Planning Board pursuant to Article VI, Section 174-24.C.(9)(c) of the Mashpee Zoning Bylaws as they existed on September 4, 2019, the date on which this special permit was approved by the Mashpee Planning Board. Where reference is made herein to the Mashpee Zoning Bylaw, it shall refer to the provisions thereof as they existed on said date. The project is located in the C-3 Limited Commercial zoning district and within the Light Industrial Overlay District.

III. Chronology.

The application for this special permit was filed with the Town Clerk on July 2, 2019. The plans were reviewed by the Design Review Committee on 05/21/2019 and by the Plan Review Committee on 05/21/2019. The Design Review Committee recommended approval conditional upon American Hollies be incorporated into the landscaping plan. That condition was satisfied and indicated on the Landscaping Plan provided on Sheet L-101.

A hearing was opened before the Mashpee Planning Board at the Mashpee Town Hall, 16 Great Neck Road, North, Mashpee, Massachusetts on August 21, 2019. Notice was duly given to abutters in accordance with Massachusetts General Law Chapter 40A. Notice was given by publication in the Mashpee Enterprise, a newspaper of general circulation in the town of Mashpee on July 26, 2019 and August 2, 2019.

IV. Decision and Findings.

On September 4, 2019 the Planning Board closed the public hearing and voted to make the following findings and grant the special permit as described below. The members of the Planning Board were recorded as follows: Mary Waygan, Dennis Balzarini, Joseph Cummings, John Phelan, and Joseph Callahan were recorded as voting in favor of the decision. No members were recorded as voting against.

1. The Property is located in the C-3 Limited Commercial zoning district and within the Light Industrial Overlay District. The proposed uses are allowed in those districts.
2. The proposed special permit application satisfies the requirements of Massachusetts General Law Chapter 40A, in that it complies with the general purposes and intent of the Mashpee Zoning By-Law.
3. These lots were created pursuant to a definitive subdivision approved by the Planning Board after review by the Cape Cod Commission as a development of regional impact in 2011.
4. The project is consistent with the Cape Cod Commission's design guidelines, "Designing the Future While Honoring the Past" and its addendum "Contextual Design for Cape Cod" as required by 174-45.6(E) of the Mashpee Zoning Bylaw.
5. In conformance with the provisions of Article VI, Section 174-24.C.(2) of the Zoning Bylaw, the Planning Board finds that the proposal will not adversely affect public health or safety, will not cause excessive demand on community facilities, will not significantly decrease surface or ground water quality or air quality, will not have significant adverse impact on wildlife habitat, estuarine systems, traffic flow, traffic safety, waterways, fisheries, public lands or neighboring properties, will not cause excessive levels of noise, vibration, electrical disturbance, radioactivity or glare, will not destroy or disrupt any species listed as rare, endangered or threatened by the Massachusetts Natural Heritage program or any known historic or archaeological site, will not produce amounts of trash, refuse or debris in excess of the town's landfill and waste disposal capacities, will properly dispose of stumps, construction debris, hazardous materials and other wastes, will provide adequate off street parking, will not cause excessive erosion or cause increase runoff into neighboring properties or into any natural river, stream, pond or water body and will not otherwise be detrimental to the town or the area.

V. Conditions.

1. The project shall be constructed in conformance with the "Proposed Site Development at Lot A, 11 Evergreen Circle, Mashpee, MA" Located at Lot A/#11 Evergreen Circle, Mashpee, MA 02649," by Cape and Island's Engineering, Mashpee, MA, Dated April 23, 2019, Revised May 24, 2019, Revised June 13, 2019, Revised August 27, 2019, Revised September 3, 2019, Revised September 9, 2019:

"Site Plan, Layout Plan, Sheet C-101," by Cape and Island's Engineering, Mashpee, MA (last revised 9/9/2019)

"Site Plan: Grading & Utilities Plan, Sheet C-121" by Cape and Island's Engineering, Mashpee, MA (last revised 9/9/2019)

"Landscape Plan, L-101," by Cape and Island's Engineering, Mashpee, MA" (last revised 9/3/2019)

"Site Plan, Construction Details, C-502", by Cape and Island's Engineering, Mashpee, MA (last revised 9/3/2019)

"Elevations, Sheet A-1" by Giampetro Architects, Falmouth, MA, dated 6/12/2019. (last revised 8/27/2019)

2. Standards 8 and 9 listed in Section 4.9 of the Stormwater Operation and Maintenance Report revised through May 24, 2019 shall run with the property so that future operation and maintenance will be the responsibility of all successive property owners for the project as shown.
3. Any future modifications or changes to the site plans shall require Planning Board approval. Changes that are de minimus changes or technical corrections as determined by the Planning Board may be made without the notice and public hearing requirements of MGL Chapter 40A Sections 9 and 11 and the Mashpee Zoning Bylaw 174-24 (C)1.
4. All conditions of this special permit shall be binding not only upon the applicant but also on all successors-in-interest and assigns of the applicant.
5. No occupancy or building permits shall be issued while there exists any substantial violation of the conditions of this special permit unless the Board, by a favorable vote of 4 members at a regular meeting, should allow such issuance.
6. Within 60 days of the approval of this decision, the applicant shall provide to the Board a copy of this decision as recorded with the Barnstable County Registry of Deeds, including an indication as to the book and page at which it was recorded.

VI. Signature and Filing.

This special permit modification decision has been approved by the Mashpee Planning Board on this ____th day of September 2019.

A true copy
Attest

Member, Mashpee Planning Board

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Date

On this ____ day of September 2019, before me, the undersigned notary public, personally appeared _____, a member of the Mashpee Planning Board, proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he/she) signed it voluntarily for its stated purpose.

Notary Public

My Commission expires: _____

Date of expiration

A copy of this decision has been duly filed on _____, 2019 with the Town Clerk of Mashpee.

Town Clerk

Notice of this decision was mailed on _____, 2019 to the applicant, to the parties in interest designated in M.G.L. Chapter 40A, Section 11 and to all persons at the hearing who requested such notice. Any appeal shall be made pursuant to Section 17 of the Chapter 40A of the Massachusetts General Laws within twenty (20) days after the date of said filing.

I, _____, Town Clerk of the Town of Mashpee, hereby certify that a copy of this decision was filed with the office of the Town Clerk on _____, 2019 and that no appeal of that decision was filed within twenty (20) days thereafter.

Date

Town Clerk

Upon expiration of the statutory appeal period with no appeal having been filed, this special permit decision has been signed by the Mashpee Planning Board on _____, 2019 and may be recorded.

DRAFT