



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

**Meeting of the Mashpee Planning Board
Wednesday, August 15th, 2018
Waquoit Meeting Room, 7:00 P.M.**

Call Meeting to Order: 7:00 p.m. – Waquoit Meeting Room – Mashpee Town Hall

- Pledge of Allegiance

Approval of Minutes

- Review and approval of July 18, 2018 and August 1, 2018 meeting minutes

Proposed Amendments to the Mashpee Zoning By-law

- Review of Draft Form-based Code with revisions proposed by Mashpee Commons
- Proposed Mixed Use Planned Development bylaw

New Business

~~NONE~~

Old Business

- DRI referral to Cape Cod Commission of Special Permit application to erect a personal wireless service facility at 101 Red Brook Road.

Board Member Committee Updates

- Chairman's Report
- Planning Staff Update- *Ockway Highlands and Windchime Wastewater Treatment*
- Board member assignments to the Community Preservation Committee, Design Review/Plan Review, Environmental Oversight Committee, Historic District, MMR Military Civilian Community Council, Affordable Housing Committee RFP Work Group
- Cape Cod Commission, Community Preservation, Design Review, Environmental Oversight, Greenways/Quashnet Footbridge, Historic District, MMR Military Civilian Community Council, Plan Review

Correspondence

- January 2018 Discharge Monitoring Report for South Cape Village N=5.60
- February 2018 Discharge Monitoring Report for South Cape Village N=39.50
- March 2018 Discharge Monitoring Report for South Cape Village N=4.50
- April 2018 Discharge Monitoring Report for South Cape Village N=8.90
- May 2018 Discharge Monitoring Report for South Cape Village N=5.20
- June 2018 Discharge Monitoring Report for South Cape Village N=5.80

Additional Topics (not reasonably anticipated by Chair)

Adjournment

MASHPEE TOWN CLERK

AUG 13 2018

RECEIVED BY WS

Evan Lehrer

From: Tom Feronti <tom@mashpeecommons.com>
Sent: Wednesday, August 15, 2018 4:36 PM
To: Evan Lehrer
Subject: 8/15/18 Planning Board Meeting

Evan,

As discussed previously, because of scheduling conflicts we at Mashpee Commons are unable to attend the Planning Board meeting scheduled for Wednesday evening August 15, 2018.

We have seen that the posted agenda includes an agenda item to review the draft Form-Based Code proposed by Mashpee Commons. While we would like to attend this evening to continue the discussion with the Board, we are simply not able to make it work. Should the Board elect to continue the discussion even in our absence, it is our hope that any questions that arise from the meeting this evening be forwarded to us so that we can start to work on determining the timeframe to return to the Board to continue this important conversation.

Thank you.

Regards,
Thomas Feronti
Mashpee Commons Limited Partnership
508-477-5400

DRAFT
MEMORANDUM

TO: Board of Selectmen
FROM: Planning Board
DATE: August 15, 2018
RE: Proposed Bylaws Amendments facilitating expansion at Mashpee Commons and Form-based Code.

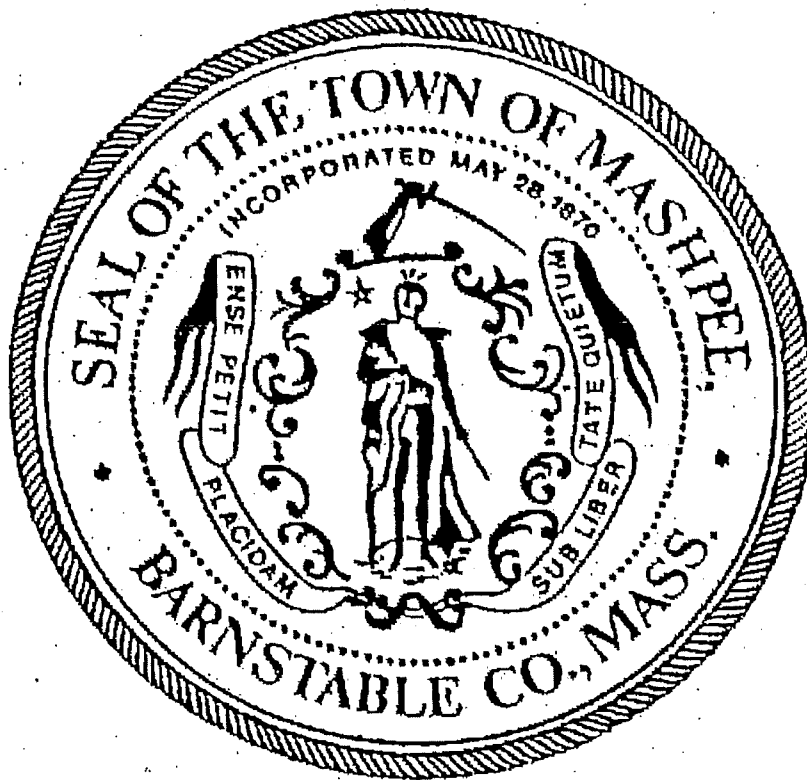
The Planning Board has identified a need for an independent consultant, chosen by and reporting to the Planning Board, to provide analysis on the legality and the impacts of any new zoning involving Form-based Code. Please let us know how you would like us to proceed on this matter, and if you are willing to place such an article on the October Town Meeting Warrant, a process suggested by Mr. Collins.

Cc: Rodney Collins, Town Manager
Evan Lehrer, Town Planner

Request for information on MD FBC:

1. Plan for vehicle parking lots for each of the Character Districts. NEW!
2. Master Regulatory Plan
3. Visioning plan showing character districts/zone with existing constructed public roads
4. List of parcels in the plan by Assessor's Map and Lot
5. Fiscal Impact Analysis of Mashpee Common's CH 40B Proposal from 2005
6. Access to the special permits and all modifications issued to Mashpee Commons to date
7. Minimum and maximum building height in each character district, including the roof design
NEW!
8. Minimum and maximum residential density in each character district NEW!
9. Minimum and maximum commercial square footage allowed in each character district NEW!

Town of Mashpee Planning Board



Special Permit Regulations

Approved November 15, 2017

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MASHPEE PLANNING BOARD

SPECIAL PERMIT REGULATIONS

Section I

PURPOSE

These regulations have been adopted, in conformance with the provisions of Massachusetts General Laws Chapter 40A, Section 9, to establish the rules and procedures for submission, review and issuance of applications for special permits which require approval by the Mashpee Planning Board under the provisions of the Mashpee Zoning By-law. Chapter 40A requires that these rules shall prescribe a size, form, contents, style and number of copies of plans and specifications and the procedure for a submission and approval of such permits.

Section II

PREAMBLE

Chapter 40A, Sections 9 and 9A of the General Laws, provide that a zoning by-law shall provide for specific types of uses which shall only be permitted in specific zoning districts upon the issuance of a special permit. Such special permits may be issued only for those uses that are in harmony with the general purpose and intent of the by-law and shall be subject to the general or specific provisions set forth therein. Such special permits may also impose conditions, safeguards and limitations on time and use. Section 9 deals with special permits in general, as well as with special permits for cluster subdivisions. Section 9A deals with special permits for "adult uses".

The Mashpee Zoning By-law has provided for special permits for a variety of uses, including hotels, motels, nursing homes and the like, most large commercial or industrial uses, "commercial centers", "adult uses", "personal wireless service facilities", cluster subdivisions and "open space incentive developments". Both the Planning Board and Zoning Board of Appeals have been empowered by the By-law to serve as a special permit granting authority, with certain classes of special permits issued by the Planning Board and others by the Zoning Board of Appeals. Those permits issued by the Planning Board are generally for larger projects. All uses dealt with in Article IX of the Zoning By-law require special permit issuance by the Planning Board. Certain uses within Groundwater Protection Districts may be allowed by the Planning Board under any special permit issued by the Board for a project within said Districts. In addition, the Zoning By-law's *Table of Use Regulations* identifies other land uses that require issuance of a special permit. The By-law specifies that any of those uses shall require a special permit from the Planning Board, except for nonresidential uses not involving new structures containing more than ten thousand (10,000) square feet of gross floor area and not involving a site greater than five (5) acres in area, or expansions which do not result in a total of more than ten thousand (10,000) square feet of gross floor area on a site, or residential conversions under § 174-25A(8) of the *Table of Use Regulations* or for other uses specified by the General Laws for review by the Board of Appeals.

Section 174-24.C. of the Zoning By-law specifies findings which must be made before special permits may be approved, the number and distribution of copies of application materials, the

permit filing and hearing process, examples of conditions which may be imposed on special permits and the conditions under which permits will lapse.

Article IX of the Zoning By-law identifies further specific requirements for issuance of permits for uses identified in that article, including motels, hotels, hospitals, infirmaries, nursing homes, convalescent homes and similar uses, commercial centers, adult uses, open space incentive developments and cluster subdivisions.

None of the provisions of these regulations are intended to conflict with the provisions of the Massachusetts General Laws or of the Mashpee zoning by-law. In the case of any conflict, the General Laws and Zoning By-law shall take precedence over these regulations.

Section III DEFINITIONS

As used in these regulations, words shall have those meanings defined below, or specified by Chapter 40A, Section 1A of the General Laws, by Article II and Article IX of the Mashpee Zoning By-law, by Chapter 41, Section 81L of the General Laws and by Section III of the Planning Board's *Rules and Regulations Governing the Subdivision of Land*, in that order of precedence. Unless defined therein or by this section, words shall otherwise have the meaning specified in the American Planning Association Planning Advisory Service Report Number 421 *A Survey of Zoning Definitions*, and for terms related to parking facilities which are not specified therein, to *The Dimensions of Parking, Fourth Edition*, published by the Urban Land Institute and the National Parking Association.

Unless the natural construction of the wording indicates otherwise, all present tenses include past and future tenses, words in the singular number include the plural and words in the plural number include the singular. The word "shall", throughout these regulations, is mandatory and not directory.

ABUTTER - The owner of land located directly adjacent to a property for which application has been made for the allowance of a use by special permit. For the purposes of required special permit public hearing and decision notices, an abutter is considered a "party in interest", as is any abutter to such abutter, provided that some portion of his property lies within 300 feet of that for which the special permit application has been made, as well as the owner of any property located directly opposite on a public or private street from the property for which the special permit application has been made. (See "parties in interest".)

ADT - (Average Daily Traffic). The average total number of vehicles traversing a section of roadway (in both directions unless otherwise specified) during a 24-hour day which is typical of a specified month, season, year or other time period. Year-round average daily traffic is described as Annual Average Daily Traffic (AADT).

AISLE, DRIVING - A travelled path through a parking facility, providing access to the parking spaces.

ALLEY - A public or private way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is otherwise on a street. Not to be

considered as a principal means of access to abutting property and not to be considered in determining adequate frontage or access for purposes of lot division.

APPLICANT - (also referred to as the "petitioner"). The person who submits an application for special permit approval and his administrators, executors, heirs, devisees, successors and assigns. The applicant must be owner of all land included in the submitted plan or proposal or any person who shows specific written and notarized authorization by the owner to submit the application and to speak for and bind the owner with regard to any representations regarding the property or the owner's intent, with regard to any agreements made with the Board as part of the permit review and approval process and with regard to the owner's understanding of any conditions imposed upon the project by the Board's special permit decision document. Proof of ownership shall include a copy of the latest recorded deed or Land Court certificate as well as of the Mashpee Board of Assessors' current listing for the property. The applicant is considered a "party in interest" with regard to required public hearing and decision notices.

BICYCLE LANE - (or shoulder bike lane). A lane at the edge of a roadway reserved and marked for the exclusive use of bicycles.

BIKEWAY OR BICYCLE PATH - A pathway, usually separated from the roadway, designed specifically to satisfy the physical requirements of bicycling. (Also see "shared use path".)

BOARD - The Planning Board of the Town of Mashpee.

CALIPER - American Association of Nurserymen standard for measurement of trunk size of nursery stock. Caliper of the trunk shall be taken six (6) inches above the ground for trees up to four (4) inches in diameter and twelve (12) inches above ground level for trees over four (4) inches in diameter.

CAPE COD COMMISSION ACT - Chapter 716 of the Acts of 1989, as amended.

CURB - A vertical or sloping edge of a roadway designed to control vehicle movement or drainage and stabilize the pavement edge. Includes vertical barrier curbs, mountable curbs, "Cape Cod berms" and similar structures.

DEAD-END STREET or CUL-DE-SAC - A street with only one permanent year-round access which serves also as the only exit.

DECELERATION LANE - A speed change lane for the purpose of enabling a vehicle that is to make a right turn from a roadway to slow to a safe speed for the turn after it has left the main stream of faster-moving traffic. Intended both to minimize rear-end collisions and maintain travel speeds in the main travel lanes.

DEFINITIVE PLAN - A final plan of a subdivision or re-subdivision, drawn in ink on tracing cloth or polyester film by a registered land surveyor or registered professional engineer qualified to practice in the Commonwealth of Massachusetts, suitable and intended to be

recorded in the Registry of Deeds or filed with the Recorder of the Land Court upon final approval and signature by the Board.

DESIGN SPEED - A speed selected for purposes of design and correlation of those features of a highway, such as curvature, superelevation and sight distance, upon which the safe operation of vehicles is dependent.

DIAMETER / DIAMETER AT BREAST HEIGHT (dbh) - As regards trees, the diameter of any tree trunk, measured at 4.5 feet above existing grade.

DRAINAGE - The control of surface water within the tract of land to be developed by any means of collecting, diverting, handling, dispersing or disposal of surface runoff due to storm flowage, rainfall or natural means which has been designed by a registered professional engineer.

DRIPLINE - An area encircling the base of a tree which is delineated by a vertical line extending from the outer limit of a tree's branch tips down to the ground.

ENGINEER - A registered professional engineer qualified to practice civil engineering in the Commonwealth of Massachusetts.

GENERAL LAWS, MASS. GENERAL LAWS, G.L. or M.G.L. - The Massachusetts General Laws, Tercentenary Edition, with all additions thereto and amendments thereof. In case of a rearrangement of the General Laws, any citation of particular sections of the General Laws shall be applicable to the corresponding sections of the new codification.

GUTTER - A shallow channel usually set along a curb or the pavement edge of a roadway for purposes of catching and carrying off runoff water. May be included in the width of parking lanes, but not of travel, acceleration or deceleration lanes or of bicycle lanes.

IMPERVIOUS SURFACE - The roof area of structures and any horizontal surface that has been constructed or has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

ISLAND, TRAFFIC OR PARKING LOT - A raised area in a roadway, driveway or parking facility, usually curbed unless otherwise permitted by the Board, placed to guide traffic and separate travel or parking lanes, or used for landscaping, signing or lighting.

LEVEL OF SERVICE (LOS) - A measure of the effect of a number of factors, which include speed and travel time, traffic interruptions, freedom to maneuver, safety, driving comfort and convenience and operating costs defined, in practice, in terms of particular limiting values of certain of these factors and expressed on a scale from A to F, from best to worst. Applied to through traffic or to intersection movements. An intersection or roadway designed for a certain level of service at a specified volume of traffic will actually operate at many different levels of service as the flow varies during an hour, and as the volume varies during different hours of the day, days of the week, periods of the year and during different years due to traffic growth. Unless indicated otherwise, for the purposes of these rules and regulations level of service shall be analyzed using the procedures described in the "Highway Capacity

Manual" (Transportation Research Board Special Report 209; Washington, D.C.; 1985), as most recently revised, and shall be represented for buildout of the project under review and for buildout of all areas which would contribute traffic to its streets. For analysis of adjacent roadways, LOS shall be based on projected traffic movements in twenty (20) years.

LOADING ZONE - A specially marked area for the short-term use of delivery vehicles.

LOT - An area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings.

OWNER - As applied to real estate, the person (as hereinafter defined) holding the ultimate fee simple title to a parcel, tract or lot of land, as shown by the record in the appropriate Land Registration Office, Registry of Deeds or Registry of Probate. For special permit applicants, proof of ownership shall include a copy of the latest recorded deed or Land Court certificate as well as of the Mashpee Board of Assessors' listing for the property.

PARCEL - An area of land in one ownership, with definite boundaries, which may or may not constitute a lot or group of lots available for use as the site of one or more buildings.

PARKING ANGLE - The angle formed by a parking stall and the driving aisle centerline of a parking facility, ranging from 90 degrees (right-angle or perpendicular parking) to 30 degrees.

PARKING BAY - A parking facility unit that has two rows of parking stalls and a central driving aisle (i.e. double-loaded aisle, aisle with vehicles on both sides).

PARKING LANE - An auxiliary lane primarily for the parking of vehicles.

PARKING MODULE - A driving aisle with cars parked on one or both sides of the aisle,

PARKING STALL - The area, usually marked with distinguishing lines, in which one vehicle is to be parked; a parking space.

PARTIES IN INTEREST - The applicant for a special permit, any abutters, any abutters to such abutters, provided that some portion of their property lies within 300 feet of that for which the special permit application has been made, as well as the owners of any property located directly opposite on a public or private street from the property for which the special permit application has been made, notwithstanding that the land of any such owner is located in another town, and the planning board of every abutting town (Falmouth, Sandwich and Barnstable).

PERSON - An individual, two or more individuals or a group or association of individuals, a trust, a partnership or a corporation having common or undivided interests in a tract of land.

PLANNING BOARD ENGINEER - A registered professional civil engineer and registered land surveyor designated by the Board to act as its consultant and/or advisor in those instances requiring engineering and/or land surveying expertise.

PRELIMINARY PLAN - A plan of a proposed subdivision or resubdivision of land submitted for tentative approval by the Board under M.G.L. Chapter 41.

PROFILE - A complete and accurate representation, prepared by an engineer in accordance with standard engineering practice, of the existing grades and finished vertical profile of a road or roads to be constructed within a development, including proposed utilities, on plan/profile paper and copies or prints thereof. On the plan portion there shall be a plan of the road with centerline stationing corresponding to the stationing on the profile.

PROJECT - The proposed subdivision, roads, buildings etc. which are the subject of the special permit application.

ROADBED - The structure of a street facility required for movement of motor vehicle traffic, including the roadway, curb and gutter, shoulders, subgrade, any fill required or any other element required to support the roadway.

ROADWAY - The actual paved or hardened road surface area within a street, or occasionally separate from a street within a non-residential or multifamily development, which may include travel lanes, bicycle lanes, parking lanes and deceleration and acceleration lanes but not curbs, whether vertical or mountable. Sometimes referred to as the cartway.

SHADE TREE - A tree with a caliper over four (4) inches in a public place, street, special easement or right-of-way adjoining a street, including, but not limited to, public shade trees as defined by M.G.L. Chapter 87, Section 1.

SHARED USE PATH - Update of the term "bike path". The term recognizes that such paths are not used exclusively by bicyclists, and must be designed with accommodation of pedestrians, in-line skaters, baby carriages etc. in mind in addition to bicyclists.

SIGHT TRIANGLE - A triangular-shaped area of land established at street intersections within which nothing may be erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

SITE - the entire tract on which a proposed use or development is located.

SPECIMEN TREE - A native, introduced or naturalized tree which is important because of its impact on community character, its significance in the historic / cultural landscape or its value in enhancing wildlife habitat. Any tree with a dbh of 6" or larger is eligible to be considered a specimen tree. Trees that have a small height at maturity or are slow growing, such as flowering dogwood or American holly with a dbh of 4" or larger are eligible to be considered specimen trees. Specimen trees shall include, but are not limited to, American holly, American beech, white pine, white or red cedar, locust, hickory, chestnut, horse chestnut, elm, silver maple, sugar maple, Norway maple, tupelo and flowering dogwood meeting the above size specifications.

STREET - A roadway and all associated facilities and land area within the sidelines of a public way laid out by the Town under M.G.L. Chapter 82, Section 21 or other authority or laid out by the state or county, which is open to travel by the general public and is on record at the

Registry of Deeds, or a public or private way duly approved to be laid out, or proposed for approval, by the Planning Board under the Subdivision Control Law, or a way on record at the Registry of Deeds or filed with the Recorder of the Land Court which has been approved by the Planning Board as a principal means of adequate access to abutting property.

STREET FURNITURE - Man-made, above-ground items that are often found within the sidelines of a way, including benches, kiosks, planters, canopies, shelters, phone booths and similar items.

STREET HARDWARE - The mechanical and utility systems often found within the sidelines of a way, such as hydrants, manhole covers, traffic lights and signs, utility poles and lines, parking meters and similar items.

SUBDIVISION - The division of a tract of land into two or more lots, including resubdivision and, when appropriate to the context, the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law or these regulations if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the Town Clerk certifies is maintained and used as a public way or (b) a way shown on a plan theretofore approved in accordance with the Subdivision Control Law or (c) a way in existence on March 7, 1966, when the Subdivision Control Law became effective in the Town of Mashpee, having, in the opinion of the Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by the Mashpee Zoning Bylaw for the erection of a building on such lot, and if no distance is so required, such frontage shall be at least twenty feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the Town of Mashpee into separate lots, on each of which one of such buildings remains standing, shall not constitute a subdivision.

SUBDIVISION CONTROL LAW - Sections 81-K. through 81-G.G. of Chapter 41 of the General Laws and any acts in amendment thereof, in addition thereto or in substitution thereof.

SUBGRADE - The natural ground lying beneath a roadway or a proposed roadway.

SURVEYOR - A registered land surveyor qualified to practice surveying in the Commonwealth of Massachusetts.

TOWN PLANNER - The Mashpee Town Planner or Assistant Town Planner.

TRACT - A continuous area of land, which may be subdivided or unsubdivided, may be crossed by roadways or streams and may be in single or multiple ownership, which is proposed for development under these regulations.

TRAVEL LANE - A strip of roadway intended to accommodate a single line of moving vehicles.

TREE - Any woody plant having a caliper of two inches or larger.

TRIP OR TRIP-END - A single or one-way vehicle movement to or from a property or study area. Trips can be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.

WETLAND - Any of the resource areas subject to regulation by the Mashpee Conservation Commission under Section 172-2 of the Code of the Town of Mashpee, as further defined by M.G.L. Chapter 131, Section 40 and in Wetlands Protection Act Regulations promulgated by the Department of Environmental Protection pursuant to M.G.L. Chapter 131, Section 40.

Section IV

FORM AND CONTENT OF APPLICATIONS

A. Any application for approval of a special permit by the Planning Board shall include the *Application for Special Permit* form referenced in Section XIII, completed in full and signed by the owner of all property included within the proposed development, or by a person who shows specific written authorization by the owner to submit the application and to represent and bind the owner with regard to any representations regarding the property or the owner's intent, with regard to any agreements made with the Board as part of the permit review and approval process and with regard to the owner's understanding of any conditions imposed upon the project by the Board's special permit decision document.

B. The application shall also include:

1. the required fees as specified in Section VII;
2. a copy of the latest recorded deed or deeds to all property included within the proposed site, along with a copy of any currently valid recorded subdivision plan or special permit applicable to the site;
3. a site plan showing existing conditions, including at least all existing property and street layout lines, showing distances, as well as bearings referred to the Massachusetts State Plane coordinates using the North American Datum of 1983 (NAD83), zoning district, the names and addresses of all abutters, the location of buildings on the site (meaning the entire tract on which the proposed use or development is located) and within 300 feet of the site, existing wells and septic systems, existing roadways, existing utilities, any existing roadway, access, utility or drainage easements, wetlands, specimen trees, any other existing trees over ten (10) inches in diameter at breast height, water-courses and significant slope or other natural features, at a scale of 1 inch = 40 feet;
4. a plan of the site and all land within 300 feet of the site, showing existing elevations and topography using the North American Vertical Datum of 1988 (NAVD88) at a maximum of two-foot contour interval, as well as any wetlands protected under 310 CMR 10.02 (1) (a-d)

or under Chapter 172 of the Code of the Town of Mashpee as flagged by a qualified expert, mean high and lowest low water for any adjacent water bodies and flood zones (with base flood elevation data) based on the most recent Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency, at a scale of 1 inch = 40 feet (may be included in the existing conditions site plan described above or as a separate sheet);

5. a natural resource map or maps, on a copy or copies of the topographic plan, indicating all wetlands as defined by MGL C. 131, §40, or otherwise referenced in this section, active or abandoned cranberry bogs or agricultural areas, generalized vegetation types and location, tree line of any wooded areas, soil types based on the latest information available from the United States Department of Agriculture Soil Conservation Service or on more detailed information obtained by the applicant and depth to groundwater table based on exploration by the developer or on other reliable data acceptable to the Board of Health;
6. in order to evaluate the impact of the proposed development to Town services and the welfare of the community, an impact statement in two parts as follows (in addition to the Water Quality Report required by the Zoning By-law):

Part 1 – shall describe the impact of the proposed development on:

- a) all applicable Town services including, but not limited to, schools, water systems, parks, fire and police protection;
- b) at a minimum, all roads and intersections in the immediate vicinity (within one quarter mile) of the proposed development (including an estimate of summer peak hour, summer average daily, annual average peak hour and annual average daily traffic counts as well as level of service for summer and annual average peak hour);
- c) the ecology of the site and any significant off-site impacts.

Part 2 – shall describe what actions have been taken to mitigate the impacts described in Part 1

7. for cluster subdivisions, a definitive subdivision plan and roadway designs conforming with the Board's *Rules and Regulations Governing the Subdivision of Land* or, for other projects, a site plan, prepared by a registered civil engineer and registered land surveyor, showing the proposed project, including:
 - a) property lines and street layout lines showing distances and bearings referred to the Massachusetts State Plane coordinates using the North American Datum of 1983 (NAD83),
 - b) location of all permanent survey monuments properly identified as to whether existing or proposed and with their coordinates under the NAD83 Massachusetts Coordinate System,
 - c) buildings, showing location, dimensions and distances to all lot lines, streets and street rights-of-way,
 - d) roadways, sidewalks and bikeways,
 - e) parking facilities,
 - f) existing and proposed NAVD88 elevations and topography at a maximum of two-foot contour interval, with proposed one foot intervals required for parking areas,

stormwater management systems and within 50 feet of any proposed buildings, along with sufficient spot grades to adequately show the direction of stormwater runoff, including at transition points, top and bottom of vertical curves, entrances, high points, low points and gutter lines,

- g) types of ground cover and any other precautions to stabilize slopes,
- h) existing trees over ten (10) inches in diameter at breast height and whether they are proposed to be retained or removed,
- i) water-courses,
- j) drainage,
- k) utilities,
- l) landscaping,
- m) trash collection facilities and
- n) other proposed features

at a scale of 1 inch = 40 feet, with a 24" x 36" index sheet at 1 inch = 100 feet or at another appropriate scale if the entire site can not be shown on one sheet at the 1 inch = 100 feet scale;

8. when a project is proposed to be built in phases (phasing of development is recommended, and will be required for projects involving a developed area in excess of 25 acres), a phasing plan overlaid on the site plan, along with proposed start and completion dates of each phase, showing proposed phasing of buildings, of site infrastructure and of land clearing;
9. a locus plan showing the site in relation to all major roadways and other significant landmarks within one mile of the site;
10. detailed roadway, sidewalk, bikeway and parking area plans at a scale of 1 inch = 40 feet, with roadways shown on plan and profile sheets as described in the Board's *Rules and Regulations Governing the Subdivision of Land*, prepared by a registered civil engineer, in addition to typical roadway cross-sections;
11. detailed landscaping plans at a scale of 1 inch = 20 feet;
12. plans and documents illustrating proposed utilities, including the proposed water supply system showing proposed fire hydrant locations, and any proposed sewer, electric, telephone, gas and cable television utilities, at a scale of 1 inch = 40 feet;
13. plans and documents illustrating the proposed system of wastewater collection, treatment and disposal, at an appropriate scale, along with documentation regarding the proposed treatment technology, data demonstrating removal rates for BOD, total nitrogen and phosphorous and a description of proposed ownership, management and funding of the system;
14. plans and documents illustrating the proposed system of stormwater collection, treatment and disposal, including manholes, catch basins, pipes, drainage ditches, roof drainage systems, headwalls, surface and subsurface discharge areas, retention ponds and any other system elements, along with a stormwater management plan consistent with the provisions

of Subsection 174.82.A.(4) of the Mashpee Zoning By-law, with plan drawings at a scale of 1 inch = 40 feet;

15. proposed building elevation drawings (side, front and back) at a scale of ¼ inch = 1 foot, (for large or phased projects, "typical" elevations may be submitted at the discretion of the Board), showing any proposed wall signs, along with any design standards or codes to be applied to structures within the project;
16. proposed signage designs at an appropriate scale, including location and dimensions of any freestanding signs;
17. plans and documents illustrating the proposed system of site lighting, at an appropriate scale showing, at a minimum:
 - a. the location and type of any outdoor lighting fixtures, on a 24"x36" sheet, including lighting of buildings and structures, parking lots, recreation areas, landscaping and other outdoor lighting, including lighting of any signage, and showing the height of any freestanding outdoor light fixtures;
 - b. the fixture manufacturer's specification data, including lumen output and photometric data showing cutoff angles;
 - c. the type of lamp such as: metal halide, compact fluorescent, high pressure sodium with color temperature (Kelvin) and CRI indicated;
 - d. a photometric plan, on a 24"x36" sheet, showing the intensity of illumination at ground level, expressed in foot candles; and
 - e. that light trespass onto any street or abutting lot will not occur. This may be demonstrated by manufacturer's data, cross section drawings, or other means.
18. accurate calculations of the area within the site of wetlands, of any open space to be preserved or transferred to the town or to a nonprofit organization and of areas proposed for roadways and other development, along with the applicant's calculation of allowed dwelling units for residential projects, or square footage of non-residential structures, based on the provisions of the applicable section of the Zoning By-law;
19. a Water Quality Report prepared in conformance with the requirements of Section 174-27 of the Zoning By-law, including a plan showing the location of all water quality monitoring wells at a scale of 1 inch = 100 feet;
20. where the Zoning By-law requires the provision of open space, the developer's declaration of his choice of method or methods of dedicating the required open space of the three (3) methods described in the Zoning By-law, along with proposed covenants and restrictions to secure the permanent legal existence of the preserved open space and the proposed wording of any deed for transfer in fee to the Town or to a nonprofit organization and

21. any additional items required by Article IX of the Zoning By-law for special permits issued under the terms of applicable sections of that article.

C. In addition, the applicant shall submit a listing of the names and mailing addresses of all parties in interest, as determined from the most recent tax list and certified by the office of the Board of Assessors of the town in which their property is located. Applicants shall include three sets of mailing labels, with the names and mailing addresses of all certified parties in interest printed thereon, with the certified list. The Applicant will be required to pay the cost of certified mailing of public hearing notices and of regular mailing of decision notices (see Section VII).

D. The applicant shall submit plans on diskette as required by Sections V and VI.

E. For projects that also involve a subdivision of land, all application materials required by the Board's *Rules and Regulations Governing the Subdivision of Land* shall also be submitted.

F. In addition, traffic studies, additional water-quality impact reports, environmental impact reports, fiscal impact reports and similar items may be required by the Board along with those other specific items required by the Zoning By-law. In order to facilitate the special permit approval process, it is recommended that an applicant meet informally with the Board prior to filing an application to discuss what additional studies or reports are likely to be required. However, such informal meeting will not preclude any additional requests for information or reports that arise from questions raised during the public hearing process.

G. All plan drawings shall be submitted on suitable material at the scales indicated in Subsection B above or such other scale as is approved by the Board, with all plan sheets to have perimeter dimensions of 24" x 36".

H. Failure to submit all required application materials, fees, plans and reports may be considered grounds for disapproval of an application.

Section V

PROCEDURE FOR SUBMISSION AND APPROVAL OF SPECIAL PERMIT APPLICATIONS

A. Any application for a special permit shall be filed by the applicant with the Town Clerk, and a copy of said application, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the applicant with the Board, in care of the office of the Town Planner.

B. One set of all application materials, as specified in Section IV, shall be left with the Town Clerk at the time of filing. Additional sets of all application materials as required by the Mashpee Zoning By-law shall be filed with the Board, in care of the office of the Town Planner. The Town Planner, on behalf of the Board, will transmit one set each to those departments and agencies specified in the Zoning By-law. In addition, all plan drawings specified in Section IV shall also be submitted on a Windows compatible diskette(s) or CD as specified in Section VI and filed with the Board, in care of the office of the Town Planner.

Where the application involves tidal areas or waterways, three additional sets of application materials shall be submitted to the Board and will be forwarded by the Town Planner to the Shellfish Commission, the Harbormaster and the Waterways Commission.

For mixed use or commercial developments, or projects that will involve a variance request, one additional set shall be submitted to the Board for forwarding to the Zoning Board of Appeals.

C. In addition to the materials specified in Section IV, one copy of any documents filed with the Cape Cod Commission as part of any application to the Commission regarding the project, along with one copy of any decision by the Commission on the project, as well as one copy of any filings with the state MEPA office or decisions by the Secretary of Environmental Affairs regarding environmental review of the project, shall be filed with the Board in care of the office of the Town Planner.

D. Prior to the Board's public hearing on the application, the applicant shall stake out the center line of any proposed streets, the location of any proposed buildings and the limits of any proposed clearing.

E. Prior to the Board's public hearing on the application, the applicant shall meet with the Design Review Committee regarding the proposal. The report of the Design Review Committee shall be required prior to any action by the Board on the application.

F. As part of the applicant's presentation at the public hearing, or prior to the hearing, the applicant shall present copies of the minutes of any pre-application conferences held with the Design Review Committee, Conservation Commission and Board of Health, as well as any other letters or comments received from those boards or from the Town Planner, Director of Public Works, Fire Chief, Police Chief, the Consulting Engineer to the Planning Board or other boards or agencies regarding the proposal.

G. The Board will hold a public hearing within sixty-five (65) days, but not less than twenty-one (21) days, of the filing of such application with the Town Clerk, for which notice has been given:

- (1) by publication in a newspaper of general circulation in the town at least once in two successive weeks, with the first publication to be not less than fourteen days before the day of such hearing,
- (2) by posting, in care of the Town Clerk, of such notice in a conspicuous place in the Town Hall for not less than fourteen days before such hearing, and
- (3) by certified mailing to all parties in interest as defined by the General Laws.
- (4) for projects which lie within the JBCC Notification Zone identified on the "Joint Base Cape Cod Notification Zone In Mashpee" map prepared by the Cape Cod Commission, dated 9/28/2017, a copy of which is on file at the offices of the Town Clerk, Building Commissioner and Planning Department, notice shall be sent via certified mail, return receipt requested, two weeks in advance of said public hearing, to:

Executive Director, Joint Base Cape Cod, Building 1204, West Inner Road, Camp Edwards, MA 02524

CDR Camp Edwards, Headquarters Camp Edwards, Building 102, Camp Edwards, MA 02542

Commanding Officer, Coast Guard Base Cape Cod, 5215 East Hospital Road,
Buzzards Bay, MA 02542

Commander, 102d IW/CC, Otis ANGB, MA 02542

Commander, 6th Space Warning Squadron, Cape Cod Air Force Station, P.O. Box 428,
Sagamore, MA 02561-0428

and

Commanding Officer, Coast Guard Air Station Cape Cod, 3172 Herbert Road,
Buzzards Bay, MA 02542

H. The Board may continue the public hearing over as many dates as is reasonably necessary to review the application, solicit input from the applicant, parties in interest, other boards and agencies, consultants engaged by the applicant or the Board and the general public, conduct any negotiations necessary regarding the application and develop the Board's decision, findings and any conditions of approval.

I. The decision of the Board and its filing with the Town Clerk shall be made within ninety (90) days of the close of said public hearing.

J. The required time limits for opening a public hearing and reaching and filing the Board's decision may be extended by written agreement between the applicant and the Board. A copy of such agreement shall be filed in the office of the Town Clerk.

K. Approval of a special permit shall require a favorable vote of at least four members of the Board, which may include the Associate Member if one of the five regular members of the Board is not present or has stepped down from acting on the application.

L. All provisions of these Regulations applicable to a special permit application, unless specified otherwise by the Zoning By-law or these Regulations, shall apply to any application for modification or extension of a special permit previously approved by the Board.

M. Pursuant to the requirements of Subsection 174-24.C.(2) of the Mashpee Zoning By-law, a special permit may be approved only if it is determined that the proposed use or development is consistent with applicable state and Town regulations, statutes, bylaws and plans, will not adversely affect public health or safety, will not cause excessive demand on community facilities, will not significantly decrease surface or groundwater quality or air quality, will not have a significant adverse impact on wildlife habitat, estuarine systems, traffic flow, traffic safety, waterways, fisheries, public lands or neighboring properties, will not cause excessive levels of noise, vibrations, electrical disturbance, radioactivity or glare, will not destroy or disrupt any species listed as rare, endangered or threatened by the Massachusetts Natural Heritage Program or any known historic or archaeological site, will not produce amounts of trash, refuse or debris in excess of the Town's waste disposal capacities, will properly dispose of stumps, construction debris, hazardous materials and other waste, will provide adequate off-street parking, will not cause excessive erosion or cause increased runoff onto neighboring properties or into any natural river, stream, pond or water body and will not otherwise be detrimental to the Town or the area. An applicant should present sufficient evidence to allow the Board to make such determinations.

N. Failure by the Board to take final action within said ninety days or extended time, if applicable, shall be deemed to be a grant of the special permit. Final action, as used here, is the filing of the Board's decision with the Town Clerk. Any applicant who seeks such approval by reason of the failure of the Board to act within the time prescribed shall notify the Town Clerk, in writing, within fourteen days from the expiration of said ninety days or extended time, if applicable, of such approval and that notice has been sent by the applicant to all parties in interest. The applicant shall send such notice to the parties in interest by mail, and each such notice shall specify that appeals, if any, shall be made pursuant to Chapter 40A, Section 17 of the General Laws and shall be filed within twenty days after the date the Town Clerk received such written notice from the applicant that the Board failed to act within the time prescribed by the General Laws.

After the expiration of twenty days without notice of appeal to the Barnstable County Superior Court, or, if an appeal has been taken, after receipt of certified records of the Superior Court indicating that such approval has become final, the Town Clerk shall issue a certificate stating the date of approval, the fact that the Board failed to take final action and that the approval resulting from such failure has become final, and such certificate shall be forwarded to the applicant.

O. The Board will cause to be made a *Special Permit Decision* (or *Special Permit Modification Decision*) document, including a detailed record of its proceedings on the application setting forth clearly the reason for its decision and of its official actions, its findings, any conditions on an approval and any attachments, and indicating the vote of each member on the decision, or if absent or failing to vote, indicating such fact, copies of which shall be filed within fourteen days of the Board's vote in the office of the Town Clerk and shall be deemed a public record. Said document may also include notice of when the permit will lapse, as well as signature lines for a representative of the Board indicating that the document is a true copy as approved by the Board, for the Town Clerk's certification of the date the decision document was filed, of the date that notice was mailed to the parties in interest and that no appeal of the Board's decision was filed within twenty days of filing the decision document or that any appeal has been dismissed or denied, and for signature by the members of the Board after the latter certification by the Town Clerk.

P. In addition to the *Special Permit Decision* (or *Special Permit Modification Decision*), the Board shall cause three sets of all plans approved for the project (except in the case of signed definitive subdivision plans subject to the Board's *Rules and Regulations Governing the Subdivision of Land*) to be endorsed by the Board Chair or designee, with one copy to be forwarded to the Building Inspector / Zoning Enforcement Officer and two copies to be retained for the permanent record by the Town Planner in the Board's files.

Q. Notice of the decision shall be mailed forthwith by regular mail to the applicant, to the parties in interest and to every person present at the public hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each such notice shall specify that appeals, if any, shall be made pursuant to Chapter 40A, Section 17 of the General Laws and shall be filed within twenty days after the date of filing such notice in the office of the Town Clerk.

R. After notice from the Town Clerk that no appeals have been filed or that any appeal has been dismissed or denied and the Board's decision stands, the *Special Permit Decision* or *Special Permit Modification Decision* document will be signed by at least four members of the Board and will be released to the applicant for recording. Chapter 40A, Section 11 of the General Laws specifies that no special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision was filed in the office of the Town Clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, and if approved by reason of the failure of the Board to act thereon within the time prescribed, a copy of the special permit application accompanied by the certification of the Town Clerk stating the fact that the Board failed to act within the time prescribed and no appeal has been filed and that the grant of the application resulting from such failure to act has become final or that if an appeal has been filed, that it has been dismissed or denied, is recorded in the Barnstable County Registry of Deeds and is indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant.

S. The *Special Permit Decision* or *Special Permit Modification Decision* shall be recorded before the issuance of any building permit, or within six months of its signature by the Board, whichever is sonner, and a copy of said recorded decision indicating the Barnstable County Registry Book and Page at which it was recorded, along with the date of recording, shall be submitted forthwith to the Board.

T. Any open space deed restriction or deed of open space to the Town or a non-profit organization which is required by the Board's decision or by the Zoning By-law shall be recorded within ninety (90) days of the signature of the decision by the Board and a copy of said recorded restriction or deed indicating the Barnstable County Registry Book and Page, or Land Court Certificate Number, at which it was recorded, along with the date of recording, shall be submitted forthwith to the Board. Failure to so record will be considered a violation of the special permit and may result in enforcement action and penalties as authorized by law.

U. Any special permit shall lapse within two years from the grant thereof, or within a shorter period of time if specified in the Board's decision or modification document, which shall not include the time required to pursue or await the determination of an appeal under Chapter 40A, Section 17 of the General Laws, if a substantial use thereof has not sooner commenced except for good cause, or in the case of a permit for construction, if construction has not begun by such date except for good cause. The Board reserves the right to include more specific provisions regarding what constitutes substantial use or good cause in its decision or modification document, or to determine what constitutes good cause either at the time a permit is scheduled to lapse or upon a request by the applicant.

Section VI

REQUIREMENTS FOR DISK SUBMITTALS

All plan drawings as specified in Section IV, Form and Content of Applications, shall also be submitted on a Windows compatible 3.5" diskette(s) or CD in DXF (drawing exchange file) format. All digital data shall conform to the following guidelines:

TABLE 1 DESCRIPTION OF LAYERS - GIS REQUIREMENTS

LAYER DESCRIPTION	LAYER NAME	LAYER NUMBER	COLOR
Base Map			
Road Centerlines	RDCLINE	1	Black
Right of Way	ROW	2	Black
Existing pavement	PVMT EXI	3	Black
Proposed pavement	PVMT PRO	4	Black
Easements	EASEMENT	5	Black
Sidewalks	SWALK	6	Black
Building footprints	BLDGS	7	Red
Streams and ponds	HYDRO	8	Blue
Wetlands & wet areas	WETAREA	9	Green
Driveways & parking areas	DRIV PRK	10	Grey
Parcel boundary lines	PARCELS	11	Black
Property markers (monuments) & metes and bounds text	PROPMRK	12	Black
Topography			
Existing contours & spot elevations	CONT EXI	13	Black
Proposed contours	CONT PRO	14	Black
Utilities			
Exist. water system (lines & appurtenances)	WAT EXI	15	Cyan
Prop. water system (lines & appurtenances)	WAT PRO	16	Cyan
Public or private wellhead locations	WELLS	17	Cyan
Exist. sewer system (lines & appurtenances)	SEW EXI	18	Yellow
Prop. sewer system (lines & appurtenances)	SEW PRO	19	Yellow
Exist. drain system (lines & appurtenances)	DRN EXI	20	Blue
Prop. drain system (lines & appurtenances)	DRN PRO	21	Blue
Elect. system & st. lgtng (lines,poles,appurt.)	ELECTRIC	22	Orange
Cable TV system (lines,poles,appurtenances)	CATV	23	Grey
Exist. gas system (lines & appurtenances)	GAS EXI	24	Magenta
Prop. gas system (lines & appurtenances)	GAS PRO	25	Magenta
Other Features			
Zoning boundaries & classification text	ZONE	26	Magenta
Lot numbers & street addresses	LOT ADD	27	Black
Fences & walls	FENCE	28	Red
Wooded areas (tree lines)	WOODS	29	Green
FEMA FIRM zone boundaries & text	FLOOD	30	Cyan
Large trees (4" or larger diameter)	TREES	31	Green
Proposed landscaping	LAND PRO	32	Green
Coordinate locations and text	COORDS	33	Black
Notes/miscellaneous notations	NOTES	34	Black
<i>Additional Layers: Proponents discretion on naming, however, documentation on all layer names should be provided to the Board.</i>			

A. The coordinate system shall be Massachusetts State Plane coordinates using the North American Datum of 1983 (NAD83) and the North American Vertical Datum of 1988 (NAVD88). Whenever possible, the plan submittals shall be "tied into" real world State Plane coordinates using the datum specified above. To demonstrate this tie down, all features shall be stored in the Massachusetts State Plane Coordinate System and the plan location and coordinate values of at least two points shall be included in the CAD file.

B. In addition, the CAD file shall use the layering scheme listed in Table 1. This layering system will ensure that all plans are submitted to the Town in a consistent format.

Section VII

FEE SCHEDULE

A. The following fees shall be applicable to special permit and special permit modification applications for residential, non-residential and mixed-use projects. Additional fees may be required in conjunction with the employment of outside consultants as described in Section VIII.

Residential Projects (waived for cluster subdivisions, but subdivision fees required)

Filing Fee: \$20 per residential lot or unit, minimum \$200, plus \$30 advertising fee

Review Fee: \$15 per residential lot or unit, minimum \$300

Inspection Fee: \$250 + \$.50 / linear foot of roadway and per 20 sq. ft. of any common parking areas

Re-inspection fee: \$100 per inspection

Non-Residential Projects

Filing Fee: \$.05 per sq. ft. gross floor area, minimum \$500, plus \$30 advertising fee

Review Fee: \$.02 per sq. ft. of impervious surface coverage or of outdoor commercial space (including golf courses and other recreational facilities, outdoor seating areas, outdoor storage areas and the like), minimum \$300

Inspection Fee: \$250 + \$.50 / linear foot of roadway plus \$.02 per sq. ft. of building footprint and any other impervious surface coverage

Re-inspection Fee: \$100 per inspection

Mixed-Use Projects

Filing Fee: \$20 per residential lot or unit, plus \$.05 per sq. ft. of gross non-residential floor area, minimum \$500, plus \$30 advertising fee

Review Fee: \$15 per residential lot or unit, plus \$.50 per linear foot of roadway, plus \$.02 per sq. ft. of other impervious surface coverage or of outdoor commercial space (including golf courses and other recreational facilities, outdoor seating areas, outdoor storage areas and the like), minimum \$300

Inspection Fee: \$250 + \$.50 / linear foot of roadway plus \$.02 per sq. ft. of building footprint and any other impervious surface coverage

Re-inspection Fee: \$100 per inspection

Permit Modifications

Filing fees for special permit modifications shall be the same as listed above for an original application.

Review fees and **inspection fees** shall be the same as listed above for an original application, but based only on that portion of a project which is proposed to be modified, except that there will be no minimum fee.

Re-inspection fees shall be the same as listed above for an original application.

In addition to the above fees, the applicant will be responsible for the cost of postage for mailing of required notices to abutters, including certified mailing of public hearing notices and regular mailing of decision notices. The Board encourages applicants to assume responsibility for required mailings of hearing notices.

B. Normal inspections covered by the basic inspection fees listed above include drainage inspection, gravel inspection, inspection of paving binder course, inspection of paving finish course and final inspection for roadways, and for parking areas in projects other than cluster subdivisions, as well as other site development, including landscaping and surface drainage patterns around buildings, but exclusive of buildings or wastewater treatment facilities, as required by the Board for the project.

A re-inspection fee will be charged for additional inspections beyond those listed above that are made necessary due to unsatisfactory materials or construction that lead to a failure to pass the original inspection.

C. The filing and review fees specified above shall be submitted to the Board as part of the original application for the special permit. An application will be deemed to be incomplete without payment of said fees at the time of submittal.

Inspection fees specified above shall be submitted to the board within 20 calendar days following the approval of the special permit and prior to the Board's endorsement of the *Special Permit Decision* (or *Special Permit Modification Decision*) document.

Any re-inspection fees due shall be submitted prior to the release of any roadway covenant (for cluster subdivisions) or performance bond for road construction or other facilities covered by a special permit approval.

Section VIII EMPLOYMENT OF OUTSIDE CONSULTANTS

A. Pursuant to the provisions of Chapter 44, Section 53G of the General Laws, the Planning Board may impose reasonable fees for the employment of outside consultants to review special permit project applications and supporting materials and studies submitted for approval by the Board. The Board also considers the use of such consultants for inspections of facilities permitted or required under a *Special Permit Decision* (or *Special Permit Modification Decision*) document, to determine compliance with the terms and conditions of said decision or modification document, other than those inspections covered by the Board's standard inspection fees as listed in Section VII, or of buildings inspected by the Town's Building Inspector, to be an appropriate use of such outside consultants and fees.

The decision to seek consultant assistance, the selection of a consultant, the establishment of a consultant fee or fee schedule and any request to the applicant for payment shall be made by majority vote of the Board at a public meeting.

Said funds shall be paid by the applicant within seven days of a request by the Board for payment and shall be deposited in a special account established by the Town Treasurer and be kept separate and apart from other monies. Failure to pay the required fees may be considered grounds for disapproval of the application.

Any excess amount in the account attributable to a specific project, including any accrued interest, at the completion of said project shall be repaid to the applicant or to the applicant's successor in interest and a final report of said account shall be made available to the applicant or to the applicant's successor in interest. Standard Town accounting and reporting procedures relative to special accounts and consistent with the provisions of Ch. 44 §53G of the General Laws shall be followed.

B. The special account, including any accrued interest, shall be expended at the direction of the Planning Board without further appropriation; provided, however, that such funds are to be expended by it only in connection with carrying out its responsibilities under the law.

Subjects for which consultant assistance may be sought may include, but are not limited to, water quality impacts of a project, stormwater management systems, wastewater collection and treatment systems, traffic and transportation impacts, mitigation and facilities, including bicycle and pedestrian facilities, fiscal impact of a project, solid and hazardous waste, public safety, landscaping, site design, architecture, wildlife habitat and endangered or threatened species, wetlands delineation, historic or archaeologic preservation, noise levels, lighting or light levels, personal communications service and other wireless communications facilities and their potential impacts, electromagnetic or radiofrequency radiation, radiofrequency engineering, or other subjects relevant to the proposed project and its impacts on neighboring properties, the town or adjacent towns. Such assistance may be sought either to develop original information and reports to the Board, or to review plans, reports and other information submitted on behalf of an applicant.

C. Selection of any consultant will be by the Board, in conformance with any applicable General Laws or regulations of the Commonwealth, and may include use of consultants retained on a continuing basis by the Board.

Any applicant may file an administrative appeal from Board's choice of consultant to the Board of Selectmen. Grounds for administrative appeal from the selection of the outside consultant to the Board of Selectmen shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications, consisting either of an educational degree in or related to the field at issue, or three or more years of practice in the field at issue or a related field.

D. The required time limits for action upon an application by the Planning Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by Board of Selectmen within one month following the filing of the appeal, the selection made

by the Planning Board shall stand. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law, on the grounds provided for in Chapter 44 §53G.

Section IX

DESIGN AND PERFORMANCE GUIDELINES

The Planning Board will review any application with reference to the applicable portions of the following design and performance guidelines:

A. Roadways, Sidewalks and Bicycle Facilities.

1. Roadways shall be designed and constructed in conformance with the Board's *Rules and Regulations Governing the Subdivision of Land*, with the following exceptions and additions:
2. Streets serving up to five (5) residential units or carrying fewer than fifty (50) vehicles per day may be built to reduced standards of paving and right-of-way upon approval of the Planning Board, but in no case shall they provide a paved width of less than eighteen (18) feet for two-way traffic.
3. Where alleys are provided which are not intended to provide the principal means of access to properties, they shall have a minimum roadway width of 16 feet for two-way traffic and 14 feet for one-way traffic. No fencing, utility poles or other obstructions may be placed within two feet of the pavement edge. Where necessary for Fire Department access, minimum roadway width shall be 20 feet, with a minimum inside turn radius of thirty feet two inches (30'2") and a minimum outside radius of fifty feet eight inches (50'8").
4. Streets which will carry more than two hundred (200) vehicles per day AADT (annual average daily traffic) shall be constructed in conformance with the standards listed below. Projected traffic shall be based on a factor of nine and five-tenths (9.5) trips per day for single-family residences, seven and two-tenths (7.2) trips per day for townhouses and condominiums, six and seven-tenths (6.7) trips per day for apartments, four and five-tenths (4.5) trips per day for age-restricted retirement communities and on the best available information for other uses.
5. The following design standards shall apply to streets which will carry two hundred (200) to one thousand (1,000) trips per day, and over one thousand (1,000) trips per day (including streets adjacent to the site of the developed parcels or portions of the project or providing access to the project):

Standards	200 - 1,000 Trips	1,000 Plus Trips
Design speed (mph)	30	40
Intersection separation	125	600
Width of lanes (feet)*	10	11
Minimum curve radius (ft.)	250	460
Maximum grade (percent)	9	8
Minimum layout width(ft.)	40	50

*Lane width in any industrial development, or where extensive truck traffic is anticipated, shall be 12 feet and inside curb radius shall be a minimum of thirty (30) feet.

6. No on-street parking shall be allowed on such streets unless 8-foot-wide parking lanes are constructed, with a minimum length of twenty four (24) feet per parked car, except that they may be reduced to twenty three (23) feet in length where it is demonstrated that the use served will not involve high parking turnover or a large proportion of senior citizen users or of large vehicles. Any gutters, berms or other drainage facilities shall be in addition to the required lane width.
7. Vertical curbs shall be of granite or cast-in-place concrete. Asphalt vertical curbs shall not be permitted.
8. Project driveways shall be located at least 125 feet from any street intersection or any other driveway, measured from driveway center lines and from street sidelines (i.e. sidelines extended to the point of intersection with the sideline of the intersecting street, ignoring corner radii). Only one driveway exit and one driveway entrance may be located along any street abutting the project, unless the Board determines that a greater number will provide a safer and more efficient access and egress to the property. Unless the Board determines that such access is required on the basis of public safety considerations, direct driveway access to Routes 28, 151 and 130, Great Neck Road North and South, Great Oak Road, Red Brook Road, Quinaquisset Ave., Cotuit Road, South Sandwich Road, Lowell Road, Old Barnstable Road west of Lowell Road, Donna's Lane and Job's Fishing Road shall be prohibited where alternate access from other streets is available. Where a project has frontage on more than one street, driveway access shall generally be required to be from the street or streets with lower AADT.
9. Driveway or street interconnections between adjacent projects shall be required wherever feasible in order to improve traffic circulation and reduce turning movements and travel on abutting major streets. Where a project abuts vacant property in the same zoning district, it shall provide for future interconnection to said property at points approved by the Board.
10. Shared driveways are encouraged, where feasible.
11. Paved sidewalks with a minimum width of four feet shall be required on one (1) side of streets having five hundred (500) to one thousand (1,000) trips per day and on both sides of streets having over one thousand (1,000) trips per day. The Board may also require sidewalks on other streets. Sidewalks shall be separated from any roadway travel lane by a minimum of five feet, and from any parking lane or parking bay by a vertical barrier curb.
12. Where required by the Planning Board, bicycle facilities shall be constructed along such streets in the form of two (2) paved shoulder bike lanes with a width of at least four feet each or a paved bike path or shared use path of sufficient width to accommodate expected use. Bike paths or shared use paths shall be separated from any roadway travel lane by a minimum of five feet, and from any parking lane or parking bay by a vertical barrier curb.

13. Bicycle facility design, signage, marking, as well as bicycle parking facilities, shall be consistent with the guidelines contained in the Commonwealth of Massachusetts' publication *Building Better Bicycling*, latest edition.
14. Pavement thickness and structure, subgrade design, roadway drainage and other related design features for roadways, sidewalks and bicycle facilities shall require the approval of the Board, and shall generally follow the requirements of the Board's *Rules and Regulations Governing the Subdivision of Land*.

B. Parking Facilities.

1. Parking shall be provided in conformance with the requirements of the Mashpee Zoning By-law. Parking in excess of those requirements is generally discouraged.
2. Parking facilities shall be located to the side or rear of the principal structure(s) on a lot, unless the Board determines that an alternative location will improve the project aesthetically or substantially reduce impacts on natural or historic resources.
3. Minimum parking lot aisle widths, one bay and two-bay parking module widths (from curb to curb or edge of pavement to edge of pavement) shall be as follows:

Parking Angle	Aisle Width*	1 Bay Module Width	2 Bay Module Width
90 degree	24'	43'4"	62'
75 degree	20'	39'9"	59'6"
70 degree	18'4"	38'2"	58'
65 degree	17'	36'9"	56'6"
60 degree	16'	35'6"	55'
55 degree	14'8"	33'10"	53'
50 degree	13'8"	32'4"	51'
45 degree	13'	31'	49'

*Aisles for 90 degree parking may be permitted for two-way traffic. All other parking aisles may allow only one-way traffic, heading in to angle parking spaces.

4. Parallel parking spaces shall be a minimum of twenty four (24) feet in length and 8 feet in width, except that they may be reduced to twenty three (23) feet in length where it is demonstrated that the use served will not involve high parking turnover or a large proportion of senior citizen users or of large vehicles.
5. ADA parking requirements shall be met for all non-residential projects.
6. Appropriately sized and designed off-street truck loading/unloading and parking spaces shall be provided for all retail and industrial projects, for any "dumpster" location and for other development as required. Loading docks shall be constructed with eight (8) inches of suitable road base material and a three (3) inch bituminous concrete surface or twelve (12) inches of suitable road base material and six (6) inches of reinforced cement concrete as appropriate to the use. Loading docks should be sloped, and may be required to incorporate a stormwater capture structure capable of capturing and holding hazardous

materials spills, with sizing dependent upon use. Loading facilities shall not interfere with use of, or circulation within, roadways, driveways or parking areas. If approved by the Planning Board as part of a Commercial Center, OSID or other mixed-use project, appropriately sized on-street loading zones may be used.

7. Where drive-through window facilities are proposed, stacking lanes of an appropriate length shall be provided separately from any parking aisle or emergency access lane.
8. Access for Fire Department vehicles to all structures shall be provided as recommended by the Fire Department and shall provide sufficient inside and outside radius to accommodate the Department's ladder truck, including truck overhangs.
9. Interconnection between parking areas on adjacent commercial properties shall be required where appropriate.
10. All parking stalls shall be provided with adequate space for backing out, including turnarounds or Ts at the end of dead-end parking aisles.
11. Driveways and parking aisles shall be laid out so as to intersect as nearly as possible at right angles. No driveways or aisles shall intersect at less than sixty degrees.
12. Parking facilities shall be sloped $\frac{3}{4}\%$ to drainage grate inlets, catch basins or curb inlets and in all cases shall be constructed so that ponding of drainage within the paved surface shall not occur. Stormwater from parking areas shall be treated to minimize the amount of nitrogen reaching groundwater to the greatest extent feasible pursuant to the provisions of the Zoning By-law.
13. Pavement thickness, subgrade and other structural design specifications shall require approval by the Board. All parking areas and driveways shall be constructed with a base of not less than eight (8) inches of good binding gravel or other suitable road base material, properly shaped and compacted. Where the subsoil consists of peat or similar spongy material, it shall be excavated and replaced with solid fill as necessary to support the finished surface. All parking areas and driveways required to meet the minimum parking space requirements of Section 174-39 of the Zoning By-law shall be paved with a minimum of two and one half ($2\frac{1}{2}$) inches of bituminous concrete, type I, consisting of one and one-half ($1\frac{1}{2}$) inches of binder course and one inch of surface course, both properly compacted by a ten-ton roller. Where additional overflow parking areas are proposed, the base shall be constructed as above, but alternate materials or grass may be used as a finished surface if approved by the permitting authority.
14. The perimeter of any parking area and any driveway or parking lot islands shall have curbs and gutters of granite, cast-in-place concrete or other edge treatment, not including bituminous concrete, suitable to control parking lot drainage, prevent erosion and maintain the pavement edge in good condition. A minimum five (5) foot radius shall be required for all vertical barrier curbs adjacent to parking lot driveways, islands and planting areas, with a fifteen (15) foot radius preferred along major driveways or those expected to be used by significant numbers of trucks or large vehicles.

15. No structure, fence, post or other solid object other than curbing shall be allowed within three (3) feet of the paved surface of any parking area or driveway.
16. Striping of parking lots shall be done with either white or yellow paint, with double 4-inch stripes, approximately 18-24 inches apart between parking stalls. Striping paint shall meet federal specifications and should be applied to provide a 15-mil wet thickness.
17. Sidewalks shall be provided where appropriate along the perimeter of the parking area and within parking lot islands to facilitate safe movement of pedestrians.
18. No parking area will be allowed within 10 feet of the property line of abutting property owners, or such larger buffer area distance as may be required by the Zoning By-law. The minimum buffer area may be reduced by the Board if written endorsement of such reduction is received from the owner of the abutting property. Such setback area shall be left in its natural state, or revegetated in conformance with the requirements of the Zoning By-law in accordance with plans approved by the Board. Larger buffer areas may be required where the parking area abuts residential property, publicly-owned parcels, water bodies or wetlands or where such buffer is required to maintain existing scenic or historic vistas from public ways or public lands.
19. In addition to any undisturbed buffer areas required by the Board or the Zoning By-law, the use of landscaped berms or additional plantings to screen parking areas from view from abutting properties or public roadways is encouraged.
20. Any parking area (i.e. the area within any proposed parking field) shall have a minimum ratio of 1:5 of landscaping or natural area to paved area. Natural vegetation shall be retained in any such landscaped area to the greatest extent possible. No trees over 4" in diameter at breast height may be removed from such areas without approval of the Board.
21. Site and parking lot design should preserve any large or outstanding trees, specimen trees or groves of trees to the greatest extent possible. No trees over ten (10) inches in diameter at breast height may be removed without approval of the Board. Large parking lot islands are encouraged to help accomplish such preservation, to provide opportunities for denitrification of stormwater runoff and to improve the visual character of the parking area.
22. Plantings should not be located within three (3) feet of the curb or pavement edge, to allow for car overhangs, unless low-lying ground cover is used.
23. Plantings shall be installed in exact accordance with planned dimensions to avoid any adverse change in parking due to improper location.
24. Irrigation facilities shall be installed to ensure proper maintenance of parking lot landscaping.
25. No more than 40% of the area within the drip line of any tree to be planted or retained within or adjacent to a parking area, when fully grown, may be made impervious, unless a certified arborist or landscape architect can demonstrate that the long-term health of such tree will not be adversely effected.

C. Stormwater Management.

For any project for which the Board's approval of a special permit is sought, a system of stormwater management and artificial recharge of precipitation shall be provided, in conformance with the provisions of Section 174-21.1 of the Mashpee Zoning By-law, which is designed to achieve the following purposes: prevent untreated discharges to wetlands and surface waters, preserve hydrologic conditions that closely resemble pre-development conditions, reduce or prevent flooding by managing the peak discharges and volumes of runoff, minimize erosion and sedimentation, not result in significant degradation of groundwater, reduce suspended solids, nitrogen, volatile organics and other pollutants to improve water quality and provide increased protection of sensitive natural resources.

The Applicant shall submit sufficient plans and specifications to demonstrate the operation and effectiveness of the proposed stormwater management facilities and practices and shall require their implementation and maintenance, including provisions for deed restrictions and other implementing provisions, as a condition of approval of the proposed project. No permit may be approved for a project unless the Board determines that the proposed system of stormwater management and artificial recharge will achieve the purposes described above.

D. Wastewater Facilities.

Private Sewage Treatment Facilities designed to generate effluent with an annual average total nitrogen concentration of 5 mg/l or less, and not to exceed 10 mg/l at any time, shall be constructed for any project for which a special permit is approved by the Board which is expected to generate more than 5,000 g.p.d. of wastewater based on the Mass. State Environmental Code, Title 5, unless prohibited by the Mass. Department of Environmental Protection, the Mashpee Board of Health or the Mashpee Zoning By-law.

For projects generating less than 5,000 g.p.d., except cluster subdivisions, an Alternative System of on-site wastewater disposal approved by the Mass. Department of Environmental Protection shall be provided which has been demonstrated to generate effluent with an annual average total nitrogen concentration of 19 mg/l or less.

Where connection is available within 1000 feet to a Town sewer line, such connection shall be made in lieu of the above-required facilities if allowed by the Sewer Commission.

E. Landscaping.

1. Irrigation facilities shall be installed to ensure proper maintenance of landscaping. No more than 40% of the area within the dripline of any tree, when fully grown, may be made impervious, unless a certified arborist or landscape architect can demonstrate that the long-term health of such tree will not be adversely effected.
2. Site plans shall indicate any proposed change of grade in areas within the drip lines of trees to be retained. No more than 6 inches of fill may be added within said drip line (except as noted above for new trees in parking areas) unless a tree well or other arrangement

designed by a certified arborist to maintain the long-term health of the tree is approved by the Board.

3. Existing vegetation shall be preserved wherever possible. All trees over four (4) inches in diameter at breast height shall be retained unless removal is specifically authorized by the Board. Within buffer areas adjacent to streets or abutting properties, understory vegetation shall be retained unless removal is specifically authorized by the Board where not prohibited by the Zoning By-law.

F. Structures.

1. Exterior design of buildings should be consistent with traditional Cape Cod architectural styles and materials and with the architectural context of the abutting properties and neighborhood.
2. For non-residential buildings within the C-1, C-1-SV and C-1-O districts and in the C-2 district located at the intersection of Great Neck Road North and Main Street, at least one-third (1/3) of the area of the first floor façade facing the street shall permit visibility of the building interior or window displays, unless the Board determines that a more appropriate alternative means of maintaining pedestrian visual interest will be provided.
3. For buildings containing only residential uses, the length of any single wall plane on a lot shall not exceed one hundred (100) feet measured between the two (2) farthest points along the same horizontal wall plane, including wall indentations or protrusions and any wall planes which are visually substantially the same.
4. The location of structures, building heights and setbacks between buildings shall require approval by the Fire Department with regard to emergency access and fire protection. In no case may one- or two-story primary structures be located less than twenty (20) feet from each other or may structures containing more than two (2) stories be located less than thirty (30) feet from any other habitable structure without specific approval from the Mashpee Fire Chief.

G. Phasing.

1. In order to minimize dust, erosion and adverse impacts on adjoining properties, phasing of any project involving a significant amount of clearing and earth moving is encouraged, and shall be required for projects involving clearing of more than 25 acres.
2. Only one phase of such projects may be cleared at one time, and no clearing may commence on the next phase until the Board has determined that the previous phase is substantially complete or has been sufficiently protected against erosion, the generation of dust or aesthetic or other impacts on abutting properties or on occupants of preceding project phases.
3. Project phasing shall be designed so that:

- (a) temporary soil stockpiles and staging areas are located so as to prevent additional disturbance of soil or vegetation,
 - (b) utility construction is accommodated within each phase,
 - (c) temporary turnarounds and emergency access are provided at each phase,
 - (d) both temporary and permanent stormwater management are addressed in each phase,
 - (e) construction access is provided in each phase separate from access for permanent occupants,
 - (f) later upstream phases address potential impacts to already completed "downstream" phases and
 - (g) the sequence of construction of each phase and the entire project is clearly identified.
4. No portion of the site shall be disturbed except for valid construction purposes consistent with the construction of project infrastructure and roadways or of buildings for which detailed site plans have been approved by the Board. The applicant shall install temporary landscape materials or other means of preventing erosion on any areas disturbed for more than four months but not yet developed with structures. A plan for said landscape materials or other means shall be presented to the Board for approval prior to installation, and installation shall be completed within sixty days of said approval.

H. Lighting.

In order to insure minimal light pollution, reduce glare, increase energy conservation and maintain the quality of the town's physical and aesthetic character, for any new residential or non-residential development the following will be expected by the Board before a special permit will be approved:

- 1. All outdoor light fixtures shall be shielded, except that any light intended solely to illuminate any freestanding sign or the walls of any building shall be shielded so that its direct light is confined to the surface of such sign or building.
- 2. All outdoor light fixtures using a metal halide lamp or lamps shall be shielded and filtered. Filtering using quartz glass does not meet this requirement.
- 3. Any fixture with a lamp or lamps rated at a total of more than 2000 lumens shall be of fully shielded design and shall not emit any direct light above a horizontal plane passing through the lowest part of the light emitting luminaire.
- 4. All fixtures, regardless of lumen rating, shall be equipped with whatever additional shielding, lenses, or cutoff devices are required to eliminate light trespass onto any street or abutting lot or parcel and to eliminate glare perceptible to persons on any street or abutting lot or parcel.
- 5. The use of highly efficient lamp sources is encouraged.
- 6. The following light sources are prohibited: neon lights, mercury vapor and quartz lamps and searchlights.

7. Unless a waiver is specifically voted by the Board, no freestanding outdoor light fixture may exceed twenty (20) feet in height.
8. Unless a waiver is specifically voted by the Board, outdoor lighting shall not be illuminated between 11 p.m. and 6 a.m. with the following exceptions:
 - a. If the use is being operated, such as a business open to customers, or where employees are working or where an institution or place of public assembly is conducting an activity, normal illumination shall be allowed during the activity and for not more than one half hour after the activity ceases;
 - b. Low level lighting sufficient for the security of persons or property on the lot may be in operation between 11:00 p.m. and 6:00 a.m., provided the average illumination on the ground or on any vertical surface is not greater than 0.5 foot candles.
9. The Board will consider waiving the requirements of this Section, provided that it determines that such modification is consistent with the objectives set forth for this Section, in the following cases:
 1. where an applicant can demonstrate by means of a history of vandalism or other objective means, that an extraordinary need for security exists;
 2. where an applicant can show that conditions hazardous to the public, such as steep embankments or stairs, may exist in traveled ways or areas;
 3. where a minor change is proposed to an existing non-conforming lighting installation, such that it would be unreasonable to require replacement of the entire installation;
 4. where it can be demonstrated that for reasons of the geometry of a lot, building, or structure, complete shielding of direct light is technically unfeasible.

Section X

PERFORMANCE GUARANTEES

Before approval of a special permit, the Board may require that a bond or other performance guarantee be filed by the applicant in an amount determined by the Board to be sufficient to cover the cost of roadway improvements, parking areas, stormwater management facilities, water quality monitoring programs, landscaping or other items required by the Board's permit decision, and approved as to form and sureties by the Town Treasurer, conditioned on the satisfactory completion of such improvements within such period of time, if any, as the Board may specify in its decision.

A total or partial release from the performance guarantee referred to in the previous paragraph may be obtained when the required improvements are complete, in whole or in part, as set forth in the bond or at the Board's discretion.

In the event that the applicant fails to perform satisfactorily the requirements set forth in the special permit decision, or any written agreement regarding said performance guarantee, within

the specified period of time, if any, the then outstanding principal amount (penal sum) of the bond shall be payable to the Town as provided by law, to the extent of the reasonable cost of the Town of the completion of the improvements required under the bond. In such case, the approval by the Board of the special permit may also be rescinded following the procedures provided by law.

Section XI WAIVERS

A waiver of the requirements of these regulations, except where they are mandated by the General Laws or the Mashpee Zoning By-law, may be permitted upon written request of the applicant, by a favorable vote of at least four of the members of the Board at a public meeting when, in the opinion of the Board, topography, proper engineering, aesthetic or natural resources impacts or other considerations necessitate such waiver.

Section XII VALIDITY AND REFERENCE

The invalidity of any section or provision of these regulations shall not invalidate any other section or provision thereof.

For matters not covered by these Rules and Regulations, reference is made to the Mashpee Zoning By-laws and to Chapter 40A of the General Laws.

Section XIII FORMS

As indicated in these regulations, the filing of forms is required for a number of steps in the process of having applications approved. These forms may be obtained at the office of the Town Planner. The following forms are available and are required for the action or approvals indicated. Unless otherwise stated in the rules and regulations or the Mashpee Zoning By-law, all forms shall be filed in triplicate.

Planning Board Special Permit Application

Planning Board Special Permit Modification Application

Application for Waiver of Planning Board Regulations

ERNEST VIRGILIO

7 Blue Castle Drive

Mashpee Ma 02649

8-13-2018

Mr. Evan Lehrer Mashpee Planning Department

Mashpee Planning Board

I have tried to explain the ongoing issues with the related road work on Blue Castle Drive. However we understand that the Planning Board has the authority to correct what is in my opinion non compliance drainage construction issues.

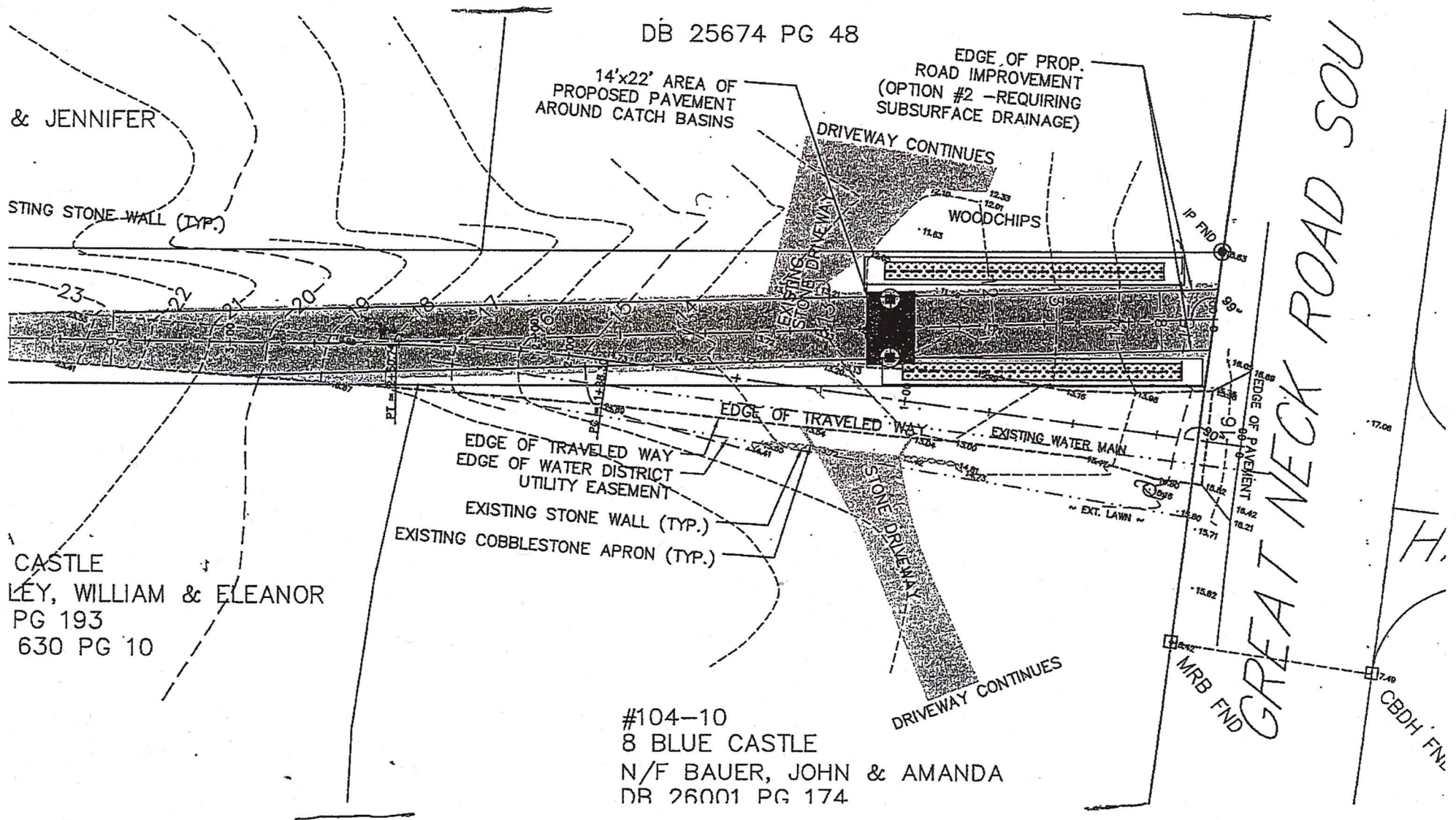
Gloria and I can only hope that the Planning Board understands our concerns. The Planning Board Engineer Charles Rowley has an outstanding background and many years of experience in this field. We trust in you and Mr. Rowley will work on corrections as needed.

I have in closed a drawing that I think was the original drainage design. I still wonder if it was.

Thank you for your ongoing cooperation.

Ernie Virgilio

DB 25674 PG 48



Charles L. Rowley, PE, PLS

Consulting Engineer and Land Surveyor

5 Carver Road
PO Box 9
West Wareham, MA 02576

Tel: 508-295-1881
Cell: 508-295-0545

E-mail: csr63@verizon.net

August 3, 2018

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

Re: Inspection of Blue Castle Drive

Attention: Mary Waygan, Chairman

Dear Ms. Waygan:

An inspection was made this date of Blue Castle Drive in the Ockway Highlands subdivision as per the Planning Board request of Wednesday, August 1, 2018. The following is a summary of the conditions found.

1. At the entrance of Blue Castle Drive at Great Neck Road South the road surface has been paved with binder to the extent shown on the approved plans. This includes a temporary paved waterway that leads to the stormwater facility located on the northerly side of Blue Castle Drive. The final course of asphalt and shoulder dressing has not been completed.
2. The stormwater facility mentioned about has been installed to include the revised infiltration structures of two galleries, riser and beehive casting. The slopes have been rough graded but not dressed. Two layers of sediment control wattles have been placed around the inlet structure. There is evidence of limited erosion beyond the end of the paved waterway and a sediment buildup at the base of the infiltration area. The additional hay bale sediment protection that was requested of the project developer and agreed to by him On July 18, 2018 has not been installed.
3. That portion of Blue Castle Drive that is between the paved entrance at Great Neck Road South and the beginning of the pavement where lots of the approved subdivision begin has not been constructed in accordance with the plan. The road surface has not been expanded or regraded, reclaimed base material has not been installed, stormwater swales have not been done and slopes and shoulders have not been touched.
4. The work to date that has been done is in substantial compliance with the approved plans but there is no indication that the work that has been started will be completed in a timely manner.
5. It is my recollection that the project is still under covenant and that there has been no request for lot releases.
6. Along with this review are several photographs taken today of the project commencing at Great Neck Road South looking along Blue Castle Drive. A general description of each photo is included.

Very truly yours,

Charles L. Rowley

Charles L. Rowley, PE, PLS
Cc Evan Lehrer, Mashpee Town Planner

Photo No. 1



Entrance of Blue Castle Drive at Great Neck Road South

Photo No. 2



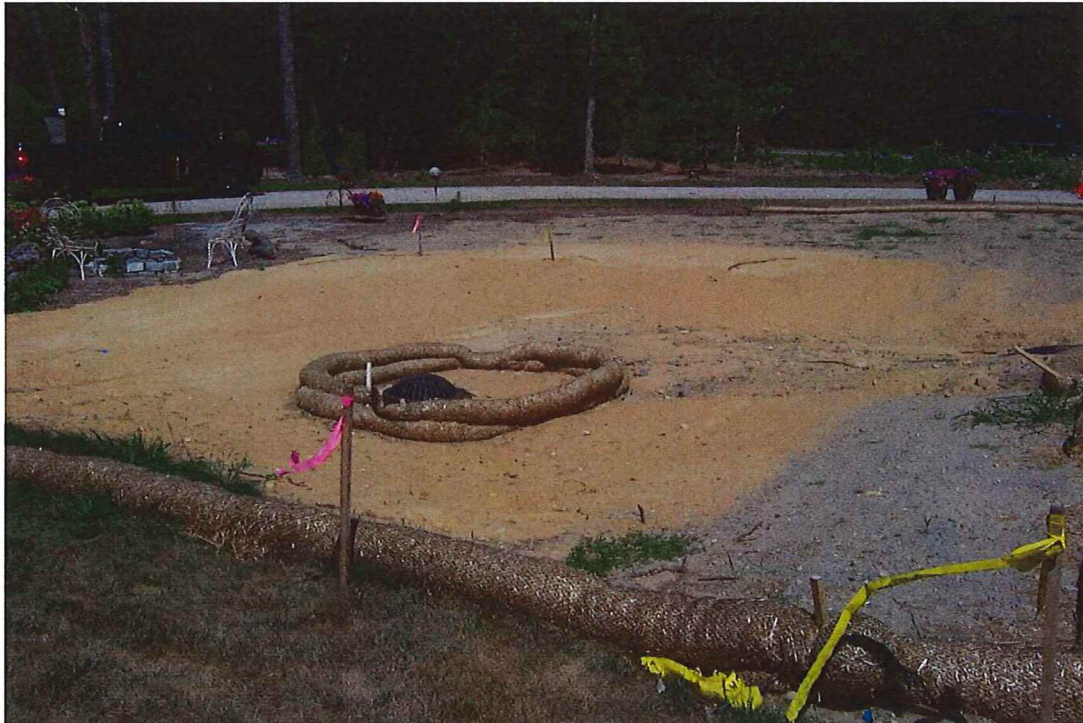
Beginning of Blue Castle Drive at Great Neck Road South with incomplete drainage area to the right of pavement.

Photo No. 3



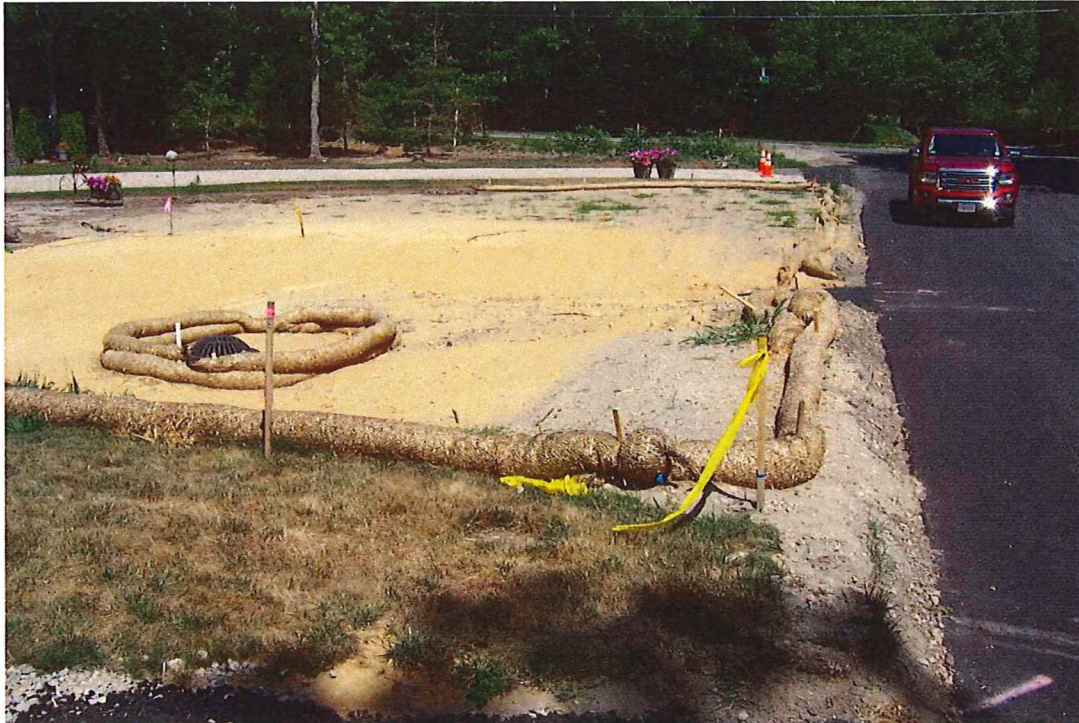
Blue Castle Stormwater Facility. Stormwater Inlet surrounded by two layers of sediment wattles. Erosion evidence at side and end of paved waterway.

Photo No. 4



Blue Castle Stormwater Facility looking back toward Great Neck Road South.

Photo No. 5



Blue Castle Stormwater Facility with unfinished shoulders and surrounding area.

Photo No. 6



Looking westerly along Blue Castle Drive just beyond the Stormwater Facility

Photo No. 7



Erosion and sediment at Stormwater Facility

Photo No. 8



Blue Castle Drive looking west toward the approved subdivision. To date this portion of Blue Castle has not been prepared with improvements as required on the plans.

DRAFT

Below is a proposed draft of a notice to be published for a public hearing to consider amending the approval of Ockway Highlands.

NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENT TO APPROVAL OF OCKWAY HIGHLANDS SUBDIVISION.

In accordance with the provisions of the Town of Mashpee Subdivision Rules and Regulations and Chapter 41, Section 81 W of the Massachusetts General Laws the Mashpee Planning Board will hold a public hearing on _____ date _____ to consider amending the approval of the subdivision known as Ockway Highlands in order for it to remain an approved subdivision. The original Ockway Highlands subdivision approval was granted by the Mashpee Planning Board on _____ date _____ and was filed in the Barnstable County Registry of Deeds on _____ date _____ in Plan Book _____, Page _____

Re: Blue Castle Drive Inspection Report

Charles Rowley <crsr63@verizon.net>

Tue 8/14/2018, 3:46 PM

To: ELehrer@mashpeema.gov <ELehrer@mashpeema.gov>; waygan@hotmail.com <waygan@hotmail.com>;

MWaygan@yarmouth.ma.us <MWaygan@yarmouth.ma.us>

Cc: crsr63@verizon.net <crsr63@verizon.net>

I was under the impression that a covenant, bond or other security was an option that was completely at the discretion of the applicant. I believe there is a covenant on the project but I don't remember that it has a time line attached to it. So based on Town Counsel's advice it looks like the Planning Board could amend its approval to require that Blue Castle Drive be completed fully within a certain time frame.

I would recommend that if the Board decides to move forward in this manner that each step be coordinated with TC so that there is no issue later on. ie: Public hearing notice, vote to amend, time line decided on and the reasons why.

Charlie

-----Original Message-----

From: Evan Lehrer <ELehrer@mashpeema.gov>

To: Mary Waygan <waygan@hotmail.com>; Waygan, Mary <MWaygan@yarmouth.ma.us>

Cc: 'Charles L. Rowley (crsr63@verizon.net)' <crsr63@verizon.net>

Sent: Tue, Aug 14, 2018 2:45 pm

Subject: FW: Blue Castle Drive Inspection Report

[See the below legal determination from Town Counsel...](#)

From: Kathleen Connolly [mailto:KConnolly@lccplaw.com]

Sent: Tuesday, August 14, 2018 2:43 PM

To: Evan Lehrer <ELehrer@mashpeema.gov>

Cc: Rodney C. Collins <rccollins@mashpeema.gov>; Wayne E. Taylor <wtaylor@mashpeema.gov>;

Terrie Cook <tmcook@mashpeema.gov>; Patrick Costello <pcostello@lccplaw.com>

Subject: FW: Blue Castle Drive Inspection Report

Hi, Evan,

Pat forwarded Rodney's and Planning Board's emails below. I have reviewed the correspondence regarding the Blue Castle Drive subdivision and photographs of erosion and other issues with the development that you previously forwarded as well as the special permit decision issued by the Planning Board on May 7, 2014 and recorded at Barnstable County Registry of Deeds at Book 28196, Page 307. I have not yet been provided a copy of the original subdivision approval. Based upon my review of these documents and the Planning Board's inquiry about remedies, I have the following advice. The Planning Board has authority to modify, amend or rescind a subdivision approval on its own and can do so in this case to add development deadlines and any other relevant criteria for construction and erosion control. I also recommend that if the Board decides to amend the approval, it consider including a provision for a performance bond or covenant to guarantee that the work will be done satisfactorily and will give the Board the option to conduct the work itself should the developer default or otherwise fail to conduct the work and restoration work properly or adequately. With respect to amending a special permit – in this case to add conditions about performance deadlines – there is case law that provides that a Board can only make clerical corrections without a duly-noticed public hearing. *Tenneco Oil Co. v. City of Springfield*, 406 Mass. 658 (1990). Any substantive changes will require a hearing.

Pursuant to G.L.c. 41, §81W, a planning board, “on its own motion or on the petition of any person interested, shall have power to modify, amend or rescind its approval of a plan of a subdivision, or to require a change in a plan as a condition of its retaining the status of an approved plan.” The statute further provides that “[a]ll of the provisions of the subdivision control law relating to the submission and approval of a plan of a subdivision shall, so far as apt, be applicable to the approval of the modification, amendment or rescission of such approval and to a plan which has been changed under this section.” Therefore, procedurally, a Board member can make a motion that the approval be amended and if the motion is seconded and so voted by the Board, it should notify the applicant and notify abutters in the same manner that was done for the original application. If lots have been sold and/or are subject to mortgages, there can be no modification, amendment or rescission of the approval of a plan of a subdivision affecting those lots without the consent of the owner of such lots, and of the holder of the mortgage or mortgages, if any.... See Section 81W.

I note that the original approval does not contain any type of performance guarantee, which would be helpful in this situation. Planning Boards have authority to impose bonds or covenants on subdivision approvals in order to have recourse when a developer defaults and there is a failed subdivision. A subdivision default is essentially a failure of the developer to complete the required work in a subdivision within the time limit established by the planning board either in the certificate of approval of the subdivision or in the subdivision covenant. When the developer does not comply with the time limit for completion of the subdivision, the board may seek to use the bond or monies provided as security in order to complete the construction of the subdivision ways and installation of utilities.

General Laws chapter 41 section 81U provides:

Any such bond may be enforced and any such deposit may be applied by the planning board for the benefit of such city or town, as provided in section eighty-one Y, upon failure of the performance for which any such bond or deposit was given to the extent of the reasonable cost to such city or town of completing such construction or way.

Further, the Mashpee Subdivision Rules and Regulations provide:

Section X Performance Guarantee A. “Before endorsement of its approval of a Definitive Plan, the Planning shall require that the construction of ways and the installation of municipal services be secured by one, or in part by one and in part by another, of the methods described in ... clauses 1, 2, 3 or 4 of that section.” The methods provided are “1. By a proper bond, sufficient in the opinion of the Planning Board to secure performance; 2. By a deposit of money or negotiable securities, sufficient in the opinion of the Planning Board to secure performance of the construction of ways and the installation of municipal services...3. By a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed... 4. By delivery to the Planning Board of an agreement executed after the recording of a first mortgage covering the premises shown on the plan or a portion thereof given as security for advances to be made by the applicant to the lender....”

Section X. Performance Guarantee, A. 1. – 4. There are pros and cons of each and the two most common methods are a bond or a covenant: (1) if the Board requires a performance bond and the developer defaults, the Board could, after attempting to work with the developer, take the bond to complete the work itself, which can be a long and arduous process. (2) If it requires a covenant, the Board’s option is to file a complaint in court seeking an injunction to restrain the sale of lots.

If no performance bond is required, but rather the Planning Board approval requires a covenant, there is no bond to take and the Board's option is to file a complaint in court seeking an injunction to restrain the sale of lots.

If the Board had instead required a performance bond, it could, after attempting to work with the developer, take the bond to complete the work itself, which can be a long and arduous process.

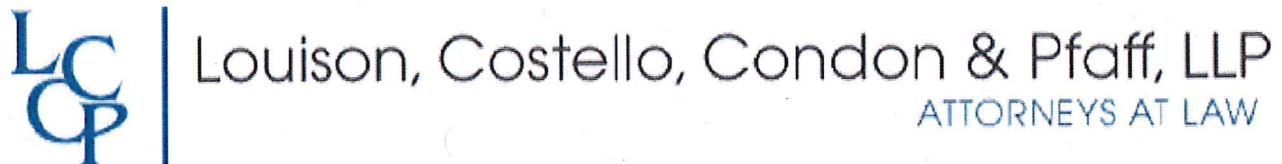
Where a performance bond has been required, the Town may take following steps:

1. First, the planning board should send the developer, by certified mail, a request that the developer attend a meeting of the planning board to provide a report concerning the expected completion date of the subdivision, and whether the developer will seek an extension of time. It should be determined if the surety's assent to an extension is required, and, if so, the developer should be advised, and should be responsible for obtaining the surety's written assent to an extended date. The board's letter should advise the developer that, if the developer fails to obtain an extension and the work is not fully completed, the board will consider exercising its options to enforce the performance guarantee, or take other legal action to require the developer to perform its obligations.
2. If step one is not successful, and it is clear that the developer will not complete the subdivision, the board should have its engineer provide a detailed list of all of the items of work that have not been completed, together with a detailed cost estimate for the completion of that work by the city or town. The cost estimate should take into account public bidding requirements, as well as contingencies, and the provisions of the planning board's applicable rules and regulations governing subdivisions.
3. The board should then send notice to the developer of the incomplete items of work, and of the time, date and place of the meeting at which the planning board will review the list and determine whether or not the developer is in default of its obligations under the subdivision approval and/or surety. The notice should also state that the developer will be entitled to be heard on the matter. A copy of the notice should be sent to the surety.
4. If, after affording the developer the opportunity to be heard on the subject of the unfinished subdivision, the board determines that the work has not been completed in a timely manner, it may vote to find the developer in default. The board should also vote to adopt the engineer's report on the unfinished items and cost estimate. The board should also vote to enforce the performance guarantee and/or seek other enforcement action.
5. If the board votes to enforce the performance guarantee, it should send a certified letter to the surety, notifying it that the developer has failed to complete the work secured by the surety by the deadline specified in the surety agreement (with any extensions), and demanding that the surety pay to the city or town the penal sum of the bond, or the monies held by the bank, (or a lesser amount if the cost estimate is substantially less than the surety amount) in accordance with the surety agreement. A copy of the surety agreement should be appended to the letter, as well as the engineer's report of incomplete items and cost estimate therefore.

Please let me know if you wish to discuss this further.

Kate

Kathleen Connolly, Esq.
Louison, Costello, Condon & Pfaff LLP
101 Summer Street
FL 4
Boston, MA 02110
617-439-0305
617-307-5051 (direct)
kconnolly@lccplaw.com



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For more information about Louison, Costello, Condon & Pfaff LLP, please visit us at www.lccplaw.com

From: Rodney C. Collins [<mailto:rcollins@mashpeema.gov>]
Sent: Tuesday, August 07, 2018 12:54 PM
To: Patrick Costello
Subject: FW: Blue Castle Drive Inspection Report
Importance: High

Pat,

Please review and respond to me. Please contact Town Planner Evan Lehrer for any details regarding the relevant issues.

Rodney C. Collins | Town Manager
Town of Mashpee
16 Great Neck Road North, Mashpee, MA 02649
Office: 508.539.1401 | Fax: 508.539.1142



"Preserving public trust and providing professional services."

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From: Mary Mary [<mailto:waygan@hotmail.com>]
Sent: Monday, August 06, 2018 4:53 PM
To: Evan Lehrer <ELehrer@mashpeeema.gov>
Cc: Charles L. Rowley (crsr63@verizon.net) <crsr63@verizon.net>; Rodney C. Collins <rccollins@mashpeeema.gov>; Wayne E. Taylor <wtaylor@mashpeeema.gov>; eclerk@capecod.net
Subject: Blue Castle Drive Inspection Report
Importance: High

Hi Evan,

Please ask Town Manager Rodney Collins for approval to contact Town Counsel regarding this matter. If access is approved, at a minimum:

Please forward Charlie's report (dated Aug 3, 2018) and draft Public Hearing Notice to Town Counsel for review and request his opinion as to how to proceed to amend the approval of the Ockway subdivision to add performance deadlines. Please ask Town Counsel to identify any other remedies available to the Planning Board or the Town to improve these site conditions as impacting the abutters in an expedited manner.

Please forward Mr. Virgilio's email to both Charlie Rowley and Town Counsel, and ask Town Counsel if we can expedite the Public Hearing to amend the subdivision as requested by Mr. Virgilio.

Lastly, would you also update the property owner (Jacques Morin sp??) when these two items (Rowley 8/3/18 report and Virgilio 8/6/18 email) have been forwarded to Town Counsel to set a public hearing to consider amending the approval of the Ockway Highlands subdivision, and that he is encouraged to address these site conditions as soon as possible. He may contact Mr. Rowley for more information. You can release Mr. Rowley's 8/3/18 report to the property owner if you so choose. I do not have the authority to release Mr. Virgilio's email to the property owner – perhaps you do?

Mary Waygan, Chair
Mashpee Planning Board

cc: Ernest Virgilio; Rodney Collin, Town Manager; Wayne Taylor, Assistant Town Manager; Charles Rowley, Planning Board Consulting Engineer.

**Mashpee Planning Board
Minutes of Meeting
July 18, 2018 at 7:00 p.m.
Waquoit Meeting Room, Mashpee Town Hall**

Present: Chairman Mary Waygan, Dennis Balzarini, David Koocharian, Joe Cummings, David Weeden, Robert (Rob) Hansen (Alt.)

Also: Evan Lehrer-Town Planner, Charles Rowley-Consulting 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 the Chair, at 7:00 p.m. on Wednesday, July 18, 2018. The Chair stated that the meeting was being videographed and recorded. The Chair welcomed attendees and asked that anyone addressing the Board do so using the microphone, stating their name and their business. All comments should be addressed through the Chair and a determination would be made whether the comments would be heard by the Board. The Planning Board encourages public participation and typically meets the first and third Wednesdays of the month. The Pledge of allegiance was recited.

APPROVAL OF MINUTES— June 20, 2018 & June 28, 2018

The Chair requested that consideration of the minute be placed on hold to allow a thorough review of the content of the minutes.

NEW BUSINESS

20 & 28 Blue Castle Drive Determination of Adequate Roadway-Chairman Waygan read the request for the record. Attorney Jonathan Polloni, represented the applicants, Ellen Brady and Henry Barr, owners of property located at 20 and 28 Blue Castle Drive. Mr. Polloni reported much of the paving had been completed, as permitted by the Special Permit for Ockway Highlands, but that a section of road remained unpaved, on which the parcels in question were located. Mr. Polloni stated that the applicants' lots were buildable once approval was received from the Planning Board that access was determined as adequate. Mr. Polloni reviewed regulations regarding lots fronting on a street, described as a Town-owned public way, constructed and approved Subdivision road or a way that pre-dated those regulations. It was Mr. Polloni's opinion that this area of Blue Castle Drive was created in the 1950s, allowing the Planning Board to determine its adequacy. Mr. Polloni read Paragraph 9 in the Special Permit for adequate access, adding that it also conditioned the new cluster subdivision to improve and maintain the road. Mr. Polloni referenced local residents' preference for a paved road versus an unpaved road and the Planning Board's conditions for the developer to regrade the road, widening to 16 feet, clearing to 20 feet and providing annual maintenance to allow emergency access. It was Mr. Polloni's opinion that the conditions were sufficient to allow for his clients to build on the parcels they believed, upon purchase, were buildable. Mr. Polloni suggested that it was a unique circumstance that would likely not create a precedence, and added that it would not create significant additional traffic. Mr. Polloni highlighted the parcels on the map for the Planning Board, noting that lot 20 was undersized and was a non-conforming lot, but met the frontage requirements. The parcels surrounding the land were developed.

The Chair was in agreement that residents in the area were reluctant to the idea of paving the road. Mr. Polloni clarified that, in previous conversations with Mr. Fudala, the lots would be buildable with a paved road and the Building Commissioner had deferred to the Planning Board. Mr. Balzarini noted that, in some areas in Mashpee, new construction required that homeowners contribute to the paving of the roads. Mr. Balzarini suggested that the grading should have continued into lot 20 and expressed concern about that section. Mr. Polloni responded that he was unsure whether the work was complete in that area, adding that a homeowners association would take on the responsibility of maintaining the road. The Chair inquired whether Mr. Polloni's clients would become members of the Association and he responded that there had been discussion about the possibility. The Chair stated that the Planning Board would be looking to the owners to contribute, if their request were approved.

Mr. Lehrer confirmed that he had reviewed prior correspondence with Mr. Fudala, adding that the Special Permit expanded the road to 16 feet, which was non-compliant with Subdivision Regulations, technically making the road inadequate. However, the Board did have some latitude to waive the requirements. Mr. Balzarini saw no issue, adding that other lots were developed in the area. Mr. Cummings agreed with Mr. Balzarini. Mr. Balzarini suggested that the property owners contribute to the pavement of the road, adding that he understood if neighbors preferred to maintain the road as unpaved, but that the transition needed additional work. Mr. Weeden agreed with a collective agreement to pave the area or additional work to better address the transition between the dirt and the asphalt, expressing concern about the long term stability of the transition. Mr. Hansen agreed that a solution should be determined regarding whether the road was paved or the transition be corrected. Mr. Lehrer suggested that the road base was not the correct material as defined by Subdivision Control.

Mr. Rowley responded that the section between the two paved areas had not yet been completed. Mr. Rowley confirmed that the section was required to be 16 feet wide, 20 feet cleared, with shallow swales on each side to address the runoff. Additionally, the end of the gravel area was not yet to grade, and reclaimed material would be added to bring the transition up to the level of the pavement. Mr. Rowley referenced projects, such as in New Seabury, where roads were not constructed to Subdivision Regulation, but were brought up to standards for construction purposes and also referenced parcels located on Fox Hill Road, suggesting that requiring an upgrade to the road would be consistent with prior situations.

The Chair asked for an update from the Ockway Highlands developer, Jacques Morin, who was present at the meeting. Mr. Morin provided plans to the Planning Board showing Ockway Highlands and the road in question. Mr. Morin stated his support for the owners' right to build on their lots but requested that a decision be held until he was able to meet with the abutters regarding the paving, to be considered as an approved street, reasonably meeting current zoning requirements. Mr. Morin suggested the Board consider a width waiver from 22 feet to 18 feet, with no sidewalks, reduced drainage requirements and a streamlined engineering process to allow a better financial arrangement for all involved, while providing something better than the

16 foot way. Mr. Morin had been in contact with owners of the two other undeveloped parcels (35 & 43) in the area.

Chairman Waygan inquired when Mr. Morin planned to improve the way for the Special Permit. Mr. Morin responded that they had just completed the asphalt on the road last week and anticipated they would work over the next 30 days to complete it. Mr. Rowley clarified that the binder course had been put down, but that the top surface had not yet been put down. The Chair stated that she was hesitant to make changes to the Special Permit regarding the unpaved road, referencing the neighbors' previous comments regarding the road. Mr. Balzarini expressed preference that Mr. Morin speak with the neighbors. Resident Ernie Virgilio confirmed that the paving was initiated at the correct location, but expressed concern about the drainage system located adjacent to his property, that was being built piecemeal, noting that it was not currently in compliance and was not adequately protected.

Ms. Brady, applicant, indicated that she had spoken with Mr. Morin in September 2017, adding that she loved the road when she first purchased her property. Ms. Brady expressed disappointment with the planning of the road, including the increased costs of paving the road that she would incur. Ms. Brady was disappointed to see the current condition of the road. Ms. Brady stated that she was advised that her lot was buildable prior to her purchasing the property and expressed frustration and concern about the road in front of the unbuilt parcels remaining in its current state. Ms. Brady felt that it was unfair for the homeowners to bear the burden of the cost, unless all neighbors were mandated to fix the road.

The Chair recommended complying with the Special Permit as it was written while considering to grant the waiver requested, provided an agreement was developed between the abutting neighbors for long term maintenance of the road. Mr. Polloni expressed concern about working with existing neighbors who may prefer an unpaved road. It was the Chair's belief that existing homeowners preferred not to have the road paved due to concerns about speed on the road. Mr. Balzarini stated that it was likely that the new homeowners would be traveling on Blue Castle to access their homes, adding that it would be hard to sell the new homes with the road in its current state. Mr. Polloni again stated that the parcels were created before the requirements of the Subdivision Controls.

Mr. Polloni inquired whether the improvements to the gravel road would allow for paving to be completed on the road, at a later date and Mr. Rowley responded that paving the surface would have a different impact to runoff and would require reconsideration.

Mr. Lehrer pointed out that traffic mitigation was included in the Special Permit with funds set aside to purchase the radar traffic signage.

Mr. Balzarini suggested that the property owners meet with the developer and return to the Planning Board with an agreement. The Chair stated that they were seeking approval from the neighbors to improve their portion of the road as outlined in the Special Permit. There was

discussion regarding homeowner association fees for maintenance of the road, to ensure that it was plowable for the Town. Mr. Virgilio stated that he would not be part of a homeowners association or any maintenance plan for the road. Mr. Morin requested that the Board consult with Town Counsel regarding the issue because he did not understand how a building permit could be issued without comporting with zoning, adding that it would be an opportunity for the Board to ensure that the road would be plowable and would increase the value of the properties.

Discussion Regarding Windchime Special Permit & WWTP Upgrade-David Bennett, Wastewater Treatment Plant Operator for Windchime, was present to discuss details regarding Windchime's wastewater treatment and Special Permit conditions. Anthony Colletti, Property Manager, was also present. Mr. Bennett summarized that the facility had a groundwater discharge permit issued for 40,000 gallons and his company took over operations after the DEP issued an NON on the plant for failure to meet performance standards. Mr. Bennett stated that they observed neglect, bad maintenance and issues with the system with antiquated technology. Improvements were made and operational in 2016, but it was evident that a major upgrade would be necessary. Their Board of Directors pointed out that \$160,000 had been placed in escrow with the Town, in order to upgrade the sewage treatment plant.

Mr. Bennett questioned a Special Permit condition specific to Windchime, regarding an extensive ground water monitoring program to include five monitoring wells, three piezometers by the shore of Mashpee River and surface water testing in three locations in the Mashpee River, quarterly, which has been completed for 19 years. Mr. Bennett stated that reports were provided annually but inquired whether the information was being utilized, adding that it was a snapshot of a very small area. Mr. Bennett stated that Windchime was looking to identify the technologies that would meet the requirements of the Special Permit and the need to treat 5 mg/L, noting that it was half of what the State required. Mr. Balzarini responded that the State superseded the Town's regulations, but that if readings were above the 10 mg/L, Windchime would be invited to attend a Planning Board meeting to discuss the issue and ways in which it would be corrected. Mr. Bennett responded that he had been there since 1999 and had never received correspondence from the Planning Board. The Chair stated that if the staff did not report the results on the agenda, the Planning Board would be unaware of a change in the numbers. Mr. Bennett responded that he wished to secure the funds from escrow to upgrade their system and asked for a review of the value of the costly monitoring program, suggesting in its place a contribution to a regional program. Mr. Bennett added that Mashpee Commons did not seem to be held to the same standard. The Chair stated that the new Bylaw identified treatment at 3 mg/L. Mr. Bennett disagreed that anyone could consistently meet 3 mg/L. Mr. Cummings and Mr. Bennett disagreed with Windchime's history of meeting below 5 or 10 mg/L.

There was discussion regarding whether the Special Permit required among its conditions the \$160,000 escrow to update the wastewater system. Mr. Lehrer confirmed that he had been in contact with the Treasurer, adding that if it was listed in the Special Permit, a vote would be necessary from the Board to release the funds. The Chair stated that she would need to review the Special Permit. There was discussion as to the reasons why the plant did not meet 5 mg/L. There was discussion regarding whether Mashpee would require treatment to 3 mg/L for new systems and it was suggested to follow up with Tom Fudala. Mr. Balzarini noted that Windchime was located near the Mashpee River. The Chair will follow up with Mr. Fudala and

look into identifying the way in which the escrow funds would be released to Windchime. Mr. Bennett anticipated the cost to be approximately a quarter million dollars and again requested relief from the costly water monitoring program, which he viewed as punitive, to three monitoring wells on a quarterly basis. It was noted that if the funds were released, the funds would need to be deposited back to the Town. Mr. Bennett pointed out there was an additional State fund, the Financial Assurance Mechanisms, which contained funds from Windchime.

Mr. Lehrer stated that the Special Permit indicated that the system should meet 5 mg/L, but 10 mg/L was considered technically compliant. Mr. Lehrer spoke with Mr. Fudala who confirmed that the increased monitoring was due to the development's location near the Mashpee River. Mr. Bennett stated that Mashpee Commons produced 180,000 gallons of flow compared to Windchime's 20,000 gallons. Mr. Bennett and Mr. Cummings again disagreed with the flows. Mr. Lehrer stated that most facilities were meeting 10 mg/L but that he would develop a spreadsheet showing each of the facilities. Mr. Bennett stated that he would design for 5 mg/L and meet 10 mg/L.

The Chair requested a letter from Windchime requesting the escrow funds and Mr. Lehrer will follow up with the Treasurer. The Chair would also like more information about Mashpee requiring treatment to 3 mg/L as well as the Financial Assurance Mechanism required by the State, and possible removal of the escrow requirement from the Special Permit Modification. Mr. Bennett stated his preference that the Planning Board reconsider Windchime's need to resubmit escrow to the Town and reducing the water quality monitoring program. The Chair suggested Mr. Bennett draft his recommendation regarding reductions to the monitoring program and Mr. Bennett suggested the possibility of providing it annually rather than quarterly. Mr. Hansen referenced his experience at Southport and the FAM responsibility and inquired when Windchime's license would be renewed. Mr. Bennett responded that the anticipated work was a proactive effort for anticipated non-compliance. Referencing data from the monitoring reports, Mr. Bennett noted that results showed Mashpee River was becoming more impacted, adding that the up gradient portion, which was not impacted by Windchime, was outpacing the down gradient portion. Mr. Bennett suggest that if there were four or five stations along the River, the Town would have a better sense of the location of the problems. Mr. Bennett expressed interest in knowing the Town's intent of the master plan regarding existing wastewater treatment facilities and the Chair suggested contacting the Sewer Commission. Mr. Bennett noted that there was consideration regarding various waste water treatment options.

OLD BUSINESS

Update on Ockway Highlands-Regarding the development, Mr. Morin confirmed that drainage, water system, electrical system and the base coat of the pavement were in place for the subdivision. Gas would be added next week and transformers would be added by National Grid. Road shoulders were being graded and seeded. Work was still needed at the entrance, along with the gravel way, which would begin in the next 30 days. Mr. Morin would have a conversation with the neighbors, regarding paving the road.

Mr. Rowley requested that Mr. Morin look more closely at the drainage area located at the front, opposite of Mr. Virgilio. Regarding the infiltration structure, Mr. Rowley stated that waddles, around the bee hive, required additional protection now that the entrance was paved, because

sediment could enter into the subsurface system, which could require rebuilding of the system. Mr. Rowley had already requested hay bales to be added to the area because they would create a better trap, but they had not yet been added. Mr. Morin agreed to have the hay bales installed.

Board Signature for 2 Center Street Special Permit Modification-The Chair stated that the signature would be added to the next agenda due to the Town Clerk being on vacation.

Approval of Correspondence to Rui Almeida-There was consensus from the Board to sign and send the letter drafted to thank Mr. Almeida.

Intersection of Country Club Ln. & Old Barnstable Rd.-Mr. Rowley reported that he attended a meeting regarding a final plan, which included a center turn lane, with some adjustments to the pavement coming out of Country Club Lane. The project proponent would attend the August 1 meeting with the plan for Planning Board action. Some concern was expressed by Ken Marsters regarding necessary additional paving on Old Barnstable Road.

Update on DRI Referral to Cape Cod Commission for Special Permit Application, Personal Wireless Facility at 101 Red Brook Road-Correspondence from the Cape Cod Commission confirmed that the public hearing would be held no later than August 20. Mr. Lehrer notified abutters of the correspondence, advising them that they would receive further correspondence from the Cape Cod Commission regarding the specific date of the meeting. The Chair asked that Mr. Lehrer email the Board once the public hearing was scheduled.

PROPOSED AMENDMENTS TO MASHPEE ZONING BYLAW & STATE ZONING STATUTE

Mixed-Use Planned Development Bylaw-The Chair read a statement to address comments reported recently in the newspaper. The Chair highlighted points from the MPD such as allowing mixed-use development for 20+ acre developments provided there was an approved master plan featuring neighborhood types, a form-based design code, 15% affordable housing and open space requirement, to be approved under a single Special Permit from the Planning Board. Once fully approved, the developer would be able to proceed by right. Among the statements that required clarification, the Chair stated that there was not a 50 bedroom per developed acre limit, because there was no maximum density or bedroom limit on any developed acre but instead, the number of bedrooms were linked to the open space, which could be located anywhere in town. Examples were provided breaking down the number of allowable bedrooms compared to Conservation Commission deeded open space. The Chair stated that any allowed use under 174-25 would still be allowed, such as the recently built assisted living facility, Laurentide.

Regarding Mashpee's tax base, the Chair noted that fiscal impact analysis would best identify net tax benefit by assessing the cost of necessary tax funded services, such as school, Fire or Police. Mashpee Commons pursued a similar study in 2005, determining that of the 382 proposed units and 41,000 square feet of commercial space, the 60 acre development would generate \$165,000 in tax revenue per year, which was less than 0.3% of the Town's annual budget. It would be advisable to request that another analysis be completed to determine how the development could impact the tax base. Mr. Balzarini agreed, noting that he previously requested the same

information, particularly considering the costs to the Town such as traffic issues and the need for increased emergency responder services. The Chair requested the full report from 2005 and Mr. Lehrer confirmed that he could provide it. Mr. Lehrer inquired about the density differences between the proposals and Chairman Waygan responded that previously it consisted of 382 housing units, on 60 acres, with 17 acres of open space. Mr. Lehrer inquired about potential revenue streams outside of property tax. There was consensus to assess the best uses to ensure increased revenue streams, such as the possibility of a hotel. The Chair recommended working with the EDIC.

Mr. Weeden inquired about the ability to conduct a study without a master plan to accurately assess the impacts. Mr. Lehrer pointed out that master plan development was part of the process for either the MPD or Mashpee Commons' Form-Based Code and suggested that the Board consider the bylaw, whether it was MPD or FBC, which would create the clearest path forward for the developer, so that there would be no question regarding the final outlay. The Chair stated that the MPD would include the master plan requirement as part of the Special Permit application. Mr. Balzarini inquired whether Mashpee Commons could work collaboratively with the Board to develop something. The Chair stated that, without a master plan identifying the number of units being requested, it was difficult to determine whether or not the open space requirement was reasonable.

Russell Preston, representing Mashpee Commons, stated that the fiscal impact study would be a costly endeavor and would require a master plan, but that there was currently no clear path for entitlement for development. Mr. Balzarini responded by inquiring how the development would be benefitting the Town. Mr. Preston responded that the current study was part of the 40B process, which they had since abandoned, adding that the proposed MPD would not work due to the additional costs and unclear path forward for their development. Mr. Balzarini emphasized the necessity for the Town to have a better idea whether to anticipate the need for additional teachers if there would be an increase in family homes, or emergency responder services for an increase in an older population. Mr. Preston responded that, for them to conduct such studies, they would need to know from the Town current information, such as, the cost to educate a child, per school, stating that it was an in depth analysis. Mr. Preston suggested that Mashpee Commons was seeking a density of 44-66 units per acre in order to pay for the necessary infrastructure and develop a high quality public space, which, under MPD, would require them to provide more than one acre of open space, creating an additional burden for development. Mr. Preston stated that the current 40B permit had no external open space requirement, with a higher affordability requirement, but was not feasible. The Chair responded that the Planning Board needed a master plan to determine whether the open space requirement was unreasonable. Mr. Balzarini responded that Mashpee Commons depicted different neighborhoods with different styles of buildings and inquired about them providing the cost and tax potential with the information. Mr. Preston responded that they had a 5-10 year plan, as well as the long term master plan that would include plans for the rotary. The Chair responded that the rotary was too far out as it would be dictated by the State and the Town.

Mr. Preston inquired about what it was the Board was seeking. The Chair responded that they were seeking a draft master plan with blocks coded to Mashpee Commons' form-based code. The Chair suggested that Mashpee Commons would likely have trouble at October Town

Meeting without questions answered and vetted by the Planning Board and their support of the MPD would allow time to assess the other questions during the Special Permit process. Cara Wilbur, of Mashpee Commons, stated that both the MPD and FBC required a master plan, so it was unclear why it would be required in advance of considering either proposed bylaw. The Chair inquired when the master plan would be approved by the Planning Board using their FBC bylaw. Ms. Wilbur responded that it would be the first stage of the process with the Planning Board in Article 7.

Regarding open space, the Chair stated that Mashpee had a long history of preserving open space including the codification of setting aside open space in the Local Comprehensive Plan and the Cape Cod Commission Regional Policy Plan. Mashpee surveys indicated that 57% of Mashpee residents wanted 50% of the remaining unbuilt land placed into open space while 30.4% wanted 76-100% preserved. The top four reasons residents moved to Mashpee were for air and water quality, beaches and ponds, tranquility and open space. Additionally, open space created water quality benefits with no wastewater generated, no nitrogen runoff created from impervious surfaces and existing vegetation taking up nitrogen. The Chair stated that open space provided a benefit to the wildlife habitat and protected a 12,000 year connection to the land for Wampanoag residents, emphasizing that open space was a core priority of Mashpee. If the Planning Board requested too much in the form of open space, then they would need to know how many bedrooms were being sought by Mashpee Commons.

Mr. Weeden referenced the recent Board of Selectmen meeting where Mashpee Commons presented, noting that they should have remained at the meeting to listen to the report about Mashpee's water quality. Mr. Weeden stated that Mashpee rivers were among the worst on the Cape and in dire need to reduce nitrogen loads, with Quashnet River being in the worst condition. Nitrogen issues were directly related to runoff and wastewater issues. Mr. Weeden suggested more time was needed to address the Town's nitrogen issues, while there appeared to be a rush to change zoning to accommodate additional development, which was the reason that the rivers were in their present state. Mr. Cummings agreed with Mr. Weeden regarding wastewater, adding that the Planning Board put their best foot forward and suggested that Mashpee Commons needed to put their best foot forward, adding that the Board of Selectmen encouraged collaboration between both parties.

Mr. Lehrer stated that the master planning process, whether through MPD or FBC, would enable the Board a conversation to determine what density would be permissible, the allowable uses and the appropriate open space set asides. Mr. Lehrer felt that it was unreasonable to require a master plan prior to the development of a bylaw. Mr. Lehrer stated that it was necessary to first identify the clearest path forward. Regarding nitrogen loading, Mr. Lehrer confirmed that development had been responsible, but that it was due to developing sprawl, whereas dense building would allow for the development of infrastructure to mitigate the issues. Mr. Preston stated that developers and builders focused on smart growth, and Mashpee Commons, identified by the Cape Cod Commission as an Activity Center, could support addressing water quality issues, such as using their water treatment facility to remove nitrogen from the watershed. Building compactly, and connecting to infrastructure could address issues and was the intent of form-based code. Mashpee Commons was invested in Mashpee and Cape Cod, and understood

that it was a place of special natural quality and heritage for which they wished to be good stewards.

Review of Draft Form-Based Code with Revisions, Mashpee Commons-Mr. Preston set up their presentation. Referencing the Mashpee Commons proposed FBC Bylaw, Mr. Preston stated that the document was designed to be user friendly and suggested picking up discussion where they last left off at Article 3, Section B. Mr. Preston stated that they pulled a few pages to work through a hypothetical project.

The Chair inquired whether Mashpee Commons had brought printed copies of the presentation for the Board Secretary. Mr. Preston responded that he had not and the Chair stated that it would be the last time that a presentation would be allowed without hard copies provided. Mr. Preston indicated that they would do their best to make the accommodation.

Mr. Preston stated that FBC were best practices, and tools that should be used in Mashpee. The goal of FBC was to create a predictable path forward so that the Town could anticipate what would be created, as well as its impacts and benefits, and to provide a platform for additional investments in Town by providing opportunities to other developers. Mr. Preston indicated that FBC also created open spaces, totaling 25-30 acres of civic spaces, parks and squares created within the project.

Mr. Preston described the form of a traditional neighborhood versus the suburban sprawl, which had created such issues as the nitrogen problem in Mashpee. FBC was being considered nationwide. Mr. Preston indicated that the degradation of character occurred over time and the goal of the Mashpee Commons expansion would be to build on small town character, through code, organized by building blocks. Mr. Preston compared Mashpee Commons' proposed form-based code with the Cape Cod Commission's transect, moving from rural to a more dense area. Mr. Preston agreed that Mashpee had done a great job preserving open space but smart growth would require a vibrant town center connected to wastewater treatment.

Regarding the contents of the FBC, Mr. Preston described them as nesting dolls, such as the districts and the buildings located within the districts. Mr. Preston discussed various sections of their FBC proposal and how the land would be subdivided into the neighborhoods, assembling all of the pieces, as well as the administration of FBC.

Mr. Preston walked through a scenario of developing a structure and the aspects of that building, while addressing issues like parking or back buildings. Mr. Preston stated that the page count of their FBC was not important, noting that it was an easier tool to determine predictability for a project by providing detail that could then be used to develop a master plan for the Town.

Regarding Article 3, Mr. Balzarini inquired about the location of each of the character districts. Mr. Balzarini also inquired about Mashpee Commons' open space and whether it would be open to the public. Mr. Balzarini also referenced Deer Crossing, residents who had previously expressed concern regarding a buffer zone being located along their property. Regarding parking, Mr. Balzarini inquired about the location of parking for the many anticipated cars, adding that he could not understand why Mashpee Commons could not provide a plan of what

they envisioned for their development. The Chair agreed that the Planning Board needed to see a master plan of the character districts. Mr. Balzarini also expressed concerns about traffic impacts to Routes 28 and 151. Mr. Preston responded that many of the questions had been discussed during their Mashpee Commons by Design week. The Chair inquired whether it had been developed into a conceptual plan, such as the location of the taller buildings, to better envision the final product of the form-based code. Mr. Preston noted that the regulating plan would identify the location of the character districts. The Chair responded that the regulating plan had not been added to the blank space in their draft FBC and requested that it include the existing rotary. Mr. Preston responded that the rotary was a long term effort that would require collaboration among many parties, so the design process focused on what could happen in 5-10 years. As a result, planning focused on the yellow area, Market Street Central, the most logical path to build off of the existing infrastructure. Development could entail the building of apartment buildings, apartment houses, duplexes, townhouses and carriage houses. Mr. Preston noted that they could possibly provide a version of the character district locations but inquired what it was the Board was seeking in a master plan.

Mr. Weeden stated that the Board was seeking information about spatial relationships, how things would work together, which appeared to be what Mashpee Commons considered their regulatory plan. The Chair read the requirements of what the Planning Board would be seeking in a master plan, adding that they could begin with a regulatory plan, but that it must include the rotary. Mr. Weeden stated that, based upon what he had read, a master plan was part of the consideration of form-based codes. Ms. Wilbur stated that communities typically developed form-based code to attract developers and the Chair responded that communities typically wrote the bylaw. Ms. Wilbur responded that they also wrote FBC for towns, clarifying that there was a master plan process as part of the administrative section for a larger project, which would identify the location of parks, buildings, civic spaces, etc. Ms. Wilbur emphasized that the master plan was not adopted prior to developing FBC. The Chair responded that most towns were developing their own FBC, over a period of years, not created by one developer. Mr. Preston stated that the underlying zoning for Mashpee Commons was not adequate and new zoning was needed. Mr. Preston added that things changed over time and that the 40B project was a response to the underlying zoning not working for Mashpee Commons. Mr. Preston stated that the Board was seeking a lot of detail that would require assumptions to be made.

Mr. Balzarini stated that he wanted to know what buildings would be located where, suggesting that they were wasting their time unless Mashpee Commons was willing to work on something collaboratively. Mr. Balzarini like the idea of form-based code, the designs, the flexibility and feasibility it offered. Regarding Article 7, Mr. Balzarini expressed his preference that the regulatory authority remain with the Planning Board, rather than the Building Department. Mr. Balzarini inquired whether they could work together on their Articles. Ms. Wilbur responded that the FBC created predictability for the developer and the community, understanding the range of possibilities, but the MPD left questions unanswered regarding the final outcome because there were no clear standards. The Chair responded that MPD opened the door to a process through a Special Permit with the elected Planning Board. Mr. Lehrer stated that Mashpee Commons was providing a mechanism that would allow the Planning Board to define their questions and rules in order to predict the outcome, like a rule book. The Chair responded that both processes would include the same rule book. Mr. Lehrer responded that the Special Permit

process would not allow the same clarity as Mashpee Commons' FBC. Mr. Balzarini suggested working out the differences. The Chair stated that she had asked for comment regarding that possibility, but no one opted to speak.

Resident Margery Hecht indicated that she supported the Bylaw and the elected Planning Board and stated her appreciation that the Board cared about the future of Mashpee. Ms. Hecht suggested that if there was a disconnect between Mashpee Commons and the Board, it was nothing compared to the public, who moved to Mashpee due to its green space, rural character and its history. Ms. Hecht suggested that, when Mashpee Commons referenced preserving the character of the Town in their draft, they were referring not to Mashpee, but to Mashpee Commons, which was a problem. Ms. Hecht felt that the Bylaw allowed Mashpee Commons to have their project approved with FBC. Ms. Hecht indicated that she recently drove through Mashpee Commons, on a hot day, and suggested that it would likely be hotter with the removal of the trees in the area. It was Ms. Hecht's opinion that the forested land in the center of Town contributed to the character of Mashpee.

Mr. Preston responded to Mr. Balzarini's comment regarding Deer Crossing, acknowledging that residents liked the idea of maintaining the character of living in the forest. Mr. Preston referenced the trees that had been nurtured in front of the library, noting that it was their intention to begin working on the edge of the property to create a better version of the forest. Mr. Preston emphasized their need for a predictable path forward. Mr. Balzarini confirmed that he liked the FBC but did not understand the difficulty with providing a master plan. The Chair stated that she would be requesting the minimum and maximum number of units per zone and the minimum and maximum of heights per zone. Mr. Preston responded that he could provide the information in very broad strokes. Mr. Kooharian stated that the FBC provided great detail. It was clarified that not every character zone would be represented in a plan. Mr. Kooharian stated that it was important for the Board to have a broad, working concept of what would go where, for better visualization and allow for better decision making, since the current document did not translate into a master plan.

Mr. Weeden referenced their regulatory plan detailing the character districts, suggesting that conceptual relationships fitting the areas together would be more helpful, noting that Mashpee Commons must have an idea about how it would be laid out long or short term. Mr. Preston referenced a vision plan, stating that they could look only at the area closest to the most recent construction for their 5-10 year plan. Beyond 10 years, Mashpee Commons could only make best guesses based on good urban design and planning practices. The Chair inquired how the vision plan would differ from the regulating plan. Mr. Preston responded that height would be included in a regulating plan. The Chair inquired whether any plans would include the current rotary, adding that decisions could not be made without consideration of traffic impacts. Mr. Weeden stated that Mashpee Commons was offering a vision and not the reality. Mr. Preston responded that, studies conducted during the master plan, considering the rotary redesign, indicated that it would perform better than it did today. The Chair again stated that the designs needed to include the existing rotary. Mr. Preston stated that they would work together to make the best solution work, with options for the rotary. There was clarification that the project would be phased and Mr. Weeden stated that an overall plan would provide better clarity.

Selectman John Cotton noted that two Articles would appear on the Warrant, one being a Petition Article and the other presented by the Planning Board, but with the same content, and not the Mashpee Commons FBC. The Chair stated that the deadline was such that she submitted a Petition Article, which could not be changed by the Board of Selectmen. The Chair noted that, should agreement be met, the Board of Selectmen could tweak the Article submitted by the Planning Board. Mr. Balzarini pointed out that the Chair could withdraw her Petition Article should agreement be met and suggested that Mashpee Commons work towards addressing the issues. Mr. Preston stated that Mashpee Commons was unaware that there was still room for discussion between the MPD and their FBC. The Chair stated that the Planning Board would continue to take comment even if it was not a public hearing.

Ms. Wilbur posted a slide of a vision plan, which would be submitted as a master plan with the FBC. A regulating plan would assign character districts and would be based on the street network that appeared in the vision plan. Ms. Wilbur added that a sample regulating plan would be included in the revised draft FBC.

Mr. Balzarini referenced his question about open space, parks and civic centers located in neighborhoods and inquired whether the public would be able to use the space. Mr. Preston confirmed that they would be open to the Town. Ms. Wilbur stated that it was spelled out in FBC Zoning that it was required to be open to the public. Mr. Balzarini inquired whether it was the responsibility of the Town to maintain the spaces and Mr. Preston responded that it was currently addressed by Mashpee Commons. Mr. Preston indicated that, once they knew the details of the master plan, they would have a better idea how they would be managed.

Mr. Preston stated that they would draft a more coherent vision plan for the Board. Ms. Wilbur thanked the Board for their comments at the last meeting. Mr. Balzarini apologized to the Town for his actions at the last meeting, stating that it was his opinion that Mashpee Commons should have met with the Planning Board following their visioning sessions. Mr. Preston stated that they set up a public process so that the Planning Board could be involved, but that they were now in front of the Planning Board.

Mr. Rowley indicated that, over the years as Mashpee's Consultant Engineer, he reviewed projects as allowable by the Town's Bylaws and in compliance with engineering practices. Mr. Rowley felt that the Board may be dealing more with minutia rather than the fundamentals of the proposed FBC Bylaw. Mr. Rowley reviewed the Mashpee Commons' draft proposal and stated that if he applied his typical method of review, providing a summary of potential flaws, allowing the Planning Board to address each of the issues, he was concerned about the language addressing Chapter 40A and Chapter 41. Mr. Rowley stated that it placed the responsibility of approval on the Building Inspector, who did not report to the Planning Board. In addition, the proposal allowed the Zoning Board of Appeals to serve as an Appeal Board to any decision made by the Planning Board. Currently, appeals were heard by the Supreme Court. The process would require the Planning Board to administer zoning in two entirely different ways, one method for Mashpee Commons and another for the rest of the Town. Contents in the FBC seemed to work in contrast to one another, some were repetitive and required further consideration. Mr. Rowley suggested that approval of the proposal right now, based on the pictures and drawings, could create challenges later on, adding that further scrutiny was needed.

in areas such as applications, whereby projects less than 10,000 square feet (small scale) would not require notice or public hearing and large scale projects over 10,000 square feet required notice, but not a public hearing. Mr. Rowley encouraged taking a closer look at the content, with consideration of its overall impact, suggesting that they were a long way from a final document. Mr. Rowley agreed that the master plan was unnecessary at this time because the application and methodology needed to first be determined. The Chair agreed that she did not wish to reinvent the wheel of the approval process, which is why she supported maintaining a Special Permit process. Mr. Rowley and the Chair agreed that Form-Based Code could work, but there was hesitation about how it would fit with Chapter 40A and Chapter 41. The Chair stated that there were set approval processes that had survived Court challenges. The Chair stated that she would need to again review Mashpee Commons' Article 7 because it was so different from their existing process. Ms. Wilbur stated that they would be happy to take comments regarding Article 7. Mr. Rowley suggested legal Counsel with Bylaw familiarity would be best suited to address the issues of impacts to procedural and statutory requirements that would need to be upheld.

Mr. Balzarini stated his preference that a consultant be hired to assist with the review of this process and Mr. Weeden agreed. Chairman Waygan stated that, when Mashpee Commons initially reached out to the Board of Selectmen many years ago, Mashpee Commons was required to pay for a consultant to work with the Planning Board. The Chair indicated that the Planning Board had no budget to hire a consultant. Mr. Rowley stated that there was legal counsel during the 40B process, though the Chair indicated that the ZBA could request funding or the project proponent could pay to hire a reviewing consultant. The Chair added that it was not typical for a developer to draft a bylaw. Mr. Lehrer agreed with Mr. Rowley to address questions coming out of the proposed draft. Mr. Rowley suggested that review was more than just tweaking Article 3 and moving on to Article 4. Mr. Balzarini inquired whether they could ask the Selectmen to hire a consultant for the Planning Board. The Chair expressed concern about serious legal questions with the document.

Mr. Preston stated that he had done this for other cities and towns and municipalities in Massachusetts. Mr. Preston stated that the methodology was referred to as place code. Mr. Preston stated that Article 7 was drafted and intended to be added as a new chapter in the Town's Bylaw. Mr. Preston added that Vanessa Farr, author of Article 7, had prior experience as a Town Planner and should be involved with further conversation and comments. Mr. Rowley responded that he would not recommend any portion of Article 7, the way it was written. Mr. Balzarini stated that he did not like Article 7 and the fact that the Building Inspector served as the regulating authority rather than the Planning Board.

Town Manager, Rodney Collins, stated that, if the Planning Board wished to have legal counsel, he would make arrangements with Town Counsel, with expertise in zoning issues, to have him available at a regularly scheduled meeting. Otherwise, Mr. Collins recommended developing a scope of work, specific to the Planning Board's thoughts and possibly beyond consultation with Town Counsel, which he would bring to the Board of Selectmen to add an Article for the October Town Meeting. However, the current plan could not then come to a practical vote in October. Mr. Collins did not wish to rush anything and felt that constructive dialogue was in the best interest of all parties. The Chair thanked Mr. Collins.

Mr. Weeden referenced Mr. Preston's comment about drafting FBC all the time, inquiring whether it was typically at the town's request, adding that it was Mashpee Commons presenting it to the Town. Mr. Preston responded that some of his colleagues worked for private developers where communities were not considering smart growth.

Mr. Hansen understood the specifications of form-based code and liked the idea of coordinated development and efforts to maintaining the character of small-town Cape Cod. However, Mr. Hansen expressed concern about side stepping the authority of the elected Planning Board and turning it over to the administrator or Building Inspector. Mr. Hansen also inquired about affordable housing, where they would be built, when they would be built, would they be first or last and whether the open space allotment or 15% affordable housing requirements were deal breakers. Mr. Preston inquired whether the Planning Board would allow them to build the small streets and density that they wanted, adding that there were a lot of questions. Mr. Preston stated that they could not move forward with the amount of mitigation requested by the Planning Board. Mr. Preston stated that they were at a standstill with the 40B and there was no outside open space set aside. Mr. Hansen responded that Mashpee Commons was creating pretty streets and parks but the needs expressed by the Town were not being addressed. As a result, Mr. Hansen suggested that he was wasting his time. Mr. Preston responded that he did not wish to waste anyone's time. Mr. Hansen stated that they were at an impasse, which he would prefer to address rather than the number of trees on the street.

Mr. Cummings stated that the Planning Board's Article had been put forward and that the ball was now in the court of Mashpee Commons. Mr. Cummings stated that they needed to get together better on open space and affordable housing. The Chair stated that it was a big ask to request 5-stories and 44+ units per acre, adding that a constituent referencing Mashpee Commons' drawings noted that it looked like Boston. In response, the Planning Board put forward a big ask for 15% affordable housing and 1:1 open space in order to encourage a yes vote from the public. Mr. Preston felt that other community benefits, such as civic spaces, should be considered as open space. Chairman Waygan stated that civic spaces were not identified as a crisis need on Cape Cod. Affordable housing and open space has been identified as a crisis need and have been highlighted in Mashpee's Local Comprehensive Plan. Mr. Preston showed an image of 46 units per acre and the Chair responded that they previously recommended discussing it with the Fire Chief.

Mr. Balzarini stated that it would all come down to Town Meeting if Mashpee Commons would not agree with the Planning Board and he was not going to agree to the proposed Mashpee Commons Article, particularly with Chapter 7, unless Mashpee Commons wished to work something out. Mr. Preston responded that they could return with what they would need to happen with the MPD bylaw, and the Special Permit process, but they did not know if they would receive a Special Permit. The Chair inquired about what Special Permit had been denied but Ms. Wilbur responded that it was based on project feasibility and if the outcome of the process would be up to the standard of Mashpee Commons. The Chair stated that Special Permit projects were better because citizens participated, adding that the Board had been very protective of property owner rights.

Mr. Lehrer did not understand the value of passing something that would not be utilized. Mr. Lehrer suggested that if 15% affordable and 1:1 open space was not reasonable, what would be the next conversation. Mr. Balzarini suggested that it was up to the developer to return with suggestions. Mr. Lehrer suggested that as progress was being made on the code, it would cycle back to the beginning. Mr. Balzarini disagreed stating that they were trying to get things moving and that the Planning Board liked the concept of the pictures, but nothing beyond that, and suggested that the developer communicate what they did not like. Mr. Lehrer stated that the Planning Board was pulling a lot from a developer who did not have a tool to offer much, particularly when they stated that 15% affordable housing was too much to request. The Chair responded that 15% was not unreasonable, developers often responded in that manner regarding affordable housing or open space, adding that requesting 5-story buildings or 100 units per acre may not be affordable for the Town.

Mr. Balzarini stated they were repeating themselves and recommended Mashpee Commons return to the next meeting. Chairman Waygan read emails she sent to Mr. Lehrer and Mr. Preston regarding items she was requesting to include: a list of parcels and their ownership under consideration for the proposal, summary table of zoning bylaws of Cape municipalities & FBC communities regarding height, density and affordable housing, visioning maps from initial meetings, fiscal impact analysis and Special Permits to date of the property. Mr. Lehrer would provide permits digitally.

Yvonne Courtney stated that very good points were made this evening, particularly points made by Mr. Rowley regarding the legal aspects of the proposal, as well as the issues of affordable housing and open space. Although she understood the financial constraints noted by Mashpee Commons, Ms. Courtney saw the impasse and agreed that it was a waste of time if it was not addressed. Ms. Courtney was in agreement that Mashpee residents would be looking for affordable housing when they attended Town Meeting and encouraged there to be a meeting of the minds to work it out. Mr. Preston responded that Mashpee Commons was committed to affordable housing, noting that they tried 40B, and stating that they were considering the whole spectrum of affordability, trying to determine how to make it work. Without knowing what they could build, it would be hard for Mashpee Commons to consider a 15% affordable housing and 1:1 open space requirement. The Chair suggested that the visioning map would be helpful for their consideration.

The next scheduled meeting is August 1. The Board took a break at 9:54 p.m. and reconvened at 10:03 p.m.

Review of Zoning Warrant Articles Submitted by Town Planner-Chairman Waygan suggested that the items be placed individually on the next agenda. Next year, the Chair would like the Planning Board to review Warrant Articles before they were submitted to the Board of Selectmen. The Chair suggested that October Town Meeting may be too soon to consider additional density with the Accessory Dwelling Unit (ADU) proposed Article with Mashpee Commons also on the Warrant.

State Housing & Zoning Reform Bills-The Chair reported that she and Mr. Lehrer attended an affordable housing roundtable regarding the Housing Choice Initiative as well as

bills regarding building reform. Many of the bills would have an opt out of 2/3 vote at Town Meeting for zoning bylaw change. The Chair expressed concern and inquired whether the Board would support her sending a letter expressing her concern and preference to maintain a 2/3 majority to Senator Cyr and Representative Vieira.

MOTION: Mr. Balzarini made a motion that the Chair write a letter to the State Representatives about the Article zoning change to keep the 2/3 vote for Town Meeting for a change to our local zoning. Mr. Kooharian seconded the motion.

Mr. Rowley noted that it would keep it more consistent with the Planning Board and Board of Appeals votes on Special Permits and Variances requiring 4/5 majority. The Chair indicated that that would be another aspect being considered. Mr. Lehrer indicated that Massachusetts was one of only eight states that required a super majority for zoning articles.

All voted unanimously.

BOARD MEMBER UPDATES

Chairman's Report-The Chair reported that she attended the Affordable Housing Committee and Environmental Oversight Committee, and distributed copies of the MPD Bylaw, noting that she would be added to their agendas for August 8 and August 9.

Committee Assignments-It was determined that the issue would be addressed at the next meeting.

Cape Cod Commission- No update

Community Preservation Committee-No update

Design Review Committee- No update

Environmental Oversight Committee-No update

Historic District Commission-No update

Greenway Project & Quashnet Footbridge- No update

MMR Military Civilian Community Council-MMR Joint Land Use Study-No update

Plan Review-No update

CORRESPONDENCE

-December 2017 Discharge Monitoring Report for South Cape Village N=5.10

-January 2018 Discharge Monitoring Report for South Cape Village N=5.60

-February 2018 Discharge Monitoring Report for Southport N=39.75

-March 2018 Discharge Monitoring Report for South Cape Village N=4.50

-April 2018 Discharge Monitoring Report for South Cape Village N=8.90

-May 2018 Discharge Monitoring Report for South Cape Village N=5.20

WATERWAYS LICENSES

-Bonnie Smith of 226 Monomoscoy Road, Mashpee has applied to the MA-DEP for a Simplified License to propose construction of a pier/dock, ramp, float(s), pile(s).

-Ashley Morgan of 196 Captains Row, Mashpee has applied to the MA-DEP for construction and maintenance of a pier, ramp and float in and over flowed tidelands of the Mashpee River. The proposed project has been determined to be water dependent.

-Mueller Family Trust of 130 Captains Row, Mashpee has applied to the MA-DEP for construction and maintenance of a pier, ramp and float in and over flowed tidelands of the Mashpee River. The proposed project has been determined to be water-dependent.

-Gregory & Hillery Lee of 11 Taffral Way, Mashpee have applied to the MA-DEP for construction and maintenance of an elevated walkway, ramp and float and to perform maintenance dredging in and over flowed tidelands of the Popponesset. The proposed project has been determined to be water dependent.

ADDITIONAL TOPICS

Laurentide-Mr. Rowley reported that he conducted a final inspection at Laurentide, including three items he had addressed in a letter back in June. In Mr. Rowley's opinion, the items had been addressed. Mr. Rowley reported that they would be seeking an Occupancy Permit and expected that Mike Mendoza would be looking for confirmation from the Planning Board that everything was all set. Mr. Rowley indicated that there was one item to be addressed, where a sidewalk was built in front of the handicap parking and extended the sidewalk too far. A section would be removed and replaced with loam and seed. Mr. Cummings referenced an area with a natural buffer and Mr. Rowley responded that the vegetation was not to be touched. Mr. Rowley will email his letter to Mr. Mendoza.

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Kooharian seconded the motion. All voted unanimously. The meeting ended at 10:49 p.m.

Respectfully submitted,

Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS

- 20 & 28 Blue Castle Drive Application for Waiver
- Planning Dept. Administrative Recommendation for Buildability: 20 & 28 Blue Castle Drive
- ArcGIS Web Map for Ockway Highlands
- Mashpee Commons Form-Based Code Change Log
- 7/18/18 Letter to Rui Almeida
- 5/11/18 Windchime Point Condominium Water Quality Monitoring Program Annual Report
- Accessory Dwelling Unit (ADU) Article
- Raze and Replace Article
- Light Industry Overlay District Article
- Summary of Key Housing/Zoning Bills
- Overview of Housing and Zoning Legislation
- 6/27/18 Letter from Cape Cod Commission Re: Blue Sky Towers Project

**Mashpee Planning Board
Minutes of Meeting
August 1, 2018 at 7:00 p.m.
Waquoit Meeting Room, Mashpee Town Hall**

Present: Chairman Mary Waygan, Dennis Balzarini, David Kooharian, Joe Cummings, David Weeden, Robert (Rob) Hansen (Alt.)

Also: Evan Lehrer-Town Planner, Charles Rowley-Consulting 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 the Chair, at 7:03 p.m. on Wednesday, August 1, 2018. The Chair stated that the meeting was being videographed and recorded. The Chair welcomed attendees and asked that anyone addressing the Board do so using the microphone, stating their name and their business. All comments should be addressed through the Chair and a determination will be made whether comments would be heard by the Board, or taken under advisement. The Planning Board encourages public participation. The Pledge of allegiance was recited.

APPROVAL OF MINUTES— June 20, 2018, June 28, 2018 & July 18, 2018

The Chair requested that consideration of the July 18 minutes be tabled, but she had no recommended changes for June 20 and June 28.

MOTION: Mr. Balzarini made a motion to accept the minutes of June 28th and June 20th as written. Mr. Kooharian seconded the motion. All voted unanimously.

PUBLIC HEARINGS

7:10 p.m. **Applicant:** Southworth Mashpee Properties, LLC
 Property: Assessor's Map 63, Block 89
 Request: Seeking modification of Special Permit to construct an
 additional

twenty-two units on a 9.3 acre parcel located north of Sampsons Mill Road. Total unit remains within the 287 units currently authorized under the Special Permit. Plan proposes new cul-de-sac with a central community center and will be tied into existing wastewater treatment plant.

The appointed time having arrived, the Chair opened the public hearing and read for the record the public hearing notice. Attorney for Southport Mashpee Properties, Jack McElhinney and Baxter & Nye Project Engineer, Mathew Eddy, were present to discuss the proposal to build a new neighborhood consisting of 22 townhomes located in 11 buildings, north of Sampsons Mill Road. Mr. McElhinney noted that the homes would be similar to what was built for "The Village," a neighborhood that had been well received by customers. The new development would be located along the third hole of the bend 9-hole golf course. The site had been created with a ¾ acre land swap. All units would be tied into the existing treatment plant, which offered adequate capacity. The addition of the 22 units would bring the total unit count to 273 on the

Willowbend project of 327 acres, excluding the new 9 golf hole course, a 60 acre separate project. Deed restricted open space totaled approximately 188 acres, double what was required. The project would be adjacent to the Santuit River but would respect the 200 foot setback, with a small corner of grading within the 200 feet. Mr. McElhinney confirmed that they had been in receipt of Mr. Rowley's comments and would respond to them.

Mr. Eddy reiterated that the project site would be located off of Sampsons Mill Road, and would front on the golf course. Santuit River would be located to the east and some water drainage work would need to be completed in a corner of the site, within the 200 foot setback, which had been approved as an RDA by the Conservation Commission. The project area consisted of 9 acres, 7 ½ acres of which was upland, and would feature 11 structures consisting of 22 duplex units, 5 buildings in the "Willow" style, and 6 buildings in the "Fairway" style, identical to the structures in "The Villages." Proposed additional amenities included a small pool and changing area.

All setbacks would be met for the Willowbend Special Permit. Lot coverage totaled 13.1%, below what was required. Access to the development would be a 22 foot roadway access off of Sampsons Mill Road. Each unit would have its own garage, driveway and two parking spaces and Mr. Eddy confirmed that there would be handicapped parking available, as well as guest parking availability. Drainage and stormwater would meet all Town and DEP requirements and Mr. Eddy confirmed that he would be working with Mr. Rowley regarding his comments.

A proposed retaining wall would address the topography drop off on the east side and the building foundation would be considered by the Building Department for structural design. Mr. Balzarini inquired about the height and style of the wall, to which Mr. Eddy responded that it could be approximately 12 feet. Mr. Rowley referenced Plan C-4.0 and expressed concern about the length of the wall and height differences, describing the different types of walls that could be used. Mr. Rowley agreed that the Building Inspector would have the final say, due to the wall being considered a structure, but recommended considering special language for the wall in the Modification since the wall could move further out depending upon the type of wall being used, and could be an important consideration for the Planning Board due to its potential impact. Mr. Rowley recommended that preliminary designs be shared with the Board to know better what to expect regarding the wall's impacts. Mr. Balzarini expressed concern about the safety of the height and the need for fencing. Mr. Rowley added that some drainage areas could be difficult to access due to the wall. Mr. Rowley suggested the possibility of added wording to the Special Permit that, should the wall design require relocation of the wall, the project proponent would need to present changes to the Planning Board. Mr. Weeden inquired about impacts to the wall with increased stormwater but Mr. Rowley responded there would be a pervious barrier to remove the stormwater or a means to relieve the pressure of water. Mr. Weeden inquired whether increased nitrogen could be transported to the river and Mr. Rowley responded that it was some distance from the river, adding that he was unsure whether it was addressed in the Conservation Commission's RDA. Mr. Rowley noted that runoff from the wall would be taken away from the wall and roof drains would remove runoff away from the wall. Mr. Rowley stated

that, once approved by the Building Inspector, the Planning Board and he should receive a copy of the final plans for the wall.

Mr. Weeden stated that, due to its proximity to Santuit River and Shoestring Bay, the project sat in a designated high sensitivity map. Mr. Weeden stated that the entire area was archeologically sensitive and inquired about plans for archeological testing. Mr. McElhinney responded that there was an archeological preservation restriction located outside of the area, along sections of the western side of the river. Mr. McElhinney responded that he could provide a copy of a recorded preservation restriction, prohibiting any alteration within the easement area, noting that testing had occurred in the 1980s. Mr. Weeden expressed interest in reviewing the report and its findings. Mr. McElhinney responded that he could look into it, noting that he believed it was PAL who completed the work. Mr. Balzarini recommended also following up with Tom Fudala and Chuck Green, who may have additional information. Chairman Waygan requested that Mr. McElhinney forward the recorded preservation restriction to Mr. Lehrer, to then provide it to Mr. Weeden for his review, providing any of his comments to Mr. Lehrer for the draft Modification.

The Chair inquired if members of the public wished to view the plans, while the matter was being discussed.

Mr. Cummings referenced the land swap completed, stating that Design Review had expressed interest in adding trees for the last building. Mr. Eddy responded that existing vegetation would be maintained, as much as was possible, and augmented as necessary. Updated plans were submitted and noted as L-1, 3.0 and 3.1, with a revision date of 7/24. Mr. Lehrer stated that a separate landscape plan was provided and Mr. Eddy confirmed that the comment was addressed. Plans provided to the Planning Board in their packets did not include the comments but Mr. Lehrer responded that they had been sent by email.

Mr. Hansen referenced the lower buildings and the significant grade changes and impacts of heavy rain. Mr. Eddy responded that the buildings would feature a walkout basement, noting that the only flow would be from vegetated areas because all other flow would be picked up by the stormwater system.

Mr. Rowley provided comments in two letters. Among his comments, Mr. Rowley referenced monumentation of Sampsons Mill Road and the boundary of the property, drainage and location of paved waterways and alternate location for stormwater area #12. Mr. Rowley also referenced the driveway for Building #5 that pitched towards the building, recommending a berm to ensure runoff would be captured in the basin rather than traveling to the wall. Mr. Rowley inquired about adequate capacity with the existing sewer and adequate access for fire protection as well as a handicap parking spot, grading comments and the need for on-site soil test results for drainage calculations. Mr. Eddy responded that their Special Permit allowed for the soil to be witnessed at the time of excavation. In addition, Mr. Rowley indicated that more information was needed about the status of an irrigation well, location of vaults and the adequacy of the system running parallel to Sampsons Mill Road. Mr. Eddy confirmed that he would review and address Mr.

Rowley's comments. Mr. Eddy confirmed that the ANR was approved by the Planning Board on May 2 for the two parcels.

The Public was invited to comment but there were no additional comments.

The Chair summarized that there would likely be conditions listed on the Modification to include referral back to the Planning Board for changes to the retaining wall, a design plan approved by the Building Commissioner being forwarded to Mr. Rowley and the Planning Board, potential reference to archeological sensitivity and soil test witnessed at the time of excavation. There were no additional comments from the Town Planner, Town Engineer or Planning Board members. The project proponent will return to the first meeting of September.

MOTION: Mr. Balzarini made a motion to continue the Public Hearing to September 5 at 7:10 p.m. Mr. Kocharian seconded the motion. All voted unanimously.

SPECIAL PERMITS

Applicant: William Lovely, Property Owner
Property: 2 Center St. (Assessor's Map 36, Lot 47)
Request: Endorsement of Special Permit Modification #2 to list 174-25(B10)

The Chair read the request for the record. The Chair reported that the signature needed to be notarized and inquired whether Mr. Lehrer had the notary language. Mr. Lehrer responded that the Special Permit was as all other Special Permits in the file read, adding that the first signature was notarized, then signed and certified by the Town Clerk that no appeals had been received, before being endorsed by the Planning Board. Planning Board members endorsed Special Permit Modification #2 with their signatures.

PROPOSED AMENDMENTS TO MASHPEE ZONING BYLAW

Review of Draft Form-Based Code with Revisions, Mashpee Commons-Buff Chace, of Mashpee Commons, was recognized to address the Board. Mr. Chace summarized the Mashpee Commons by Design planning process that began in October of 2017, with the goal to hear from the community their wishes for the undeveloped portion of the areas adjacent to Mashpee Commons. Mr. Chace indicated that they wished to implement the visions of the community while also making the project feasible. Regarding affordable housing and open space as highlighted by the Planning Board, Mashpee Commons was not yet prepared to respond how best to address those needs, while also being considered as part of the new Regional Policy Plan being developed by the Cape Cod Commission. Mr. Chace emphasized that there were different stakeholders involved in the project expressing varying priorities, which required consideration. It was never Mashpee Commons' intent to make anyone feel rush or to appear non-transparent in the project and proposals. Mr. Chace proposed that the conversation continue to allow the appropriate amount of time to review and suggested that October Town Meeting may not be the appropriate amount of time to continue the dialogue and asked that Form Based Code be deferred until next year. Mr. Chace suggested that there may be another process to

consider the development proposal, which could benefit all stakeholders. Mr. Chace suggested that tonight's meeting focus on the Administration of the FBC.

The Chair inquired whether Mr. Chace intended reconsideration for the May Town Meeting and Mr. Chace agreed. The Chair inquired whether Mr. Chace had seen the new RPP and he responded that he had been advised that a draft would be available for the One Cape Conference. Regarding open space and affordable housing, Chairman Waygan indicated that it was not solely the priority of the Planning Board, but also referenced in the Town Meeting Approved Local Comprehensive Plan and surveys, making them the priorities of the Town. Mr. Chace responded that, with a number of stakeholders involved, they needed to make the project viable. The Chair responded that it would be helpful if Mashpee Commons could provide comments and maps shared by community members at the six visioning sessions and Ms. Wilbur responded that they would forward a link to Mr. Lehrer, to be forwarded to Board members.

Mr. Chace inquired whether there were additional questions and the Chair inquired whether the Board Secretary had received a hardcopy of the PowerPoint presentation from the last meeting, which she had not. Mr. Lehrer was in receipt of the presentation and would print out a copy. The Chair stated that the Open Meeting Law required that documents and presentations were considered public information and must be referred to in the minutes and kept on file. Mr. Balzarini stated that he wished to see copies of the surveys and people's comments. The Chair inquired whether the visioning sessions were videotaped, stating that she had been unable to locate it online. The Chair inquired whether Mr. Chace, as the property owner, planned to withdraw FBC from the October Town Meeting and Mr. Chace responded that he did. Tom Ferronti, of Mashpee Commons, responded that Mashpee Commons did not formally submit the document to the Board of Selectmen, only presented the information for their review, to be considered to be placed on the October Town Meeting Warrant as a Selectmen's item. Selectman John Cotton was recognized and confirmed that the Board of Selectmen had not submitted any placeholders, adding that his request to allow the Planning Board final approval was denied. Selectman Cotton confirmed that there was no other warrant or placeholder beyond what the Planning Board had submitted. Vanessa Farr and Cara Wilbur were present from Principle, on behalf of Mashpee Commons, to discuss Mashpee Commons' proposed Form-Based Code. Ms. Wilbur indicated that the survey responses and visioning summary could be found on the mashpeecommons.com website.

Ms. Farr indicated that she was present to address any questions or concerns regarding the Administration portion of their FBC and highlighting who currently had oversight of the Mashpee Commons Special Permit, issued in 1986. All projects were currently reviewed by the Zoning Board of Appeals, including 40B projects. The Planning Board and the Cape Cod Commission had limited review for commercial spaces only. The North Market Street project was a Special Permit project reviewed by the Planning Board and the Cape Cod Commission, as a Development of Regional Impact (DRI).

Regarding the FBC Administration, Ms. Wilbur stated that they reordered Article 7, Administration, and the Chair confirmed that the Planning Board was in receipt of a revised Article 7 to replace the section in the original FBC draft. Ms. Wilbur stated that the Master Planning Process was the first level of review that would consider the overall project, ensuring

that it met certain targets related to the layout of the neighborhood and would be reviewed by the Planning Board with a Public Hearing process. The Master Plan Process would apply to parcels under one single ownership involving the potential for significant or phased development or any proposed assignment or reassignment of character districts or special districts to land located within a pedestrian shed on the Mashpee Commons Regulating Plan. Ms. Wilbur described an example of a project that would be reviewed as part of the Master Plan Process. Ms. Farr noted that the Administration section would provide procedures for Master Plan, to include a time period for review, a Public Hearing, a decision, as well as revision procedures. Once the Master Plan was approved by the Planning Board, any applicant could move forward with a Subdivision Plan, a Large Project Plan or Small Project Plan application.

A Subdivision Plan was comparable to the existing process for Subdivision Plans, with language straight from MGL. Large Project Plans involved buildings greater than 10,000 square feet and would be reviewed by the Planning Board, against the standards of the ordinance, with consideration of on-site and off-site impacts. Small Projects would have less impact and could be addressed in a more streamlined way with staff approval because FBC removed much of the guess work out of the process. The Special Permit Process would remain as a special circumstance that the FBC would authorize with Planning Board discussion, which would then require a Public Hearing, typically related to use. Ms. Farr assured the Planning Board that they had looked very carefully at compliance with MGL 40A and 41, Sections 81K through E and G.

Mr. Balzarini referenced Small Project Plans and inquired why the Planning Board would not consider the projects, rather than the Building Inspector. Mr. Balzarini also wished to know more about Plan Revision and their purpose. Ms. Farr responded that the Building Inspector would serve as the staff to review Small Project Plans, noting that currently the Building Inspector served as that authority through enforcement in the current Bylaw. Mr. Balzarini stated that the Building Commissioner served in enforcement and not planning. It was confirmed that it was currently the Town Planner and Consultant Engineer who were the staff involved in the planning process.

The Chair recognized Mr. Rowley, who inquired how the Building Inspector would determine site improvements, and whether there was the authority and qualifications to determine any site improvements. Ms. Farr responded that the zoning code would define the site improvements, adding that the Building Inspector currently enforced the Bylaws and could withhold a permit. Mr. Rowley responded that the Building Inspector's role was completely different from approving site improvements under a Small Project Plan, with no Notice and no Public Hearing. Ms. Farr responded that the Building Inspector would review the application to the standards of the section, write the decision and then grant approval or denial. The Chair inquired if Mr. Rowley was seeking whether the Building Inspector would have legal authority and Mr. Rowley responded that it was not only legal, but also technical and professional authority. Ms. Farr responded that legal authority would fall under Chapter 40A, Section 7. The Chair distributed copies of Chapter 40A to the members of the Board. Mr. Balzarini stated his preference that Small Project Plan be removed. The Chair was in agreement with Mr. Balzarini that staff should not be determining approval of Small Project Plan. Mr. Balzarini added that the Planning Board currently determined whether or not a project required a Public Hearing, noting that the Building Inspector inspected work being completed. Ms. Farr responded that he was enforcing the zoning

ordinance and would determine whether it was a de minimis change, if not, he would return it to the original Board that approved it. The Chair recognized Mr. Lehrer, who stated that the FBC would define the building with clear standards for whoever would be responsible for making the decisions. Ms. Farr added that some Towns had decided to authorize a 3-4 member committee of staff, already involved with project reviews, to serve as the review for projects under 10,000 square feet. Ms. Farr further added that Small Project Plans should not have significant off-site impacts.

Mr. Balzarini stated that Mashpee was a small community and he could see how FBC could be better suited to a larger community like Barnstable or Plymouth. It was Mr. Balzarini's opinion that additional Boards were not necessary to check on Planning Board's projects. Mr. Balzarini continued that the Planning Board could handle review of the projects and likely give Mashpee Commons what they wanted, further adding that most of the projects would likely fall under 10,000 square feet. Mr. Balzarini felt as though there was an effort to remove the Planning Board from the process. Mr. Balzarini understood Mr. Lehrer's point but was unclear whether he supported the FBC, and also agreed with Mr. Rowley about the Building Inspector's authority to make decisions regarding the Small Project Plan. Ms. Farr suggested that there may be another alternative and Mr. Balzarini suggested that it should be the Planning Board. Ms. Farr responded that the Planning Board would have three additional projects to review, including Master Plans, Subdivision and Large Projects.

There was interest from the Public to speak about the role of the Building Inspector, but the Chair explained that they would not yet take Public Comment, but continue first with Board member comments.

Mr. Cummings expressed his agreement with Mr. Balzarini, suggesting that he would not want the Building Inspector responsible for changes up to 10 acres in a lot area, adding that it was a large area that should be the responsibility of the Planning Board. Ms. Farr suggested the possibility of adjusting the threshold by lowering the acreage, as well as identifying the correct staff person, and asked to hear more from the Board addressing those issues. The Chair noted that feedback had just been given. Ms. Farr inquired whether the Board would be comfortable for staff to review a smaller building, with lesser acreage and the Chair responded that they would need to take her proposal under advisement.

Mr. Weeden agreed with Mr. Cummings and Mr. Balzarini. Mr. Hansen also agreed with the other Board members and inquired about issues of enforcement or appeal should an issue arise following the approval of projects. Ms. Farr responded that the Building Inspector would continue to serve in an enforcement role. Mr. Balzarini pointed out that the Planning Board would not know if there was an infraction on a Small Project Plan because the Building Inspector would be responsible for the entire project. Chairman Waygan noted that it appeared to be a conflict of interest. There was discussion regarding whether Mashpee had a Building Inspector or Building Commissioner, but it was noted that it would not change the comments of members of the Planning Board regarding authority. Mr. Hansen inquired about the recourse of the Planning Board if development was not meeting the standards and Ms. Farr stated that the Building Inspector was appointed by the Selectmen. The Chair pointed out that the Building

Commissioner could not do what the Board of Selectmen would request, if it could be a violation of his license.

Ken Marsters was recognized to speak and he shared his experience as a builder working with the Building Inspector. Mr. Marsters stated that the role of the Building Inspector was to enforce the Zoning Bylaws, such as the sign bylaws or ensuring that the proper acreage was available for a home to be built, or examine the house after being built. Mr. Marsters stated that the Building Inspector was not involved with planning, and should not be due to time constraints and expertise. The Building Inspector was responsible for enforcement.

Mr. Kooharian stated his understanding that, with the FBC, standards would be laid out and the Building Inspector would offer approval based on the developer showing that the project conformed to the standards. Ms. Farr agreed. Mr. Kooharian suggested that the issue fluctuated based on the size of the project. Ms. Wilbur inquired whether the Board was amenable to single homes on lots and the Chair responded that single family homes on a conforming lot could be developed by right. Mr. Kooharian did not object to the idea of the Building Inspector being given plans that had been preapproved by the standards. Ms. Wilbur stated that FBC offered a simple straight forward option.

Mr. Balzarini inquired why the Building Commissioner would be involved if an effort was being made to make the process more streamlined. Ms. Wilbur stated that they were trying to utilize the current process. Ms. Farr added that the Master Plan level was not yet engineered, but it was the pre-blessing to development, before moving to the Small Project Plan. Ms. Farr added that not all projects would go to Master Plan. Mr. Balzarini stated that all 10,000 square foot buildings would be reviewed by the Cape Cod Commission, inquiring why they would not then make the projects under 10,000 square feet. The Chair stated that they needed to speak further with the Cape Cod Commission because projects could not be split up to avoid triggering review by the Commission. The Chair recognized Mr. Lehrer who stated that projects with greater impact were reviewed by the Commission. Mr. Lehrer further stated that the permitting timeline made projects more expensive, which is why it was recommended that projects under 10,000 square feet instead be reviewed by the Building Commissioner for efficiency sake, provided that outcomes remain positive within the vision of the Planning Board. By doing so, development would be significantly improved due to reduced costs and improved timelines. The Chair inquired about how much timelines factored in, adding that the greatest costs were engineering and professional work, which would still be required. Ms. Farr responded that attendance at meetings created a cumulative cost and the Chair noted that delays typically occurred when plans and applications were not complete for meetings.

Regarding Master Plans, Ms. Farr pointed out that the majority of streets in the Master Plan did not exist. Anyone wishing to build, it would be part of improvements including creating frontage, by means of the street, and would come to the Planning Board as part of a Subdivision Plan. Therefore if a Subdivision Plan was completed and architectural drawings were ready to be submitted, both plans could be forwarded at the same time, streamlining the process, as it is now.

The Chair recognized Mr. Rowley. Mr. Rowley stated that he would have no issue with the Building Inspector or Commissioner if the only thing he was reviewing were buildings meeting the code on properties that were developed with site improvements in place, but questioned the review of new buildings, accessory buildings, building renovations, additions and also site improvements, such as utilities, stormwater, paving and landscaping. Ms. Farr referenced the Subdivision Plan. Mr. Rowley responded that he was referring to a Small Project Plan. Ms. Farr asked for specificity, referencing grading, landscape installation, stormwater rain gardens, electrical within the bounds of the property. Mr. Rowley inquired about the qualifications of the Building Inspector to improve a stormwater drainage facility. Ms. Farr responded that if there was significant stormwater, there was a section that would set aside escrow funds for outside review. Mr. Rowley stated that, according to the FBC, it would be under the purview of the Building Inspector. Ms. Farr responded that, during the review of projects, a third party review could be acquired. The Chair stated that there was no threshold in place requiring the Building Inspector to seek third party review. Ms. Farr inquired whether the Planning Board was inferring that the Building Inspector would not follow the rules. Mr. Rowley responded that the Building Inspector was not a qualified professional to do what was outside of the code that he was responsible for administering. Ms. Farr responded that Mr. Rowley was saying the same thing as the Board members, which she was hearing. Mr. Rowley responded that he was emphasizing the fact that they were placing the responsibility of planning and code enforcement in the hands of the Building Inspector, which was another level of bureaucracy that could be addressed by the Planning Board. Mr. Rowley further inquired about the meaning of "changes to a lot." Ms. Farr responded with an example of 10 spaces, requesting a removal of 2 spaces or changing the grade to install landscaping or installation of a solar array, because it was changes not specified by the FBC.

Mr. Rowley suggested that there was a lot of vague language and inconsistency throughout the document, not consistent with the existing Zoning Bylaw, creating significant confusion. All of the details needed to be addressed so that it was workable for everyone. The Chair suggested the possibility of returning to the existing Planning Board's review process. Ms. Farr responded that they were discussing two separate issues, procedure and clarity. Mr. Rowley and the Chair responded that they were not different. Ms. Farr stated that they would like specific recommendations where clarity was lacking and the Chair responded that it was not the job of the Planning Board to point out what was missing. The Chair suggested that Mashpee Commons strike Article 7 and utilize their standing review process. Chairman Waygan referenced the Planning Board's Mixed-Use Planned Development proposed Bylaw submitted to the Board of Selectmen that would maintain the existing Special Permit review process, with an option for a Master Plan with Form-Based Code to develop by right. The Chair stated that they may not approve Article 7 and that the Bylaw under consideration for Town Meeting would maintain the current review process.

Mr. Rowley referenced the General Procedures in Article 7 showing conflicting requirements of Permit Authority versus Review Authority. Mr. Rowley referenced Table 7.1 which would create confusion for an applicant, inquiring about land conveyance by the Board of Selectmen. Ms. Farr responded that land disposal must be initiated by the Board of Selectmen. Mr. Rowley inquired about property owned by a private individual and Ms. Farr responded that the ordinance was written eventually for the entire area, adding that, if there was land with a desire to transfer

to the Town, it required a procedure. The Chair stated that the process was already in place. Ms. Farr responded that it was an ordinance to work for the entirety of the project area, land conveyance could be removed if they look at the existing language. Mr. Rowley recommended that they return to the existing language. Mr. Lehrer stated that he was listening to the Board and inquired whether they would be amenable to him going through line by line and coordinating with Mashpee Commons. The Chair asked that Mr. Lehrer support the Planning Board's proposed Bylaw, to which Mr. Lehrer responded that he could not. The Chair responded that she would not assign any work that would work against the Planning Board. Mr. Balzarini stated that they were at an impasse and the Chair stated that more time was needed.

The Chair invited the public to comment.

Mr. Marsters was again recognized and reiterated that the Building Inspector was not a planning person, but that he was an enforcement officer. Mr. Marsters added that he agreed that discussion regarding site improvement in reference to the FBC seemed ambiguous. Mr. Rowley noted that potential applicants would likely interpret documents their own way unless they were very specific. Ms. Wilbur inquired whether the Building Inspector approved individual buildings on lots and the Chair responded that some projects were by right but others were reviewed by Committee or Board. Mr. Balzarini stated that the Planning Board reviewed Subdivisions but the Building Inspector enforced them. Ms. Wilbur suggested they would like to identify the proper threshold to allow oversight by the Building Inspector and the Chair responded that they could review their Bylaw. The Chair added that the Planning Board had been fair to property owners who met with the Board and as citizen planners, allowed for public comment to weigh in on projects. Ms. Farr inquired whether she would need to meet with the Planning Board to add a 250 square foot addition to a commercial property and Mr. Lehrer responded that anything under a Special Permit would go to the Planning Board, likely requesting a modification.

Ms. Wilbur asked if anyone wished to share specific questions or comments. Mr. Balzarini responded that they should reconsider the Building Inspector. Ms. Farr suggested considering a different tier approval process so that not everything would be reviewed by the Planning Board. The Chair suggested sharing what was "by right" currently in the Zoning Bylaw. The Chair indicated that she had requested information from Mashpee Commons by email to Russell Preston. Mr. Balzarini stated that the Planning Board had expressed their thoughts and suggested Mashpee Commons return with their proposal. Ms. Farr responded that she recommended a three person staff review of projects which she had been involved with in her previous planning experience when they incorporated FBC in Yarmouth, Maine, comprised of a Town Engineer, Public Works, Building Inspector, Police and Fire Chief.

A break was taken at 9:13 p.m. and the meeting reconvened at 9:21 p.m.

Massachusetts General Law CH 40A, Mashpee Town Bylaw & Mashpee Town Charter-The Charter was distributed to Planning Board members. Chairman Waygan reported that she had drafted a memo to the Board of Selectmen requesting support for a consultant for the Planning Board, which also included a request to move Mashpee Commons' FBC to another meeting. The Chair will have the draft memo added to the meeting packet for next time to be considered by Planning Board members.

The Chair referenced the three additional bylaws listed on the agenda, noting that in years past, the Town Planner did not submit bylaws without the review of the Planning Board. Bylaws were typically submitted by the Planning Board in some form. According to Chapter 40A, the proposal for a bylaw could be initiated by City Council, Board of Selectmen, Zoning Board, individual landowner affected by the proposal, 10 or more or 100 or more voters, Planning Board, regional planning agency or method provided by a municipal charter. The Chair could find nothing in Mashpee's Charter that would allow the Town Planner to submit a bylaw to the Board of Selectmen. The Chair asked Mr. Lehrer how he came about the process.

Mr. Lehrer referenced the bylaw for ADU which came about in answer to the demand for units, and interest expressed by the community and members of the Board of Selectmen, who recommended he draft it for their consideration. Mr. Lehrer was never warned that his submission would be non-compliant or illegal. The Board of Selectmen could place the Article on the Warrant and, post submission, the Article would return to the Planning Board for review. The Chair stated that it was not illegal but it was not submitted in compliance with the Charter and Massachusetts General Law Chapter 40A. Mr. Lehrer will consult with Town Counsel but he believed the Board of Selectmen controlled the Warrant. Mr. Lehrer wished to clarify any issues. It was the Chair's opinion that Mr. Lehrer was usurping the Planning Board by submitting a zoning bylaw to the Town Meeting Warrant without first consulting with the Planning Board. Mr. Lehrer responded that he did not usurp the power of the Planning Board, that he wrote the language for consideration and that it would still return to the Planning Board. The Chair stated that Planning Board bylaws were typically considered 6 months in advance, with a vote to submit, adding that it was important that the Planning Board maintain its role as an elected body. Mr. Lehrer inquired how it would alter their role and the Chair responded that they had only until September 11 to review the proposed bylaws and expressed her discomfort with going against the Charter and Massachusetts General Law Chapter 40A. It was Mr. Lehrer's opinion that he was not stripping the Board of its authority because they could choose to endorse or not endorse the bylaws. The Chair asked Mr. Lehrer to withdraw his proposed bylaws and Mr. Lehrer responded that he would discuss it with the Town Manager and Town Counsel. The Chair stated that she emailed Rodney Collins about withdrawing the proposed bylaws. Mr. Balzarini explained that typically the Planning Board discussed proposed bylaws before sending it along to the Selectmen and Mr. Lehrer apologized stating that he did not intend to cause an issue. The Chair expressed frustration that recent actions with Mashpee Commons and Planning Board not being part of the process had been the main item on Planning Board agendas. Mr. Lehrer suggested that it was the Chair's narrative but the Chair responded that it was her responsibility as Chair to stand up for the Planning Board. Mr. Lehrer stated that he was standing up for the Town.

Mr. Kooharian stated that there had been an established order in which the Planning Board had done business, and changes with no communication, can cause frustration. Democracy has been based on established order. The Planning Board wished to keep with the established order. Mr. Lehrer stated that he had been seeking feedback from the Board that he was learning and needed help. It was never his intention to usurp the authority of the Board. The Chair again asked Mr. Lehrer to withdraw the bylaws and Mr. Lehrer responded that he would not comment further and take it under advisement. The Chair tabled discussion about the zoning.

A member of the public asked to speak but the Chair responded that the item was tabled. Stephanie Cox asked to be placed on the agenda but was denied, adding that she had been there three hours. The Chair again responded that she tabled the issue because it was an illegal procedure and they were not in compliance with the Charter or Chapter 40A. Ms. Cox stated that she tried to reach the Chair before the deadline. The Chair responded that Ms. Cox contacted her a week ago to speak to the Planning Board, which the Chair declined. Ms. Cox stated that the Chair said she could not attend because she was unwilling to make the changes requested. The Chair stated that Ms. Cox was advised that she could discuss the issue of affordable housing. Ms. Cox stated that she wished to discuss accessory dwellings and the housing situation that impacted Mashpee residents and a means to add to the supply of housing. The Chair apologized and stated that the item was tabled. Mr. Marsters asked to speak and the Chair declined.

Mixed-Use Planned Development –Tabled

Adding New Section, §174-17.1-Raze and Replace-Tabled

Replace §174-45.4-Accessory Apartments with §174-45.4-Accessory Dwelling Units-Tabled

Establishment of Light Industrial Overlay District-Tabled

NEW BUSINESS

Charles Rowley Invoice-Although the item appeared on the draft agenda, it was not included on the final copy so the Chair asked by roll call vote for the item to be added to the agenda.

MOTION: Mr. Balzarini made a motion, by roll call vote, to add Charles Rowley July 2018 payment on the agenda. Mr. Kooharian seconded the motion.

Mr. Hansen-yes; Mr. Cummings-yes; Mr. Balzarini-yes, Chairman Waygan-yes; Mr. Kooharian-yes

The Chair reported that the invoice was in the amount of \$995 and reflected work completed in July, including inspections of Blue Castle Drive.

MOTION: Mr. Balzarini made a motion to pay Charles Rowley for the July invoice of \$995 for various inspections and one regular meeting. Mr. Kooharian seconded the motion.

OLD BUSINESS

Ockway Highlands-Ernest Virgilio, resident of Blue Castle Drive, was present to discuss the contamination of the catch basins located at his property. Mr. Virgilio sent an email and photos and has approached the Board for two years and inquired whether the Board had enforcement to address the issue. Mr. Virgilio expressed frustration that other developers followed the letter of the law in Mashpee, while the Ockway Highlands development remained out of compliance. Mr. Virgilio expressed great frustration that he repeatedly attended meetings

with the Board requiring that the developer attend the next meeting, only to have the developer not attend. Mr. Virgilio invited Board members to look at the state of his front yard, to speak to his wife about their home, stating that it was unacceptable. Mr. Balzarini agreed that it was a mess. Mr. Virgilio stated that if the Planning Board could do nothing, to advise him and put it in writing because he would next be in front of the Town with legal representation. The Chair apologized that the situation had been going on for so long.

Mr. Rowley reviewed the minutes when the developer attended the last meeting, at which time Mr. Rowley requested that additional hay bales be added to area, and the developer agreed. Mr. Rowley reviewed the site and saw that no changes had been made. Mr. Rowley stated that Section 81W of Subdivision Control stated that, upon their own motion, the Planning Board could make a determination that the project was not in compliance and rescind or modify the approval of the Subdivision. A Public Hearing process was necessary, notifying the abutters and developer, which could help to address the issues. A finding that the developer was not in compliance with performance standards would need to be met, which would require further review by Mr. Rowley. Mr. Rowley stated that the drainage area was complete but required loam and seed and dressing, which should be completed. No additional work would be completed besides the top course of pavement and completing the unpaved portion of the road, adding that no abutter should be left with a mess.

The Chair inquired whether the Board wished to authorize Mr. Rowley to inspect the site for a violation and draft a report. Mr. Rowley stated he was unsure whether there was a violation because a time limit was not included in the permit, but the developer should offer due diligence to complete the project in a proper manner. Mr. Balzarini recommended that a letter be sent, to the developer with a time limit of 2-3 weeks, advising that Mr. Rowley would be conducting an inspection to start the process to rescind the Special Permit. Mr. Balzarini stated that the front of Mr. Virgilio's property was a mess. Mr. Rowley reported that the Subdivision could be modified with a time limit through the Public Hearing process.

Chairman Waygan asked Mr. Lehrer for time with Town Counsel to discuss how to proceed with the matter. Mr. Lehrer stated that he could.

MOTION: Mr. Balzarini made a motion to authorize Charles Rowley to do an inspection and write a report. Mr. Kooharian seconded the motion. All voted unanimously.

Mr. Virgilio inquired about the engineer on record and whether they were responsible for reviewing the work and ensuring that the contractor was completing the work properly. Mr. Rowley stated that it was rare for the engineer to be on site to confirm the work, with the exception of Laurentide. Mr. Rowley stated that it would be in the best interest of the developer to ensure that the work was compliant. Mr. Rowley stated that the work needed to be completed. Mr. Rowley added that a temporary solution would be acceptable, if the hay bales were added as agreed to, suggesting that it offered sufficient reason for enforcement with a time limit. The Chair stated that they would move forward with Town Counsel toward a Public Hearing. Mr. Rowley offered to draft language for a letter to the Developer that could be used by the Chair and Mr. Lehrer and for Town Counsel to review. A report, including photographs, would be completed separate to the letter.

Discussion Regarding Windchime Special Permit & WWTP Upgrade-David Bennett, Wastewater Treatment Plant Operator for Windchime, was present to discuss details regarding Windchime's wastewater treatment and Special Permit conditions. Mr. Bennett referenced a letter drafted by Joseph Mooney, Chair for the Windchime Board of Trustees, and contained in Planning Board packets, requesting the release of escrow funds to upgrade the wastewater treatment facility and eliminate the requirement to replenish the funds, due to a redundant requirement for the Financial Assurance Mechanism with the State and modify the Special Permit requirements for the extensive environmental monitoring program, reducing it from quarterly to annually and in its place donate funds to a regional program. Mr. Bennett described the contents of the packet Windchime provided to the Planning Board. It was Mr. Bennett's opinion that Windchime was towing a larger portion of the responsibility as compared to its environmental impact.

Chairman Waygan stated that they would need to look into the legality and proper process of what Mr. Bennett was requesting. Mr. Lehrer reported that he met with the Treasurer regarding the Performance Bond, stating that the Board could take a vote to release the funds in the account provided that they were used for the purpose of the stipulation with the Special Permit, \$166,000 for the purpose of maintaining the wastewater treatment facility. Mr. Bennett stated that he would like a Public Hearing to modify their Special Permit to request a waiver since they wished only to change the wording of the Special Permit. The Chair responded that tonight they could address the escrow funds and Mr. Bennett confirmed that escrow language appeared in Section 9, page 5 (recorded page 242) requiring \$125,000 to be set aside in escrow to be used for improving the level of sewage treatment. Reading the statement, the Chair suggested that, to release the funds, the Special Permit would require modification. Mr. Rowley agreed stating that funds could be released only if it would be used if the owner were to default on the liability to improve sewage treatment. Mr. Cummings referenced another statement about the bond on page 12. Mr. Bennett stated that there were three references to the bond in the Permit. Mr. Rowley suggested that a performance bond could be substituted for the funds. There was discussion about duplicative funds.

Mr. Lehrer was recognized by the Chair, who suggested that, as a resident of Windchime, Mr. Cummings should recuse himself from a modification decision regarding Windchime. The Chair agreed, stating that it was Mr. Cummings' responsibility to determine whether he should recuse himself. Mr. Cummings wished to stay and would abstain from voting, adding that he had declared his relationship to the Secretary of State. Mr. Lehrer recommended that Mr. Cummings would not want to be placed in a compromising position and should also abstain from the conversation.

Mr. Bennett inquired about the process. The Chair stated that the Planning Department would draft the Modification and would seek comment as necessary. Mr. Lehrer confirmed that he would write the decision based on history. The Chair suggested that Mr. Bennett submit an application to modify the Special Permit and also place on the agenda, the vote to release the funds. The Chair wished to review the State Statute that presented the redundancy. Mr. Rowley confirmed that it was a regulation for any plant, but was unsure why the redundancy occurred in the Special Permit, adding that the funds could be released, and without a modification, could be

exchanged for a performance bond that would be renewed annually. Mr. Bennett wished to thoroughly review the options. Mr. Lehrer stated that, if Mr. Bennett wished to pursue the modification through application, he could also request the waivers and the application would kick off the Public Hearing process. There was discussion whether the modification would be considered a major or minor modification. Mr. Bennett asked that everyone review the materials. The Chair requested that Mr. Bennett submit an application to modify the Special Permit as was discussed. Mr. Lehrer stated that he could notify the abutters and suggested that Mr. Bennett submit a letter to the Chair regarding his specific request. Mr. Bennett responded that Mr. Mooney's letter clearly stated what they were seeking, the release of escrow, decrease the environmental monitoring program, or making a donation to another fund and clarification of the 5 mg/L requirement. Mr. Bennett noted that Windchime would be open to the facility becoming Town-owned and was also in conversation with Mashpee Commons regarding excess capacity. There was also discussion about following up with Mr. Fudala regarding the history. Mr. Hansen suggested that Windchime share with the Board what they were bonded for with the State.

Intersection of Country Club Ln. & Old Barnstable Rd.-Mr. Marsters reported that he had been working closely with Fire, Police, Town Planner, Engineer, DPW and Town Manager for input to best develop the intersection. Mr. Marsters introduced his engineer, Dave Marquedant, and described the location of the hairpin turn on Old Barnstable Road. Signage has been improved and increased at the site. Mr. Marquedant reported that the old plan called for two islands, 8 and 10 feet wide. The curb cut has since been reduced to 80 feet, with travel lanes ranging 20 to 26 feet with guard rails added. An extra lane would be created to allow, with two spaces, for a left turn beside a through lane, at a small island. Mr. Balzarini inquired about the golf course and it was confirmed that they would be using their road for access, maintaining the curb cuts. A site distance of 200 feet had been established in both directions. Mr. Balzarini inquired about lighting and Mr. Marsters confirmed that there would be some lighting added at the site. There would also be selective trimming. Mr. Hansen expressed concern about the painted island and inquired about the use of reflective flexible barriers and Mr. Lehrer responded that he suggested the same, but Catherine Laurent indicated that they did not last. Mr. Marsters would mention it again to Ms. Laurent, but it was a town road. Mr. Rowley added that access for the fire truck was also a consideration, noting that the rumble strips should be helpful. The Chair expressed her support of the intersection as did other members of the Board.

20 Blue Castle Drive-There was no update but Mr. Lehrer will follow up to see if they wished to return.

PLANNING STAFF UPDATES

Vacancy Administrative Assistant-The Chair announced that Maria Silva, Administrative Assistant, would be leaving the Planning Board for a new job at County Human Services.

BOARD MEMBER UPDATES

Board Member Assignments-

MOTION: Chairman Waygan made a motion to nominate Joe Cummings for Design Review/Plan Review. Mr. Balzarini seconded the motion. All voted unanimously.

MOTION: Chairman Waygan made a motion to nominate Joe Cummings the Environmental Oversight Committee. Mr. Balzarini seconded the motion. All voted unanimously.

MOTION: Chairman Waygan made a motion to nominate Dennis Balzarini to the Historic District Commission. Mr. Kooharian seconded the motion. All voted unanimously.

MOTION: Chairman Waygan made a motion to nominate David Kooharian to the MMR Military Civilian Community Council. Mr. Balzarini seconded the motion. All voted unanimously.

MOTION: Mr. Balzarini made a motion to nominate Mary Waygan for the Community Preservation Representative. Mr. Weeden seconded the motion. All voted unanimously.

MOTION: Mr. Balzarini made a motion to nominate Mary Waygan for the Affordable Housing RFP Workgroup. Mr. Kooharian seconded the motion. All voted unanimously.

Chairman's Report-The Chair reported that she would attend the Affordable Housing Committee meeting tomorrow night where they would be discussing the RFP for potential affordable housing development on Town owned land. The Chair referenced the Planning Board Public Hearing and Meeting Procedures suggesting that it be added to the next agenda in order to make modifications as needed. Mr. Balzarini stated that Mr. Fudala was not present to help Mr. Lehrer, despite efforts by the Planning Board to encourage a transition time. Mr. Lehrer stated that it would not be the same, but that he would do his best to accommodate the Board.

Cape Cod Commission-The Chair reported that she had been in contact with John Idman, at the Cape Cod Commission, regarding a potential review of Mashpee Commons, who noted that it would likely be triggered based on square footage of commercial space, the number of housing units and the number of acres cleared, falling under a DRI, as the RPP was currently written.

Community Preservation Committee-A meeting was scheduled for next week.

Design Review Committee-No meeting

Environmental Oversight Committee-No meeting

Historic District Commission-No meeting

Greenway Project & Quashnet Footbridge- No meeting

MMR Military Civilian Community Council-MMR Joint Land Use Study-No meeting

Plan Review-No update

CORRESPONDENCE

- December 2017 Discharge Monitoring Report for South Cape Village N=5.10
- January 2018 Discharge Monitoring Report for South Cape Village N=5.60
- February 2018 Discharge Monitoring Report for Southport N=39.75
- March 2018 Discharge Monitoring Report for South Cape Village N=4.50

- April 2018 Discharge Monitoring Report for South Cape Village N=8.90
- May 2018 Discharge Monitoring Report for South Cape Village N=5.20

WATERWAYS LICENSES

ADDITIONAL TOPICS

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Kooharian seconded the motion. All voted unanimously. The meeting ended at 10:32 p.m.

Respectfully submitted,



Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS

- 7/31/18 Charles Rowley Invoice for July Services
- Public Hearing Notice, Southworth Mashpee Properties, LLC
- 7/2/18 Notice to Abutters
- 7/18/18 Michael Mendoza Letter Re: Design Review for 0 Sampsons Mill Road
- 6/22/18 Southworth Mashpee Properties, LLC Application for Special Permit Modification
- 6/26/18 Southworth Application Payment
- Willow Park Townhomes, Site Construction Plans
- Southworth Mashpee Properties, Landscape Plans
- Willowbend Village Plans
- 7/27/18 Charles Rowley Letter Re: Plan Review of Willow Park
- 8/1/18 Charles Rowley Letter Re: Plan Review of Willow Park
- Mashpee Commons PowerPoint Presentation
- Mashpee Commons Form-Based Code, Article 7-Administration
- 8/1/18 Attorney Kevin Kirrane Letter Re: Raze and Replace
- Melinda Baker Letter Re: Accessory Dwelling Bylaw
- Raze and Replace Article
- Accessory Dwelling Unit (ADU) Article
- Light Industry Overlay District Article
- 7/27/18 Ernie Virgilio Email Re: 7 Blue Castle Drive
- Photos Drainage System at 7 Blue Castle Drive
- 7/20/18 Joseph Mooney Letter Re: Windchime Point Condominium Special Permit Modification
- Sandcastle Mashpee Special Permit Decision