



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

MASHPEE TOWN CLERK

Meeting of the Mashpee Planning Board
Thursday, September 27, 2018
Waquoit Meeting Room, 7:00 P.M.

SEP 25 2018

RECEIVED BY JM

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

- Pledge of Allegiance
- Welcome Mr. Adam Henschel, Mashpee High School Senior

Approval of Minutes

- Review and approval of meeting minutes from July 18, 2018, August 1, 2018, and September 5, 2018

Public Hearing

7:10 PM – October 15, 2018 Town Meeting Warrant, Proposed Zoning Amendments

- Warrant Article 9: Prohibit Recreational Marijuana Establishments *general bylaw*
- ☒ Warrant Article 10: Marijuana Retailer Cap
- ☒ Warrant Article 11: Sign Enforcement
- ☒ Warrant Article 12: Light Industrial Overlay
 - EDIC minutes (March)
- Warrant Article 16: Raze and Replace.
 - Planning Board Minutes of May 2, 2018
- Warrant Article 17: Continuance, Extension, or Alteration
- Warrant Article 18: Setbacks from Water or Wetlands
- Warrant Article 19: I-1 Industrial District Parking
- Warrant Article 20: Deletion of Section 174-25 I(9) (fixed and floating piers, wharves, and docks) in its entirety.
- Warrant Article 21: Mixed-Use Planned Development (Citizen Petition)

7:20 PM – Ockway Highlands Subdivision, Discussion and possible action to modify or revoke approval.

Pursuant to the Town of Mashpee Subdivision Rules and Regulations and Chapter 41, Section 81W of Massachusetts General Laws the Mashpee Planning Board will hold a public hearing on September 19, 2018 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 May 1, 2014 and was filed in the Barnstable County Registry of Deeds on June 11, 2014 in Plan Book 654, Page 21 by the original applicant, BCDM, LLC.

7:30 PM – Ockway Highlands Subdivision, Discussion and possible action to modify special permit.

Pursuant to Massachusetts General Laws, Chapter 40A, the Mashpee Planning Board will hold a public hearing to consider modification to an approved special permit originally issued to BCDM, LLC, of 66 Charles Street, Suite 215, Boston, MA 02114 for a 16 lot cluster subdivision located on and between Blue Castle Drive and Degress Road, identified on the Mashpee Assessors Maps as Map 104, Blocks 14, 20 and 48.

Road Taking

- Discussion and vote on Warrant Article 22 to see if the Town will accept the layouts of Pierre Vernier Drive, Katian Way and Gunter's Lane in Pimlico Heights as public ways.



Town of Mashpee

16 Great Neck Road North
Mashpee, Massachusetts 02649

Chairman's Report

- Correspondence with Mashpee Commons, Board of Selectmen, Town Clerk, and Board of Appeals, and Ms. Melinda Baker

Board Member Committee Reports

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

Updates from Town Planner

- Launch of OpenCounter Zoning Portal (www.mashpee.opencounter.com)
- Administrative Secretary vacancy update
- Affordable Housing Working Group RFP Progress Report

Additional Topics (not reasonably anticipated by Chair)

Adjournment

MASHPEE TOWN CLERK

SEP 25 2018

RECEIVED BY jm



Town of Mashpee

16 Great Neck Road North
Mashpee, Massachusetts 02649

#1

NOTICE OF PUBLIC HEARING TO CONSIDER MODIFICATION TO APPROVAL OF OCKWAY HIGHLANDS SUBDIVISION

September 7, 2018

Original Applicant:

BCDM, LLC

Subject Properties (pre-subdivision):

Map 104

Blocks 14, 20, and 48

Dear Mashpee Property Owner,

As the registered owner of a property located within 500' of the subject property named above, you are being notified that the Mashpee Planning Board is holding a public hearing on **Thursday, September 27, 2018 at 7:20 PM in the Waquoit Meeting Room, Mashpee Town Hall, 1st Floor, 16 Great Neck Road North, 02649** to solicit comments regarding the following case:

Pursuant to the Town of Mashpee Subdivision Rules and Regulations and Chapter 41, Section 81W of Massachusetts General Laws the Mashpee Planning Board will hold a public hearing on September 19, 2018 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 May 1, 2014 and was filed in the Barnstable County Registry of Deeds on June 11, 2014 in Plan Book 654, Page 21 by the original applicant, BCDM, LLC.

NOTE: THIS PUBLIC HEARING WAS RESCHEDULED FROM SEPTEMBER 19, 2018 DUE TO YOM KIPPUR. DISREGARD THE PREVIOUSLY ADVERTISED MEETING RUN ON AUGUST 31, 2018.

If you wish to provide comment but you are unable to appear before the Board you may submit comments to me in writing via the contact information provided below. Your comments will be entered into the public record for the Board's consideration.

If you require any accommodations please submit requests to me via email prior to the specified date and time of the public hearing indicated herein, in legal advertisements in the Mashpee Enterprise, and posted in Town Hall.

Please do not hesitate to contact me by phone, email, or in person should you have questions about why you are receiving this notification.

Sincerely,

Evan R. Lehrer, Town Planner

elehrer@mashpeema.gov

(508) 539-1400 x. 8521



Town of Mashpee

#2

16 Great Neck Road North
Mashpee, Massachusetts 02649

ABUTTERS NOTICE OF PUBLIC HEARING: CONSIDERING MODIFICATION TO THE SPECIAL PERMIT OF THE SUBDIVISION KNOWN AS THE OCKWAY HIGHLANDS.

September 7, 2018

Original Applicant:

BCDM, LLC

Subject Properties:

Map 104

Blocks 14, 20, and 48

Dear Mashpee Property Owner,

As the registered owner of a property located within 300' of the subject property named above, you are being notified that the Mashpee Planning Board is holding a public hearing on **Thursday, September 27, 2018 at 7:30 PM in the Waquoit Meeting Room, Mashpee Town Hall, 1st Floor, 16 Great Neck Road North, 02649** to solicit comments regarding the following case:

Pursuant to Massachusetts General Laws, Chapter 40A, the Mashpee Planning Board will hold a public hearing to consider modification to an approved special permit originally issued to BCDM, LLC, of 66 Charles Street, Suite 215, Boston, MA 02114 for a 16 lot cluster subdivision located on and between Blue Castle Drive and Degross Road, identified on the Mashpee Assessors Maps as Map 104, Blocks 14, 20 and 48.

NOTE: THIS PUBLIC HEARING WAS RESCHEDULED FROM SEPTEMBER 19, 2018 DUE TO YOM KIPPUR. DISREGARD THE PREVIOUSLY ADVERTISED MEETING RUN ON AUGUST 31, 2018.

If you wish to provide comment but you are unable to appear before the Board you may submit comments to me in writing via the contact information provided below. Your comments will be entered into the public record for the Board's consideration.

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Sincerely,

Evan R. Lehrer, Town Planner

elehrer@mashpeema.gov

(508) 539-1400 x. 8521



Town of Mashpee

Bk 28196 Pg 307 #25192

06-11-2014 @ 03:12p

16 Great Neck Road North
Mashpee, Massachusetts 02649

MASHPEE PLANNING BOARD
Special Permit Decision
BCDM, LLC
"Ockway Highlands" Cluster Subdivision
Blue Castle Drive / Degrass Road

I. Proposal

This decision concerns an application by BCDM, LLC, 66 Charles Street, Suite 215, Boston, MA 02114 (the Applicant) to allow for the development of a cluster subdivision (hereafter, the "Project") located on an approximately 12.09 acre undeveloped parcel of land situated on Blue Castle Drive (an unpaved private road), with additional frontage on Degrass Road (a paved Town road) (hereafter, the "Property"). The Property is shown on Mashpee Assessor's Map 104 as Lots 14, 20 and 28.

As submitted, the Project was depicted on a 10-sheet plan set entitled "Proposed Subdivision of Land, "Ockway Highlands" in Mashpee, Massachusetts" prepared by Costa Associates, Inc., issued on June 1, 2013. The original proposal was for 16 lots, which was later reduced to 15 lots, including one lot to be donated for affordable housing.

II. Jurisdiction

This application was made and this Decision has been issued by the Mashpee Planning Board pursuant to Sections 174-24.C, 174-47, and other provisions of the Mashpee Zoning By-Laws (the "By-Laws") as they existed on May 7, 2014, the date on which this Special Permit decision was approved. Where reference is made to the By-Laws, it shall refer to the provisions thereof as they existed on May 7, 2014.

III. Chronology

Application for this Special Permit was made with the Town Clerk on June 17, 2013. A public hearing was opened by the Planning Board on August 21, 2013 at 7:10 p.m. Notice of this hearing was duly given to abutters, the Planning Boards of adjoining towns and the Cape Cod Commission (mailed on July 19, 2013) in accordance with Massachusetts General Laws Chapter 40A and the Planning Board's Special Permit Regulations. Notice was also given by publication in The Mashpee Enterprise, a newspaper of general circulation in the Town of Mashpee on August 2 and 9, 2013. The hearing was continued on September 18, October 2, November 20, December 4 and December 20, 2013 and February 5 and 19 and March 5 and 19, and April 2 and 16 and May 5, 2014. Planning Board member Waygan was not present for the October 2 meeting, but has filed a Certification pursuant to MGL c. 39, Section 23D that she reviewed all the evidence introduced at that hearing session, including a review of the video recording of the session.

56, 57 Blue Castle Dr Mashpee
56 Degrass Rd Mashpee

20

On August 6 and December 13, 2013 the project plans were reviewed by the Design Review Committee and the Plan Review Committee. On December 13 the Committees voted to recommend approval of the proposal with conditions.

On May 7, 2014, the Planning Board closed the public hearing and voted to make the following findings and grant a Special Permit authorizing the project, with the conditions enumerated below. The members of the Planning Board were recorded as follows: Members George W. Petersen Jr., Mary E. Waygan, Dennis H. Balzarini, David Kooharian and Associate Member Joseph P. Cummings were recorded as voting in favor of the decision. No members were recorded as voting against.

IV. Findings

1. The subject Property, consisting of approximately 12.09 acres of undeveloped land, is located within the R-3 zoning district as depicted on the Town of Mashpee Zoning Map. The By-Laws allow single-family residential development and mandatory cluster subdivisions in the R-3 zoning district.
2. The Property is owned by BCDM, LLC and the Applicant has submitted correspondence dated July 12, 2013, signed by Matthew Haney of BCDM, LLC, indicating that his surveyor, Matthew C. Costa and/or his associates are authorized to represent the Applicant with regard to this cluster subdivision application.
3. The most recent plan of record at the Barnstable County Registry of Deeds shows the Property divided into three (3) lots, one being 0.23 acre fronting on Degress Road (a Town Road), one being 9.13 acres fronting on both Degress Road and Blue Castle Drive (a private unpaved street) and one being 2.73 acres fronting on Blue Castle Drive. The three lots constitute a "tract" of land, as defined in Section 174-3 of the Zoning By-law ("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 by-laws"). Under the provisions of Section 174-47.B the Board may grant a Special Permit for a cluster development for a tract of land containing at least twice the minimum lot area required in the applicable zoning district (40,000 sq. ft. minimum lot area in the R-3 district).
4. As shown on the plans, as amended, the Project proposes the creation of 15 lots (original application was for 16). The number of lots is based on 12 lots allowed under the basic R-3 zoning, two extra lots allowed per section 174-47.B.9. on the basis of more than 80,000 sq. ft. of open space provided in excess of the minimum 50% required under the by-law, plus one additional lot allowed under Section 174-47.B.10. in exchange for the reservation of one lot for the construction of a permanently deed-restricted home meeting the low-income affordability requirements of MGL Ch 40B as it existed on October 18, 2010.
5. Based on the number of lots proposed, at least one lot shall be reserved for construction only of a permanently deed-restricted home as described in #4 above. By email from Atty. Brian Wall, dated February 19, 2014, the Applicant has indicated that the lot

required to be reserved for an affordable home will be deeded to the Town or to a public or non-profit housing agency or trust, per the provisions of Section 174-47.B.10. At the continued hearing on February 19, 2014, the Applicant indicated that Lot 15, fronting on Degraas Road, would be the lot donated.

6. The Applicant has indicated that the proposed open space parcels will be deeded to the Mashpee Conservation Commission, per the provisions of Section 174-47.B.6.(a). Per Section 174-47.B.7., the deed will have to be subject to a restriction enforceable by a non-profit organization, the principal purpose of which is the conservation of open space, which shall be recorded at the Barnstable County Registry of Deeds and which shall provide that such land shall be restricted as specified in Subsections 174-47.B.7.(a), (b) and (c). As described in a memo dated March 4, 2014 to Atty. Wall from Mashpee Conservation Agent Andrew McManus, the Conservation Commission voted unanimously at its February 27, 2014 meeting to endorse the conveyance of the proposed open space to the Commission.
7. The Project is located entirely on lands mapped by the Massachusetts Natural Heritage & Endangered Species Program (NHESP) as "BioMap Core Habitat", "Priority Habitat of Rare Species" and "Estimated Habitat of Rare Wildlife". By correspondence dated March 27, 2013, NHESP determined that the Project will not result in a prohibited "take" of any state-listed rare species. However, as the design of the project has changed since that letter, additional filing may be required with NHESP.
8. In conformance with the requirements of Section 174-47.B.4., the Applicant submitted evidence that the design process used followed the sequence specified by said Section. These included maps entitled 1. "Delineation of Conservation Resource Areas" (topography, wetlands, prime agricultural soils, and primary and secondary open space areas per the Section 174-46 OSID by-law), 2. "Delineation of Proposed Open Space", 3. "Conceptual Subdivision Layout" (delineation of potential building sites), 4. "Conceptual Subdivision Layout" (location and alignment of access roads) 5. a series of plans indicating proposed design of stormwater management and treatment facilities and 6. "Definitive Subdivision Plan" showing establishment of lot lines.
9. In conformance with Section 174-47.B.3., the proposed lots are grouped into four clusters, within which the lots are contiguous. Two of the open space parcels are contiguous with other open land owned by the Town of Mashpee and proposed for preservation as open space.
10. Pursuant to Section 174-47.B.5., the Applicant has requested the following lot area, frontage and setback requirements: Lot area 10,000 sq. ft., frontage 84 feet, front setback 25 feet, side and rear setbacks 10 feet. The lot dimensions are shown on the definitive subdivision plan, along with a table identifying the front, side and rear setbacks. The Board finds that these proposed dimensions allow for a building footprint of at least 1000 square feet plus additional area to meet the setback regulations established by the Planning Board for the subdivision and any setback requirements from wetlands and cranberry bogs established elsewhere in this chapter; include sufficient area to accommodate required grade changes; provide adequate area for required parking and access drive; provide for stormwater management on the lot in

conformance with the provisions of this chapter, provide for required wastewater disposal facilities and setbacks from wells or other features as specified by the Board of Health and provide for reasonable privacy and landscape buffers between residences.

11. At their meeting on August 6, 2013, the Plan Review Committee voted to seek Town Counsel's opinion as to their concerns regarding the Project and the "Town's right to request road realignment and require Blue Castle Drive to be completely paved".
12. In response to the above vote and to a September 18, 2013 letter (noted below) by attorney Brian Wall on behalf of the Applicant objecting to the potential imposition of a requirement that the Applicant pave all of Blue Castle Drive and citing legal reasoning supporting that objection, Town Counsel provided a letter to the Town Planner dated September 27, 2013 stating his opinion "that the Planning Board does have legal authority to require modifications or improvements to public or private ways affording access to or from a proposed subdivision." Counsel further stated that "it is my opinion that the Planning Board may impose a condition or conditions relative to improvement of a public or private way located outside the limits of a subdivision, including Blue Castle Drive, in conjunction with its issuance of a cluster development special permit under the provisions of Section 174-47 of the Mashpee Zoning Bylaw if it deems the interests of adequate access or traffic safety to so require. It is further my opinion that the Planning Board has the right to deny the approval of such a cluster development special permit if it concludes that adequate access to the proposed cluster development from a public way has not been established or if public safety and/or traffic flow/ traffic safety in the general area of the subdivision would be significantly impacted."
13. Atty. Wall's September 18 letter stated, among other points, that "The Applicant's proposal provides frontage to the proposed lots over roadways within the subdivision and provides adequate access to a public way - Degrasse Road. The proposed subdivision does not require access over Blue Castle Drive to Great Neck Road South. Consequently, it would be unreasonable for the Planning Board to require the Applicant to improve Blue Castle Drive when such improvements are not necessary to the proposed subdivision." "It would be fundamentally unfair, and therefore unreasonable, to require the Applicant to improve Blue Castle Drive because of the expense - which is estimated at \$450,000. This is particularly true because the access that the improvement of the way would provide is not necessary to the proposed subdivision." "The Applicant does not have the legal right to improve Blue Castle Drive in a manner that would comply with Mashpee's Subdivision Regulations. The existing way is approximately 10 feet in width and meanders outside of the 40 foot right of way. In order to comply with the Regulations, the Applicant would have to perform grading on private property owned by abutters to the roadway and would have to secure drainage and slope easements from the Abutters. This would require permission from the abutters. Obtaining this permission is not within the control of the Applicant. It would be unlawful for the Planning Board to impose a condition with which the Applicant does not have the legal capacity to comply."
14. By letters dated September 26, 2013 Atty. Wall indicated to the abutters to Blue Castle Drive that BCDN, LLC was "willing to perform maintenance, levelling and grading on the entire length of Blue Castle Drive", to include "filling potholes and grading the road with

a crown in the center in order to improve the road condition" and was also "proposing to put down a layer of crushed sea shells to improve aesthetics." Because "the existing roadway meanders in and out of the legal right of way and is, in some locations, situated on the private property of the owners of land that abuts Blue Castle Drive" Atty. Wall requested the abutters' "assent to the proposed work on the roadway" and provided an "Assent Form" for signature by the abutting land owners. In addition, Atty. Wall's letter noted "that BCDM will only perform the road work on the roadway on properties whose owners have provided written assent." The letter also indicated that BCDM was "willing to work cooperatively with all owners on Blue Castle Drive" "in an effort to develop a mechanism to address future road maintenance." The letter also included an attached questionnaire regarding the abutters willingness to participate in various organizational options with regard to said future road maintenance. Only one abutter, at 8 Blue Castle Drive, responded favorably, with conditions, to the Assent Form and maintenance organization proposals (letter to Brian Wall from Hugh Barnes, 8 Blue Castle Drive, Mashpee dated October 16, 2013 with attachments). (The existing roadway lies entirely on the property at 8 Blue Castle where it intersects Great Neck Road South, and mostly outside the recorded layout location adjacent to that lot.) A second abutter at 19 Blue Castle Drive declined to sign the form and indicated opposition to all the proposed maintenance organization proposals.

15. The "Easement Plan of Land in Mashpee, MA Prepared for Mashpee Water District" by Eagle Surveying, Inc., dated July 14, 2004 and recorded at Barnstable Registry Map Book 595, Pages 88 & 89, shows the location of the travelled way of Blue Castle Drive, vs. the street layout location. It indicates that the only portion of the travelled way between the proposed subdivision and Great Neck Road South which lies outside the street layout is on the lot at 8 Blue Castle Drive.
16. On August 20, 2013, Mashpee Fire Inspector Joel Clifford addressed an email to the Town Planner expressing "concerns with the fire truck turning radius on the set of plans that were dated June 01, 2013... the right hand turn... from Degross Road, the fire truck turning radius does not look appropriate." Subsequent plans, which eliminated the proposed 16th lot and re-aligned the entrance to the subdivision from Degross Road at a right angle, satisfied the Fire Inspector's concerns regarding turning radius.
17. The Board received a copy of correspondence dated October 1, 2013 addressed from Captain Scott W. Carline, Polygraph Examiner, Mashpee Police Department (who regularly represents the Department on the Plan Review Committee) to the Town's Public Works Director Catherine Laurent (also a member of the Plan Review Committee) stating that "In follow up to our meeting regarding the proposed subdivision and plan for improvement of Blue Castle Drive, I have reviewed the Town of Mashpee's legal review and opinion rendered and subsequently viewed the area and adjacent public ways which would be affected if the potential condition to upgrade were not initiated. Not having access from Great Neck Road South would clearly have an impact on congestion in these adjacent and surrounding public ways which would in my opinion affect 'due regard for lessening congestion...in the adjacent public ways' which is addressed in Attorney Costello's opinion... The significant increase in the volume of traffic during the summer months leading to two major beaches could and would add significant congestion to those adjacent streets, specifically, when trying to enter and

exit these areas in an attempt to enter the flow of traffic." "The immediate concern from a public safety perspective has to deal with the response time of an emergency vehicle. As public safety officials, we have policies and procedures in place to implement, evaluate and enhance the critical response time of an emergency vehicle... A direct route to an emergency situation is the main objective of all first responders." "The improved condition or upgrade to Blue Castle Drive would immediately enhance the response time for those Mashpee residents that not only reside on Blue Castle Drive, but enhance the safety in those adjacent public ways as well. Now emergency vehicles would not have to take an alternate route through such populated neighborhoods as Gia Lane, Tracy Lane, Lisa Lane and Degross Road, they could respond directly using Blue Castle Drive saving valuable seconds, if not minutes, in an emergency situation." "In the case of a critical incident in which a situation presented itself where mutual aid was requested (Mutual aid fire personnel, police personnel, special response teams, etc.), outside agencies not familiar with this area would have delayed response if travelling the route of the adjacent streets mentioned above." "Considering these factors, I feel there is a significant public safety interest to improve this section of Blue Castle Drive from the proposed subdivision to Great Neck Road South. This improvement should alleviate these traffic concerns."

18. No direct correspondence was received by the Planning Board from the Police or Fire Departments.
19. At their joint meeting on December 3, 2013, both the Plan Review Committee and the Design Review Committee unanimously voted to recommend approval of the Project "contingent on paving and finishing Blue Castle Drive to Great Neck Road South, or providing an acceptable plan for maintenance of the existing road."
20. The Board finds, in light of the above information, that Blue Castle Drive between the Project and Great Neck Road South is not in adequate condition, as it currently exists, to provide the alternative public safety access necessary to adequately protect the residents of the proposed subdivision and the surrounding area.
21. The project plans were reviewed by the Planning Board's Consulting Engineer, Charles Rowley, who provided comment letters dated August 5, 2013, February 5, 2014 and February 21, 2014. The project plans have been amended to address the recommendations of the Consulting Engineer, whose February 5 letter recommended that the Project "be considered for approval subject to a decision by the Planning Board as to what construction if any will be done on Blue Castle Drive between the limits of the proposed project and Great Neck Road South."
22. Mr. Rowley's February 21 letter summarized the status of the section of Blue Castle Drive between the Project and Great Neck Road South and the proposals made for its upgrade and maintenance, and also listed certain concerns regarding the ability of the Board to require the upgrade of Blue Castle Drive and the rights of the Applicant to do so. The letter was provided to Town Counsel, who met with the Town Planner on February 28, 2014 to provide his opinion on the issues raised. Town Counsel indicated that the Board can put conditions on its Special Permit requiring the Applicant to upgrade Blue Castle Drive in its current location, subject to his acquiring whatever right,

title or interest is necessary to do so from the owner of 8 Blue Castle Drive, which is the one location, based on the above-mentioned "Easement Plan of Land in Mashpee, MA Prepared for Mashpee Water District", where the existing road clearly lies outside the paper layout of Blue Castle Drive, and whose owner had indicated a conditional interest in cooperating with the upgrade proposal for the road. The Applicant may do any necessary work within the layout of the road. Town Counsel also indicate that, should the Applicant not be able to secure the necessary right, title or interest to do the required work at 8 Blue Castle Drive, the Applicant could return to the Board to request a modification of the Special Permit.

23. A previous 2-lot subdivision application filed with the Board by Mr. Scott Bauer included engineering plans, revised date 4/2/08, prepared by Stephen J. Doyle and Associates, showing the reconstruction to then-current Planning Board subdivision standards of the first 400 feet of Blue Castle Drive from Great Neck Road South within the legal layout of the road, including its relocation in the area of 8 Blue Castle Drive. After preliminary plan approval, the plan was withdrawn before definitive approval due to a title issue.
24. No professional traffic study was completed by the applicant or the Town regarding this project. The Institute of Transportation Engineers *Trip Generation Report* (8th edition) indicates 9.57 average daily trip ends per single-family detached housing unit (Land Use code 210), with 0.75 trip ends during the morning peak hour of adjacent streets, 1.01 trip ends during the afternoon peak hour of adjacent streets and 0.77 trip ends during the morning peak hour of the traffic generator and 1.02 trip ends during the afternoon peak hour of the traffic generator. Average daily trip ends on Saturday were 10.08, with 8.77 on Sunday. Based on the 15 proposed homes, average daily trip ends (i.e. a trip either leaving from, or coming to a home) would be 144 on weekdays, 151 on Saturdays and 132 on Sundays. Weekday peak hour trips would be 11-12 in the morning peak hour and 15 in the afternoon peak hour.
25. At the public hearing and by correspondence to the Board, a number of residents in the area of Degross Road expressed their concern about existing "cut-through" traffic speeding on Degross Road and Tracy Lane and their concern that the Project traffic would increase the problem. The residents suggested that four-way stop signs be placed, at the Applicant's expense, at the intersections of Degross Road with Gia Lane and Tracy Lane, as well as "Share the Road" and "Children Playing" signs to help slow down said traffic. The residents indicated a willingness to initiate a petition to the Board of Selectmen to install the 4-way stop signs, at the Applicant's expense. The Planning Board Chair also suggested the possibility of a radar speed sign being placed on Degross Road in the vicinity of the new subdivision entrance (indicating the speed limit and "your speed" as detected by radar) similar to one he had seen used by the Town of Falmouth on Old Barnstable Road in that town.
26. At the March 5, 2014 continuation of the public hearing, the Town Planner provided the Board with an email dated February 27, 2014 to the Town Planner from Joanna Van Der Veen of Traffic Logix Corp., including pricing and specifications, regarding a low-cost portable radar speed sign, the Traffic Logix, Inc. SP 100 with Solar Panel and 3-Cell Battery back-up, with a universal mounting bracket and pole plates, which would cost less than \$3000.

27. The Applicant submitted the Water Quality Report and test well logs and sampling results required by Section 174-27 of the Zoning By-law. The report, by James Engineering, Inc., 125 Great Rock Road, Hanover, MA 02339, which was later revised February 17, 2014, indicates that the Project lies 1300+/- feet from the shore of Ockway Bay and is in the groundwater recharge area of Ockway Bay, as mapped for the Massachusetts Estuaries Program by the US Geological Survey. The property also lies in the legal "Zone II" of the Mashpee Water District's Rock Landing wells, though the USGS mapping indicates that actual average groundwater flow is to the Bay and not to the wells. The report calculates that current Nitrogen loading from the site is 8.74 lbs/yr (3.97 kg/yr). The original version of the report calculated that Nitrogen loading under the proposed development conditions would be 186.10 lbs/yr (84.5 kg/yr), an increase of 177.36 lb/yr (80.53 kg/yr). This constituted a 4.4% increase in nitrogen loading to the Ockway Bay watershed, from 1831 kg/yr to 1911.5 kg/yr. Attenuated nitrogen load reaching the Bay would be increased from 1549 kg/yr to 1629.5 kg/yr, a 5% increase. The revised report added 81 lbs/yr from lawns, for a total nitrogen loading of 267.76 lbs. (121.56 kg), increasing total loading to the Bay to 1952.56 kg/yr an increase of 121.56 kg/yr. Attenuated load to the Bay would increase from 1549 to 1681.5 kg/yr, a 7.8% increase. It should be noted that the current loading to the Bay is double the TMDL level, so that based on these calculations, the overload of nitrogen to the Bay would be increased by approximately 15.6% due to this Project.
28. The Project proposes installation of standard "Title 5" septic systems on all lots. The project lies within the Ockway Bay sub-watershed of the Popponesset Bay watershed, for which an allowed Total Maximum Daily Load (TMDL) of nitrogen has been established. The Massachusetts Estuaries Program (MEP) report for the Popponesset Bay watershed indicated that the TMDL has already been substantially exceeded. 86.1% of the increased nitrogen load created by the project, according to the original Water Quality Report, will be from the proposed septic systems. The original Water Quality Report calculations indicated an estimated 5000 sq. ft. of lawn for each lot, but included no calculated nitrogen load for lawn area. The revised report added a calculation of nitrogen load from 5000 sq. ft. lawns, generating 81 lbs. of nitrogen annually, added to the septic system load of 166.19 lbs., 3.5 lbs. from roof areas, 5.6 lbs. from driveways and 0.38 lbs. from "natural areas" on lots, 3.45 lbs. from open space lots, 7.4 lbs. from roadway pavement and 0.24 lbs. from roadway shoulders, for a total nitrogen load of 267.76 lbs. (121.56 kg.) per year, an increase of 117.59 kg/yr. Those numbers from the revised report put the percent from septic system loads at 62.07% of the nitrogen load.
29. The Water Quality Report states that "The lots as developed will be only 10,200+ square feet in size. The opportunity for a 5000 square foot lawn area is limited when you consider the fact that 2700 square feet will be house and driveway. Additionally, within the neighborhood there are some dwellings where there is no lawn area which is an appropriate landscape scenario for a seasonal use. Thus the loading from the lawn area should be considered an absolute maximum." The only nitrogen loading mitigation measure proposed by the applicant is a reduction of this "absolute maximum" theoretical lawn area to a limit of 2500 sq. ft., which is proposed to be incorporated into the Project's Covenants and Restrictions, along with a provision in the Covenants & Restrictions requiring that all lawns and all lawn maintenance shall comply with the

"Lawn Standards" issued by the Mashpee Conservation Commission. The revised Water Quality Report claims that cutting the original theoretical lawn size in half and adopting those standards, will reduce nitrogen loading from lawns from 81 lbs/yr (36.8 kg) down to 0.76 lbs/yr. If that number is accepted, the project still results in an increase in nitrogen loading to the Ockway Bay watershed of 81.55 kg/yr. Otherwise, the Water Quality Report states that, based on estimated travel time of groundwater from the Project to the Bay which ranges from 7.5 to 17.5 years from the nearest to the farthest proposed home, it should be assumed that there will be a municipal sewer system built to serve the project before the "full" impact of the project will be felt in the Bay. The Applicant claimed that assumption as a reason that no mitigation measures, such as on-site or clustered denitrifying septic systems should be required regarding the positive additional 81.55 kg/yr nitrogen load to the Bay. The Report did not note that the impact of any eventual sewerage of the area would also not be felt for 7.5 to 17.5 years after sewerage, due to the nitrogen load already deposited to groundwater due to construction of the project with standard Title 5 septic systems. At his February 28 meeting with the Town Planner, Town Counsel described the argument about future sewerage of the area as an "unsubstantiated hypothetical assumption".

30. At the March 5 continuation of the public hearing, the Town Planner presented the Board with a cost estimate from the Shellfish Constable for a project to mitigate the Project's additional 81.55 kg/yr nitrogen load to Ockway Bay through the planting of quahog shellfish seed in the Bay (480,000 ¼ inch little neck quahog seeds – assuming 2/3 survival rate – at 2.8¢ each plus approximately \$600 for protective netting to minimize predation, totaling approximately \$14,000) which could be funded by the Applicant through a MGL c.44, Section 53A donation account, as an alternative to on-site or clustered denitrifying septic systems.
31. As noted, the project lies within a Mass. DEP-designated "Zone II" public well recharge area. Within such areas, the number of bedrooms on a lot is limited to one per 10,000 sq. ft. of lot area. The Mashpee Board of Health reviewed the Project at their July 24, 2013 public meeting. The Board approved the subdivision with one comment: "The subdivision must apply for and obtain an approved nitrogen aggregation plan from the BOH and DEP Division of Wastewater management to obtain three-bedrooms per lot." Such an aggregation agreement will allow the project's open space area to be counted toward the land area used to calculate the number of bedrooms which will be permitted in the Project.
32. The Applicant submitted a "Stormwater Management Plan" regarding maintenance of the roadway drainage and stormwater treatment features indicated on the Project plan.
33. Atty. Wall submitted a draft Declaration of Protective Covenants and Restrictions for the project. Among its provisions were the following: a) "No building or structure shall be erected on any lot except one single family dwelling containing no less than 1,050 square feet of habitable living space for a 'ranch' style or no less than 2,000 square feet of habitable living space for a 1 ½ or 2 story house..."; B) sheds are allowed at the rear of the lot provided they conform with zoning setback requirements; 3) "All dwellings shall have a minimum of an attached two-car garage..." 4) "No live trees exceeding 4" in diameter at a point 2 feet above ground level shall be disturbed from their natural

growth except as may be necessary for construction of the dwelling, site development, or proper grading to assure the desired degree of visual aesthetics. Vegetated buffers between dwelling units shall be maintained to provide adequate screening and noise reduction."; 5) all buyers of lots in the Project are required to become members of the "Ockway Highlands Homeowner's Association, Inc." and to pay an annual assessment to said Association, "to be a proportion of the actual annual cost of the maintenance, operating expense, repair, improvements, assessments or other expenses incurred on any of the ways and common areas or other improvements..."; 6) "Lawns shall be limited to 2,500 square feet. All lawns and lawn maintenance shall comply with the "Lawn Standards" issued by the Mashpee Conservation Commission..."

34. The above-mentioned draft Declaration of Protective Covenants and Restrictions, in conjunction with the Applicant's offer, noted above, to perform maintenance, levelling and grading on the entire length of Blue Castle Drive to improve the road condition, also included the following provisions: a) "The OCKWAY HIGHLANDS HOMEOWNERS ASSOCIATION, INC. may admit any owner of property situated on Blue Castle Drive as a full member of the Association, provided that the owner agrees to subject his property to this Declaration of Covenants and Restrictions..." including payment of the annual assessment and b) "The OCKWAY HIGHLANDS HOMEOWNERS ASSOCIATION, INC. may admit any owner of property situated on Blue Castle Drive as a limited member of the Association, provided that such owner agrees to pay a proportionate share of the expenses associated with the maintenance of Blue Castle Drive and a proportionate share of the Association's administrative and operating expenses..."
35. In connection with the Definitive Subdivision Plan application submitted in conjunction with this Special Permit application, the Applicant requested a waiver from Section IX(I) of the Board's Rules and Regulations Governing the Subdivision of Land, which requires that "Sidewalks with a minimum width of 4' shall be installed on at least one side of a street." The final set of plans submitted showed a sidewalk on the north side of Blue Castle drive between the eastern boundary of the Project and Carriage Road, and a sidewalk on the east side of Carriage Road, but no sidewalk on the remainder of Blue Castle Drive to the west of carriage Road. On April 16, 2014 the Board voted unanimously to approve the requested waiver for that section of Blue Castle Drive west of Carriage Road.
36. Pursuant to Section 174-47.B. of the Zoning By-law, approval of this Special permit shall require that the Planning Board makes a finding that the public good will be served and that certain criteria are met. Those criteria include
 1. "The proposed plan will promote the purpose of this section (which are "to encourage the preservation of open space, to reduce the impact of new development on the Town's water quality and natural resources, to promote more efficient use of land and municipal infrastructure, and to protect and promote the health, safety and general welfare of the inhabitants of the town,") and shall be superior to a conventional plan in preserving natural open space, protecting wetlands, wildlife habitats, water quality and other natural resources, utilizing natural features of the land and allowing more efficient provisions for public services." The Board finds that the proposed plan is superior to a conventional plan

in preserving natural open space, protecting wetlands and wildlife habitats and other natural resources, promoting more efficient use of land and municipal infrastructure and using natural features of the land and allowing more efficient provisions for public services. The Board finds that the proposed plan will reduce the impact of new development on the Town's water quality and preserve water quality only as conditioned below by the Board.

2. The Board finds that the total number of lots for building purposes conforms with the provisions of Subsections 174-47.B.2., 9. And 10., provided that the provisions of Subsection 174.B.10. regarding the provision of a deed-restricted home meeting the low-income affordability requirements of MGL c. 40B or the alternative of deeding a lot for said purpose to the Town or to a public or non-profit housing agency or trust are met within three (3) years from the date of the approval of this Special Permit.
 3. The Board finds that the lots for building purposes have been grouped in clusters, and within said clusters are contiguous, and that the proposed open space is sufficiently contiguous within the subdivision and to other existing or proposed open space to the maximum extent practicable and conforms with the provisions of Subsection 174-47.B.8.
 4. The Board finds that the design process sequence specified by Subsection 174-47.B.4. was followed in development of the Project.
 5. The Board finds that the proposed schedule of lot area, frontage, setback and dimensional regulations for building lots are acceptable under the provisions of Subsection 174-47.B.5., as noted in the conditions below, and have been shown on the proposed definitive subdivision plan.
 6. The Board finds that the provisions of Subsection 174-47.B.6. will be met by the Applicant's proposed conveyance of the Project open space to the Mashpee Conservation Commission, subject to the recording of a deed restriction enforceable by an organization, the principal purpose of which is the conservation of open space, at the Barnstable County Registry of deeds restricting it to the uses specified in Subsection 174-47.B.7.
37. Based on the foregoing findings, the Planning Board hereby finds that the Project, as conditioned below, is consistent with applicable state and town regulations, statutes, bylaws and plans, will not adversely affect public health or safety, will not cause excessive demand on community facilities, will not significantly decrease surface or groundwater quality or air quality, will not have a significant adverse impact on wildlife habitat, estuarine systems, traffic flow, traffic safety, waterways, fisheries, public lands or neighboring properties, will not cause excessive levels of noise, vibrations, electrical disturbance, radioactivity or glare, will not destroy or disrupt any species listed as rare, endangered or threatened by the Massachusetts Natural Heritage Program or any known historic or archaeological site, will not produce amounts of trash, refuse or debris in excess of the town's landfill and waste disposal capacities, will properly dispose of stumps, construction debris, hazardous materials and other waste, will provide adequate off-street parking, will not cause excessive erosion or cause increased runoff onto neighboring properties or into any natural river, stream, pond or water body and will not otherwise be detrimental to the town or the area.

V. Conditions

APPROVED PLANS

1. Construction of the Project shall be done only in accordance with the 11-sheet plan set hereby approved by the Planning Board entitled "Proposed Subdivision Plan of Land, Ockway Highlands, in Mashpee, Massachusetts" prepared by Costa Associates, dated July 15, 2013, revision date May 1, 2014, consisting of the following sheets: 1) *Index Sheet*, 2) *Definitive Subdivision Plan*, 3) *Grading Plan*, 4) *Road Profile, Blue Castle (Proposed Improvements)*, 5) *Road Profile, Carriage Road (Proposed)*, 6) *Utility Layout*, 7) *Drainage Area of Contribution*, 8) *Drainage Details 1*, 9) *Drainage Details 2*, 10) *Utility Details* and 11) *Existing Road Improvement Plan*.
2. The "Stormwater Management Plan" regarding maintenance of the roadway drainage and stormwater treatment features indicated on the Project plan shall be attached to this Decision as **Exhibit A** and shall be followed by the Applicant and any successors in title, including the proposed "Ockway Highlands Homeowner's Association, Inc." In addition, any development on the building lots shall conform to the stormwater regulations contained in Section 174-27.2.B.1. of the Zoning By-law.

ALLOWED USES AND AFFORDABLE HOUSING REQUIREMENT

3. Allowed uses shall be single-family residences and accessory structures on 15 lots. One lot shall be deed restricted per Subsection 174-47.B.10. of the Zoning By-law for construction only of a home meeting the low income affordability requirements of MGL c. 40B as it existed on October 18, 2010. The Applicant has designated lot 15 on Degross Road for this purpose and proposed that it be donated to the Town or a public or non-profit housing agency or trust. Said donation may be made to Habitat for Humanity of Cape Cod, Inc., the Mashpee Municipal Affordable Housing Trust, the Mashpee Housing Authority or the Mashpee Affordable Housing Trust, Inc. Said donation shall be completed within three (3) years from the date of approval of this Decision. One additional lot, which shall be lot 4, shall not be built upon or issued a building permit until donation of, and recording of a deed of lot 15 to one of the entities noted above, subject to the noted restrictions. Lot 15 shall not be subject to the Applicant's proposed Declaration of Protective Covenants and Restrictions or be required to join or participate in The "Ockway Highlands Homeowners Association, Inc.", as its frontage lies solely on a Town Road and does not require access over or use of any of the Applicant's proposed private streets and the extra annual cost would run counter to the affordability intent of the Zoning By-law.

DIMENSIONAL REQUIREMENTS APPROVED

4. Pursuant to the provisions of Subsection 174-47.B.5. of the Zoning By-law, the Project shall be subject to the following lot area, frontage and setback requirements: Lot area 10,000 sq. ft., frontage 84 feet, front setback 25 feet, side and rear building setbacks 10

feet (except five feet as otherwise provided in the Zoning By-law for sheds not exceeding 120 square feet in floor area or 12 feet in height).

SIGNAGE

5. Any new freestanding sign identifying the subdivision shall require review by the Design Review Committee and approval by the Planning Board, at a regular meeting, prior to installation. Any on-lot signage shall otherwise conform with the requirements of the Mashpee Zoning By-law.

OPEN SPACE

6. The proposed Open Space lots shall be deeded to the Mashpee Conservation Commission under the provisions of Section 174-47.B.6.(a) per the Applicant's indication by email from Atty. Brian Wall, dated February 19, 2014, and the vote of the Commission at its February 27, 2014 meeting to endorse the conveyance. (It should be noted that said vote is not a final action of the Town, as the deed to the property, once prepared, must be accepted by a majority vote of the Conservation Commission, with said acceptance then approved by a majority vote of the Board of Selectmen, and the recorded document must bear the signatures of the majority of both Boards regarding said votes.) Per Section 174-47.B.7., the deed shall be subject to a restriction enforceable by a non-profit organization, the principal purpose of which is the conservation of open space, which shall be recorded at the Barnstable County Registry of Deeds and which shall provide that such land shall be restricted as specified in Subsections 174-47.B.7.(a), (b) and (c). Said deed shall be recorded prior to the issuance of any building permit within the Project. The deed to the Conservation Commission shall contain appropriate provisions regarding provisions and responsibility for maintenance of any stormwater treatment features lying within the open space lots.

PRIOR TO SIGNATURE OF SPECIAL PERMIT

7. Prior to the Board's endorsement of this decision, the required inspection fee (\$250 + \$.50 per linear foot of roadway) shall be submitted to the Board in care of the Town Planner's office. Based on the other conditions of this Special permit regarding Blue Castle Drive, the fee calculation shall include the length of Blue Castle Drive between the project and Great Neck Road South, as well as the streets within the Project. This fee shall be considered also to meet the inspection fee requirements included in the Board's subdivision regulations regarding the Definitive Subdivision Plan which was filed in conjunction with this Special permit application. Normal inspections covered by this fee include: 1.) drainage inspection; 2.) gravel inspection; 3.) inspection of paving binder course; 4.) inspection of paving finish course; and 5.) final inspection for roadways. A \$100 re-inspection fee will be charged for additional inspections beyond those listed that are made necessary due to unsatisfactory materials or construction methods found at the time of the initial inspection.

TRAFFIC MITIGATION

8. Due to the increase in traffic caused by the Project in the area of Degross Road and the safety concerns addressed to the Board by residents of that neighborhood, the Applicant

shall 1) pay for any costs associated with installing four-way stop signs at the intersections of Degross Road with Tracy Lane and with Gia Lane, provided that said four-way stop signs are approved by the Mashpee Board of Selectmen upon petition of said residents, and 2) contribute \$3000 to a donation account to be held by the Town under MGL c.44, Section 53A for the specific purpose of acquisition and installation by the Town of a portable radar speed sign, such as a Traffic Logix Corp. SP 100 with Solar Panel and 3-Cell Battery back-up, with a universal mounting bracket and pole plates, as described in an email dated February 27, 2014 to the Town Planner from Joanna Van Der Veen of Traffic Logix, or a similar portable radar speed sign, along with any necessary post and installation, to be used on Degross Road to help slow cut-through traffic in the neighborhood, but which may also be used as appropriate by the Town on occasion in other locations. Any remainder in said donation account after purchase and installation of said portable radar speed sign shall be returned to the Applicant.

PUBLIC SAFETY MITIGATION

9. Based on the recommendations of the Plan Review Committee, which includes representatives from the Police and Fire Departments, the Town Manager and the Mashpee Department of Public Works, the previously-noted memo from Capt. Scott Carline of the Mashpee Police Department, the concerns expressed by residents of Blue Castle Drive and other abutters at the public hearings, and to avoid an effective "dead-end" in excess of 800 feet as prohibited by the Planning Board's Rules and Regulations Regarding the Subdivision of Land, and to satisfy the requirement of Subsection 174-24.C.2. of the Zoning By-law that the Project not adversely affect public health or safety, the Applicant shall upgrade and maintain the portion of Blue Castle Drive between the Project and Great Neck Road South by re-grading Blue Castle Drive in its current location, subject to obtaining whatever right, title or interest to do so is necessary from any landowners where said location lies outside the recorded layout of Blue Castle Drive, including, but not limited to, an easement from the owner of 8 Blue Castle Drive, so that it constitutes an all-weather surface roadway, constructed by any combination and manipulation of soils, with or without admixtures, which produce a firm mass capable of supporting fire apparatus in all weather conditions and having an improved surface width of at least sixteen (16) feet and a cleared width of twenty (20) feet as shown on the plan submitted by the Applicant entitled "Existing Road Improvement Plan", Sheet 11 of 11, dated 5/1/14, prepared by Costa Associates, Inc., P.O. Box 128, 465 East Falmouth Highway, East Falmouth, Massachusetts 02536. All of said work shall be completed prior to the issuance of any occupancy permit for any residence within the subdivision, except for the required affordable house on Lot 15. This requirement for reconstruction and / or re-grading of a portion of Blue Castle Drive is not, and should not be interpreted as, a finding by the Planning Board that said section of roadway is approved by the Planning Board as a principal means of adequate access to abutting property, that said section of roadway constitutes a "Street" under the provisions of Section 174-3 of the Mashpee Zoning By-law or a finding under Section 174-12 of the Mashpee Zoning By-law that a building permit may be issued on any lot abutting said section of roadway.
10. Per the Applicant's agreement to do so, the portion of Blue Castle Drive between the Project and Great Neck Road South shall be maintained on an annual basis at the

expense of the Applicant, or the proposed "Ockway Highlands Homeowner's Association, Inc." once it is established, by grading so as to preserve the crown of the road and the swales on each side as depicted in the cross section detail shown on the approved plans, so that it continues to provide the roadway capable of supporting fire apparatus in all weather conditions as specified in the previous Condition. Maintenance of Blue Castle Drive also includes inspection and cleaning as necessary of the drainage facilities located on the northerly side of Blue Castle Drive near the intersection with Great Neck Road South.

WATER QUALITY MITIGATION

11. The Applicant's Water Quality Report indicates that, even with its projected benefit from reduction in lawn size from a theoretical 5000 sq. ft. down to 2500 sq. ft. and inclusion of a provision in the Project association's Covenants and Restrictions requiring that all lawns and all lawn maintenance shall comply with the "Lawn Standards" issued by the Mashpee Conservation Commission, the Project will increase nitrogen loads to Ockway Bay by 81.55 kg/yr, primarily due to the 62.07% of the Project's nitrogen load originating from the Project's proposed Title 5 septic systems. In order to mitigate that negative impact on estuarine water quality the applicant shall either 1) install denitrifying on-site or cluster septic systems, approved by the Mashpee Board of Health, for all residences in the Project except the one lot to be deeded for affordable housing or 2) contribute \$14,000 to a donation account, to be held by the Town under MGL c.44, Section 53A, for the specific purpose of the planting by the Mashpee Shellfish Department of quahog shellfish seed in an appropriate location in Ockway Bay (480,000 1/4 inch little neck quahog seeds at 2.8¢ each plus approximately \$600 for protective netting to minimize predation, totaling approximately \$14,000 per the estimate by the Mashpee Shellfish Constable mentioned previously), as an alternative to on-site or clustered denitrifying septic systems.
12. The subdivision must apply for and obtain an approved nitrogen aggregation plan from the Mashpee Board of Health and the Massachusetts Department of Environmental Protection Division of Wastewater management to obtain three-bedrooms per lot. Said approval shall be required before the issuance of building permits for any residences in the Project. The required aggregation plan shall include the required affordable housing lot, so that it is permissible for a three-bedroom house.
13. Lawn size shall be limited to 2500 square feet and all lawn maintenance shall comply with the "Lawn Standards" issued by the Mashpee Conservation Commission. Only organic fertilizers may be used within the development and any pesticides used shall be of a type approved by the Town of Mashpee Board of Health and applied by licensed applicators. Use of fertilizers and pesticides shall be minimized and the use of natural pest control methods is encouraged.

GENERAL CONDITIONS

14. Construction activities shall not customarily take place in connection with this project (i) before 7 a.m. or after 6 p.m. Monday through Saturday, or (ii) on Sundays or holidays.
15. No de-icing chemicals other than a mixture of sand and calcium chloride or sand alone shall be used on any roadways, driveways or other impervious surfaces of the Project.
16. The applicant shall require that all construction personnel working on the project shall be familiar with, and comply with, the provisions of MGL c. 38, Section 6(b) regarding the discovery of human remains.
17. All conditions of this Special Permit shall be binding not only on the Applicant but also on all successors in interest and assigns of the Applicant.
18. No building or occupancy permits may be issued while there exists any substantial violation of the conditions of this Special Permit unless the Board, by a favorable vote of four members at a regular meeting, should allow such issuance.
19. Within sixty (60) days of the Board's endorsement of this decision, the applicant shall provide the Board and the Mashpee Building Inspector with copies of this Special Permit decision as recorded with the Barnstable County Registry of Deeds, showing the Book and Page at which it is recorded or its recordation number. This decision shall not take effect, and no work may be commenced on construction of this project until this decision has been so recorded.

VI. Expiration, Extension or Modification

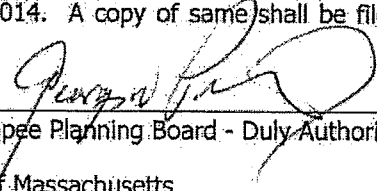
Pursuant to Massachusetts General Law, Chapter 40A, Section 9 and Article IX, Subsection 174-47.C.(5) of the Mashpee Zoning Bylaw, this Special Permit shall lapse within 2 years, which shall not include such time required to pursue or wait the determination of any appeal from the grant hereof, if a substantial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

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

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

VII. Signature and Filing

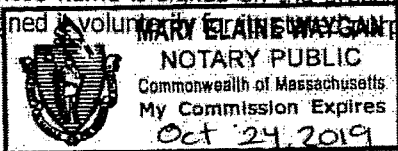
This Special Permit decision document, which incorporates by reference herein all attachments and plans, has been approved on this 7th day of May, 2014. A copy of same shall be filed with the Town Clerk in accordance with applicable law.

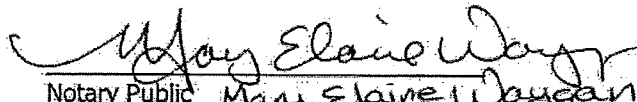

Mashpee Planning Board - Duly Authorized Member

Commonwealth of Massachusetts


Barnstable, ss

On this 7th day of May, 2014, before me, the undersigned notary public, personally appeared George Petersen, a member of the Mashpee Planning Board, proved to me through satisfactory evidence of identification, which were personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he/she) signed it voluntarily.





Notary Public Mary Elaine Weygan
My Commission Expires: Oct 24, 2019

A copy of this decision and the accompanying plans endorsed by the Planning Board has been duly filed on May 8, 2014 with the Town Clerk of Mashpee.


Town Clerk

Notice of this decision was mailed on May 9, 2014 to the applicant, to the parties in interest designated in Massachusetts General Law, Chapter 40A, Section 11 and all persons at the hearing who requested such notice. Any appeal should be made pursuant to Section 17 of Chapter 40A of the Massachusetts General Laws 20 days after the date of such filing.

I, Debra Dami, Town Clerk of the Town of Mashpee, hereby certify that a copy of this decision and the accompanying plans endorsed by the Planning Board were filed with the office of the Town Clerk on May 8, 2014 and that no appeal of that decision was filed within 20 days thereafter.


Town Clerk
Date: June 2, 2014

Upon expiration of the statutory appeal period with no appeal having been filed, this Special Permit decision has been endorsed by the undersigned members of the Mashpee Planning Board on May 4, 2014 and may be recorded.

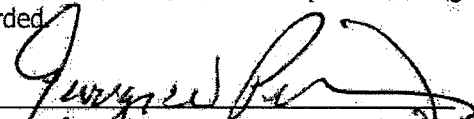
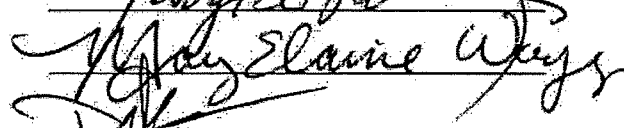
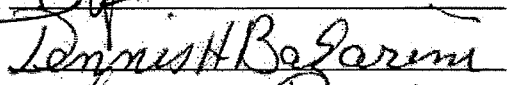

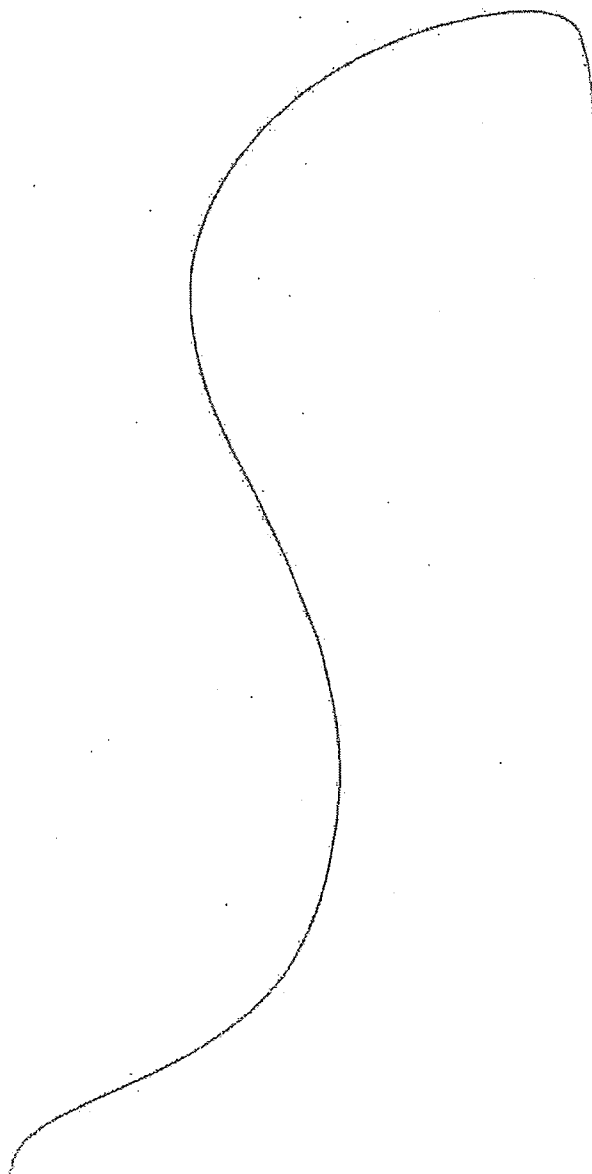





Exhibit A





COSTA ASSOCIATES, INC.

465 East Falmouth Hwy / P.O. Box 128
East Falmouth, MA 02536
p: 508.548.6424 | f: 508.548.0350

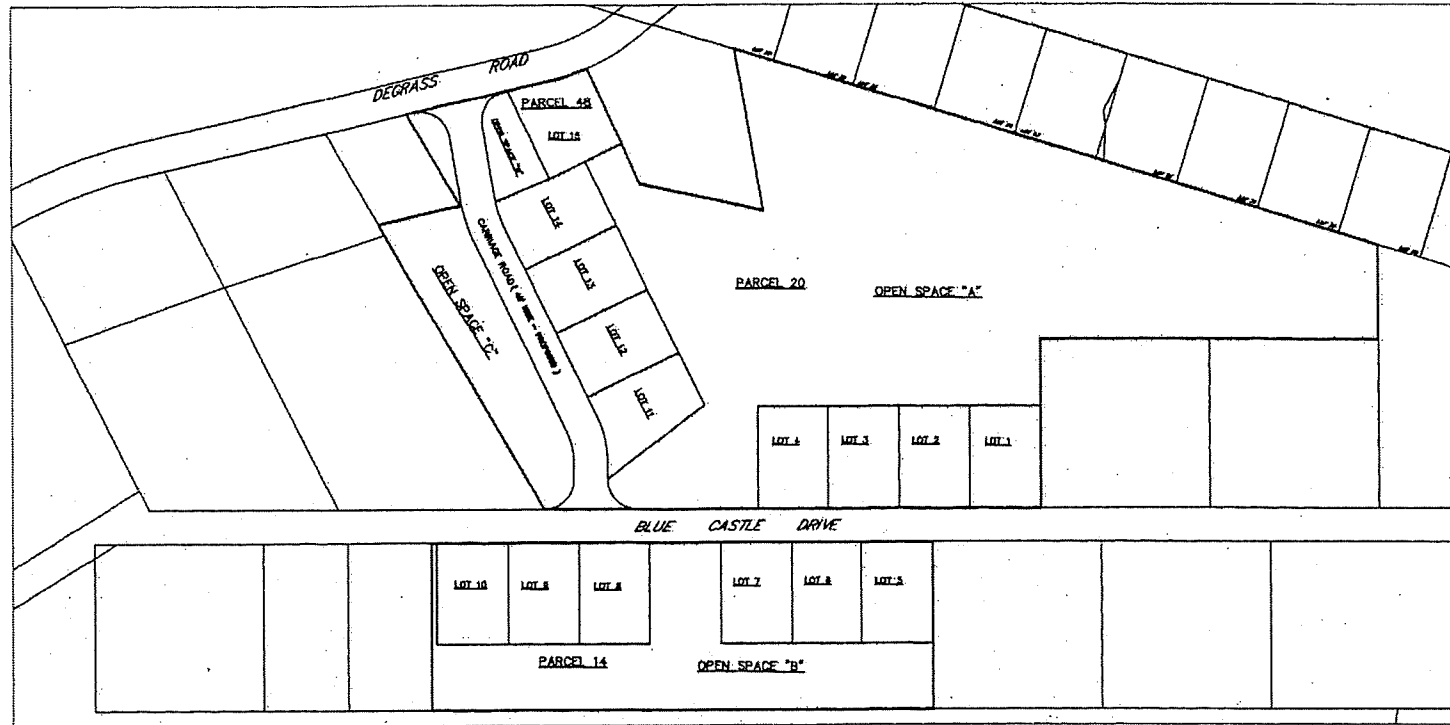
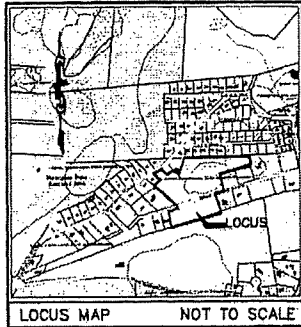
Ockway Highlands

Page 1 of 1

STORMWATER MANAGEMENT PLAN

The following maintenance items shall be completed for the Ockway Highlands Subdivision as part of the Stormwater Management Plan.

1. All grass areas below the full level of swale and forebay shall be planted on 12" of a 50% loam and 50% sand mixture. Hydro-seed and or fiber mats shall be used to stabilize slopes and irrigation supplied as needed until vegetation has been full established.
2. All catch basins, forebay and swale areas shall be protected during construction through methods approved by engineer to prevent the buildup of sediment and during construction. Any sediment accumulation from construction activities shall be corrected before final construction is approved.
3. Inspect swales monthly for six months after installation or until vegetation becomes adequately established. Thereafter, inspect swales semi-annually, inspection shall include slope integrity, soil moisture, vegetative health, soil stability, soil compaction, soil erosion, pending and sedimentation.
4. Street sweeping shall be completed annually after construction as needed and basins inspected.
5. Regular maintenance shall include cleaning basins when sediment is greater than 2' deep, mowing, fertilizing, liming, watering, weeding, and pest control.
6. Mow swales at least once per year to a length of not less than 4 inches. Grass height shall not exceed 6 inches.
7. Annually remove sediment and debris at least once per year, and periodically re-seed, if necessary, to maintain a dense growth of vegetation.




OCKWAY HIGHLANDS

PLAN INDEX

- SHEET 1 - INDEX PLAN
- SHEET 2 - DEFINITIVE SUBDIVISION PLAN
- SHEET 3 - GRADING PLAN
- SHEET 4 - ROAD PROFILE (BLUE CASTLE)
- SHEET 5 - ROAD PROFILE (CARRIAGE ROAD)
- SHEET 6 - UTILITY LAYOUT
- SHEET 7 - DRAINAGE AREA OF CONTRIBUTION
- SHEET 8 - DRAINAGE DETAILS 1
- SHEET 9 - DRAINAGE DETAILS 2
- SHEET 10 - UTILITY DETAILS
- SHEET 11 - EXISTING ROAD IMPROVEMENT PLAN



3- 5/1/14 SHEET 11 REVISED				
2.	4/18/14	ADDED SIDE WALKS AND SHEET 11	MCC	CC
1.	2/5/14	REVISED AS PER PLANNING BOARD COMMENTS	MCC	CC
REVISION	DATE	DESCRIPTION	BY	APPR
APPLICANT:				
BCDM LLC.				
68 CHARLES STREET, SUITE 216				
BOSTON, MA. 02114				
OWNER OF RECORD:				
BCDM LLC.				
68 CHARLES STREET, SUITE 216				
BOSTON, MA. 02114				
PROJECT:				
PROPOSED SUBDIVISION OF LAND				
"OCKWAY HIGHLANDS"				
IN				
MASHPEE, MASSACHUSETTS				
SHEET NO.: 1 OF 11		DATE: JULY 16, 2013		
SCALE: As Noted		PRG FILE: BLUECASTLE_07_BCDM		
DRAWN BY: MCC		CHECKED BY: CHRISTOPHER COSTA, PLS		
PREPARED BY:				
				
Costa Associates, Inc.				
CIVIL ENGINEERING • LAND SURVEYING • ENVIRONMENTAL CONSULTING				
800 Falmouth Road, Suite 301C				
Mashpee, MA 02549				
508.548.6424 PHONE				
508.548.0350 FAX				
www.costaassociates.com				
DRAWING TITLE:				
INDEX SHEET				
ASSESSORS INFORMATION: PARCELS 104-20-0-R, 104-48-0-R, 104-14-0-R				



APPROVED 5-1-14
SIGNED C-A-14

104-14-01 A

I HEREBY CERTIFY THAT THIS PLAN WAS MADE IN ACCORDANCE WITH MASHPEE SUBDIVISION REGULATIONS, WITH LAND COURT STANDARDS OF ACCURACY AND THAT THE PERMANENT POINTS SHOWN ON THE PLAN ARE IN EXISTENCE ON THE GROUND.

Christopher Costa 4/11/14
CHRISTOPHER COSTA P.L.S. DATE

I, CLERK OF THE TOWN OF MASHPEE, HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE TOWN OF MASHPEE PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND THAT NO APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.

MASHPEE TOWN CLERK DATE

APPROVAL IN ACCORDANCE WITH THE SUBDIVISION CONTROL LAW.

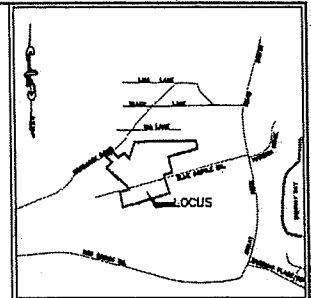
DATE APPROVED DATE SIGNED

MASHPEE PLANNING BOARD

THIS PLAN IS SUBJECT TO A COVENENT DATED AND ATTACHED HERE TO

I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS FOR FILING PLANS IN THE MASSACHUSETTS REGISTRY OF DEEDS.

Christopher Costa 4/11/14
CHRISTOPHER COSTA P.L.S. DATE



LINE TABLE		
LINE	LENGTH	BEARING
L1	8.33	S59°02'45"W
L2	3.54	N59°02'45"E
L3	20.40	N18°00'06"W
L4	20.40	N18°00'06"W
L5	6.35	S71°59'54"W

CURVE TABLE		
CURVE	LENGTH	RADIUS
C1	6.28	130.00

PROPOSED SETBACKS

BUILDING SETBACKS		
FRONT	SIDE	REAR
25'	10'	10'

OPEN SPACE "A"
243,661± S.F.

FORMERLY PARCEL 20
#57 Blue Castle Drive
8.81 ± ACRES
384,092 ± S.F.

GENERAL NOTES

PLAN REFERENCE:
PLAN BOOK 595 PAGES 87,88
PLAN BOOK 241 PAGE 119 SHEETS 1-3
PLAN BOOK 236 PAGES 11-13

ZONING DISTRICT: R3

FLOOD ZONE: NON-HAZARD FLOOD ZONE C

DEP MAPPED ZONE II WELL RECHARGE AREA

SUBDIVISION CALCULATIONS:
TOTAL AREA OF PARCELS 14,20.48 = 11.78 AC. (513,275 S.F.)

LESS:
WATER BODIES AND WETLANDS = 0 S.F.
AREA OF PROPOSED STREETS = 21,598 S.F.
RIGHTS OF WAY OR EASEMENTS 20 FEET OR MORE = 0 S.F.

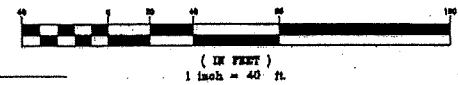
TOTAL AREA EXCLUDED = 21,598 S.F.

ALLOWABLE AREA (513,275 - 21,598) = 491,677 S.F.
LOT AREA REQUIRED = 40,000 S.F.
NUMBER OF LOTS PERMISSIBLE = 12.29

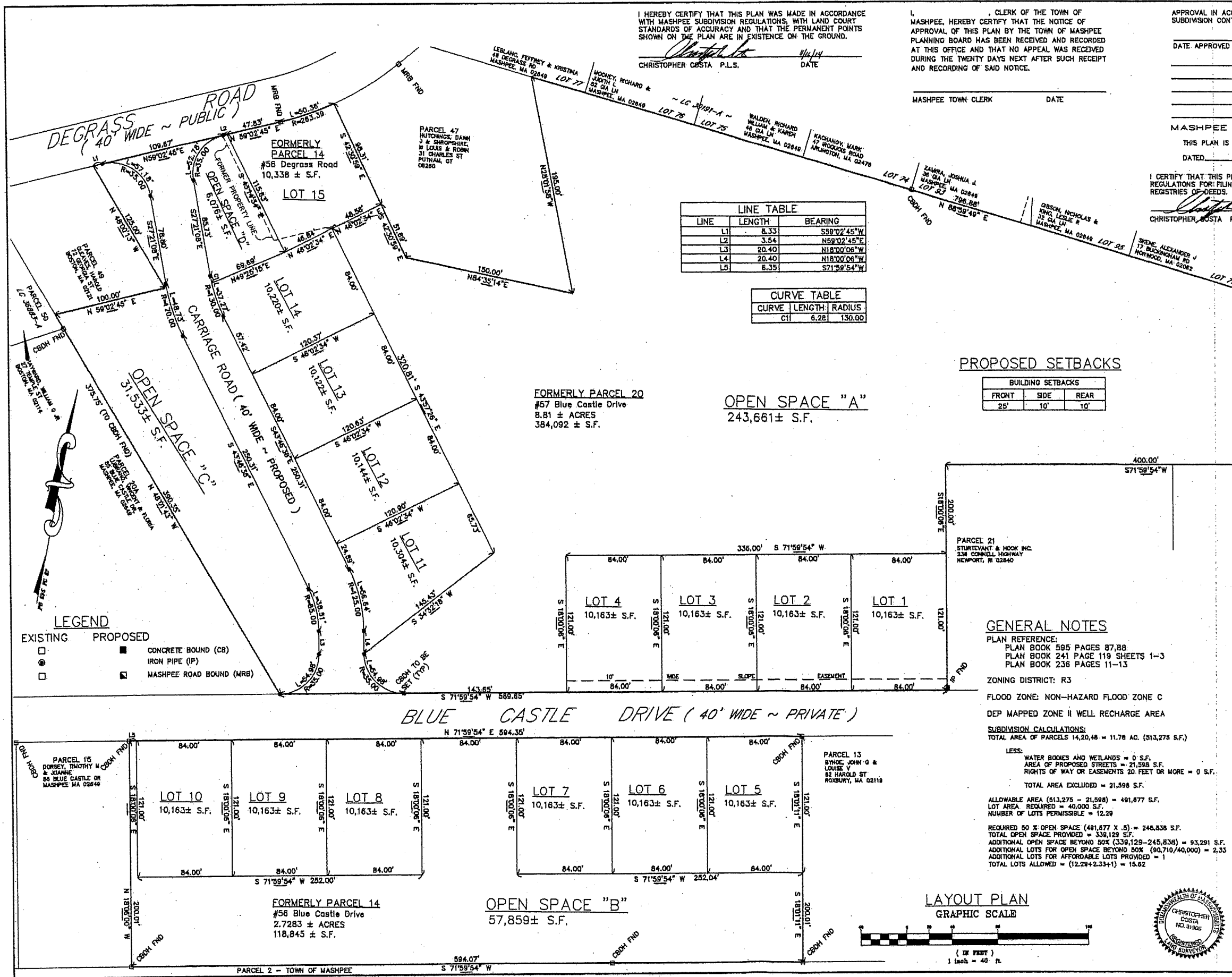
REQUIRED 50% OPEN SPACE (491,677 X .5) = 245,838 S.F.
TOTAL OPEN SPACE PROVIDED = 339,129 S.F.
ADDITIONAL OPEN SPACE BEYOND 50% (339,129 - 245,838) = 93,291 S.F.
ADDITIONAL LOTS FOR OPEN SPACE BEYOND 50% (93,291/40,000) = 2.33
ADDITIONAL LOTS FOR AFFORDABLE LOTS PROVIDED = 1
TOTAL LOTS ALLOWED = (12.29 + 2.33 + 1) = 15.62

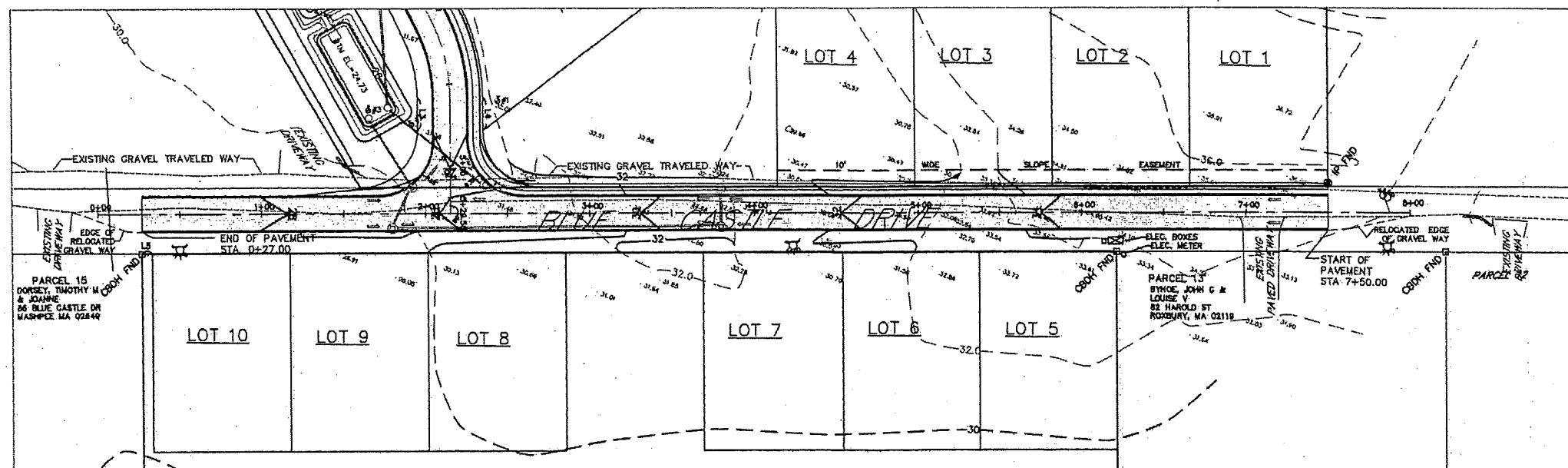
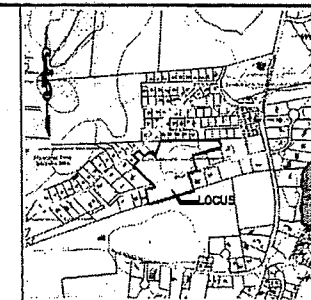
LAYOUT PLAN

GRAPHIC SCALE



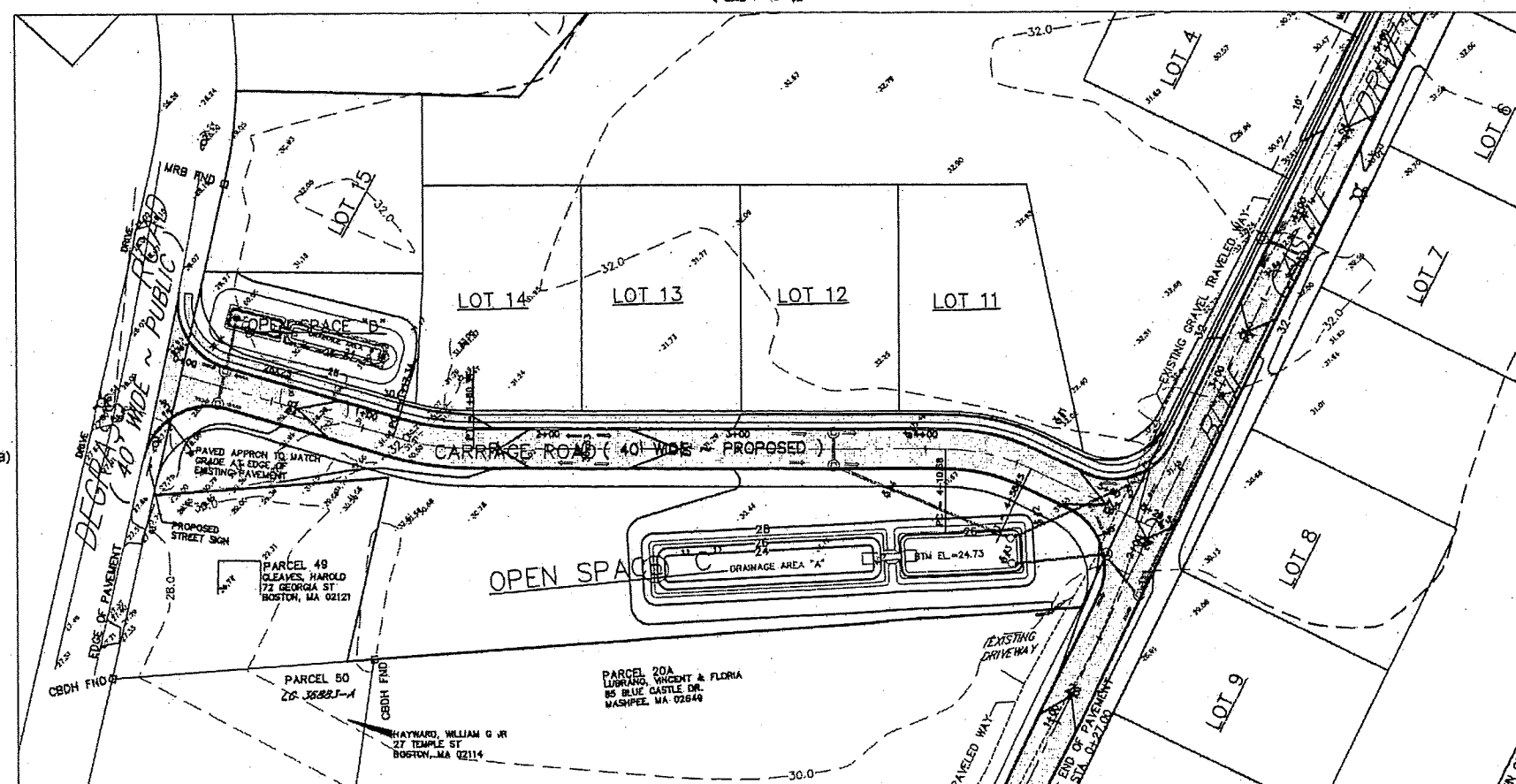
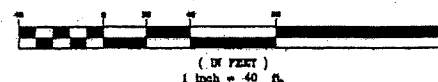
2.	2/5/14	REVISED AS PER PLANNING BOARD COMMENTS	MCC	CC			
1.	9/10/13	REVISED PROPOSED ROAD LAYOUT	MCC	CC			
REVISION	DATE	DESCRIPTION	BY	APPR			
APPLICANT: BCDM LLC. 66 CHARLES STREET, SUITE 215 BOSTON, MA 02114							
OWNER OF RECORD: BCDM LLC. 66 CHARLES STREET, SUITE 215 BOSTON, MA 02114							
PROJECT: PROPOSED SUBDIVISION OF LAND #56 & #57 BLUE CASTLE DRIVE #56 DEGRASS ROAD IN MASHPEE, MASSACHUSETTS							
SHEET NO.: 2 OF 11		DATE: JULY 15, 2013					
SCALE: As Noted		PRO FILE: BLUECASTLE_ST_BODM					
DRAWN BY: MATTHEW C. COSTA, R.S.		CHECKED BY: CHRISTOPHER COSTA, P.L.S.					
PREPARED BY:							
Costa Associates, Inc. CIVIL ENGINEERING • LAND SURVEYING • ENVIRONMENTAL CONSULTING							
800 Fairmount Road, Suite 301C Mashpee, MA 02549		508.548.6424 PHONE 508.548.0350 FAX www.CostaAssociates.com					
DRAWING TITLE: DEFINITIVE SUBDIVISION PLAN							
ASSESSORS INFORMATION: PARCELS 104-20-0-R, 104-48-0-R, 104-14-0-R							





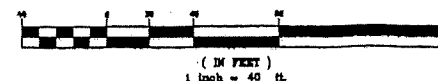
LAYOUT PLAN

GRAPHIC SCALE



LAYOUT PLAN

GRAPHIC SCALE



I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND BETWEEN MARCH 1 AND JULY 1, 2013. ELEVATIONS SHOWN HEREON ARE BASED ON AN ASSUMED DATUM AND CORRELATED TO TOWN TOPOGRAPHIC INFORMATION. THERE ARE NO FEMA BENCHMARKS OR MASSACHUSETTS COORDINATE SYSTEM CONTROL POINTS LOCATED WITHIN 1000 FEET OF THE SITE.

CHRISTOPHER COSTA, PLS

4/16/14 DATE



REVISION	DATE	DESCRIPTION	BY	APPR.
3.	4/16/14	ADDED SIDE WALKS AND SHEET 11	MCC	CC
2.	2/5/14	REVISED AS PER PLANNING BOARD COMMENTS	MCC	CC
1.	9/10/13	REVISED PROPOSED ROAD AND PROPOSED IMPROVEMENTS	MCC	CC

APPLICANT: BCDM LLC.
68 CHARLES STREET, SUITE 215
BOSTON, MA. 02114

OWNER OF RECORD: BCDM LLC.
68 CHARLES STREET, SUITE 215
BOSTON, MA. 02114

PROJECT: PROPOSED SUBDIVISION OF LAND
"OCKWAY HIGHLANDS"
IN
MASHPEE, MASSACHUSETTS

SHEET NO.: 3 OF 11 DATE: JULY 16, 2013

SCALE: As Noted PRG FILE: BLURCASTLE_ST_BCDM

DESIGN BY: MATTHEW C. COSTA, R.S. CHECKED BY: CHRISTOPHER COSTA, PLS

PREPARED BY:

Costa Associates, Inc.
CIVIL ENGINEERING • LAND SURVEYING • ENVIRONMENTAL CONSULTING

P.O. Box 128 / 465 East Falmouth Hwy. 508.548.5424 PHONE
East Falmouth, MA 02536 508.548.0350 FAX www.CostaAssociates.com

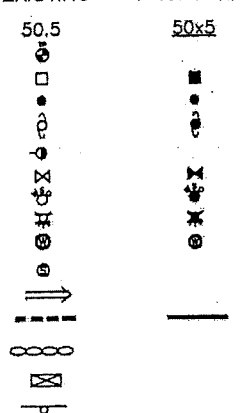
DRAWING TITLE:

GRADING PLAN

ASSESSORS INFORMATION: PARCELS 104-20-0-R, 104-48-0-R, 104-14-0-R

LEGEND

EXISTING PROPOSED



SPOT GRADE
TEST PIT (TP)
CONCRETE BOUND (CB)
SPIKE (SPK)
UTILITY POLE (UP)
GUY WIRE
WATER GATE (WG)
WATER SERVICE (WS)
FIRE HYDRANT
WELL
SEPTIC
FLOW DIRECTION
WATER MAIN
STONE WALL
UTILITY BOX
STREET SIGN

ROAD CONSTRUCTION REQUIREMENTS

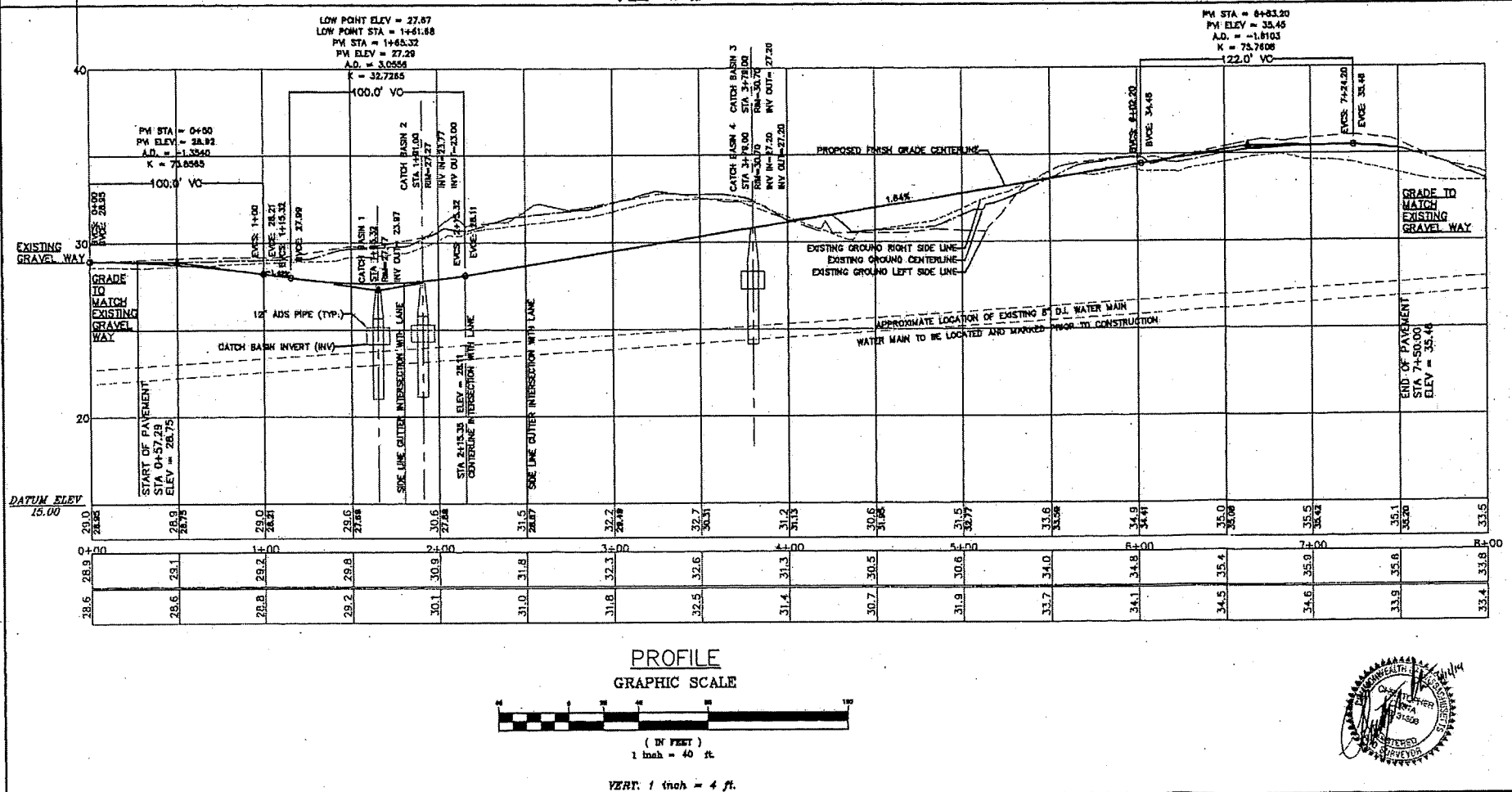
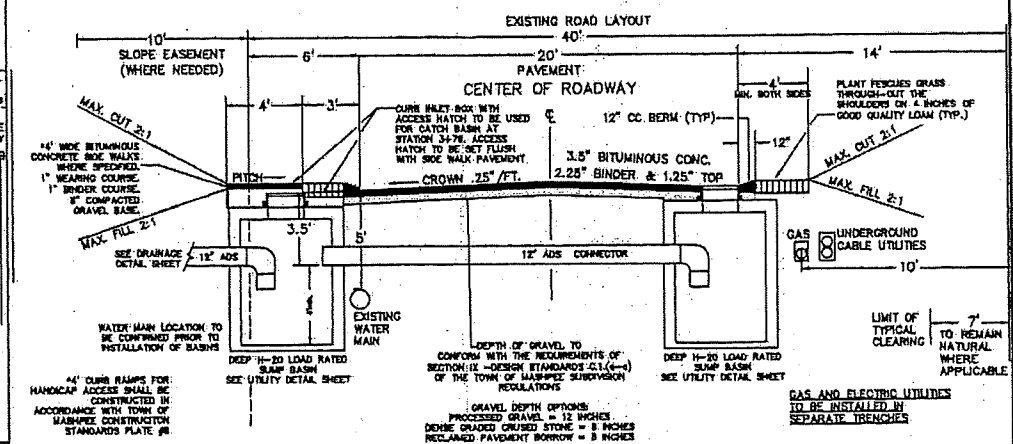
IT SHALL BE THE RESPONSIBILITY OF THE SUBDIVIDER TO NOTIFY THE
J. APPROPRIATE TOWN DEPARTMENTS AND THE DESIGN ENGINEER FOR
ROADWAY CONSTRUCTION INSPECTIONS.

DIG SAFE AND ENGINEER ARE TO BE NOTIFIED 72 HRS. PRIOR TO
COMMENCEMENT OF WORK.

ALL UTILITIES MUST BE LOCATED AND MARKED PRIOR TO
COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES.

ROAD CONSTRUCTION TO COMPLY WITH THE TOWN OF WASHPEE RULES
AND REGULATIONS GOVERNING SUBDIVISION OF LAND DESIGN
STANDARDS, EXCEPT WHERE NOTED.

*SEE SHEET 6 OF 10 FOR ROAD CONSTRUCTION NOTES



TYPICAL ROADWAY CROSS SECTION
NOT TO SCALE

3.	4/18/14	ADDED SIDE WALKS AND SHEET 11	MCC	CC
2.	2/3/14	REVISED AS PER PLANNING BOARD COMMENTS	MCC	CC
1.	9/10/13	REVISED PROPOSED ROAD AND PROPOSED IMPROVEMENTS	MCC	CC
REVISION	DATE	DESCRIPTION	BY	APPR.

APPLICANT: **BCDM LLC.**
86 CHARLES STREET, SUITE 215
BOSTON, MA 02114

OWNER OF RECORD:	BCDM LLC. 66 CHARLES STREET, SUITE 216 BOSTON, MA. 02114
------------------	--

PROJECT: PROPOSED SUBDIVISION OF LAND
"OCKWAY HIGHLANDS"
IN
MASHPEE, MASSACHUSETTS

SHEET NO.: 4 OF 11	DATE: JULY 16, 2013
SCALE: As Noted	PRG FILE: BLUECASTLE_BT_BCDM
DESIGN BY: MATTHEW C. COSTA, R.S.	CHECKED BY: CHRISTOPHER COSTA, PLS

PREPARED BY: _____



P.O. Box 128 / 465 East Fairmount Hwy.
Rocky Hill, CT 06256

508.548.6424 PHONE
508.548.0750 FAX

www.CostaAssociates.com

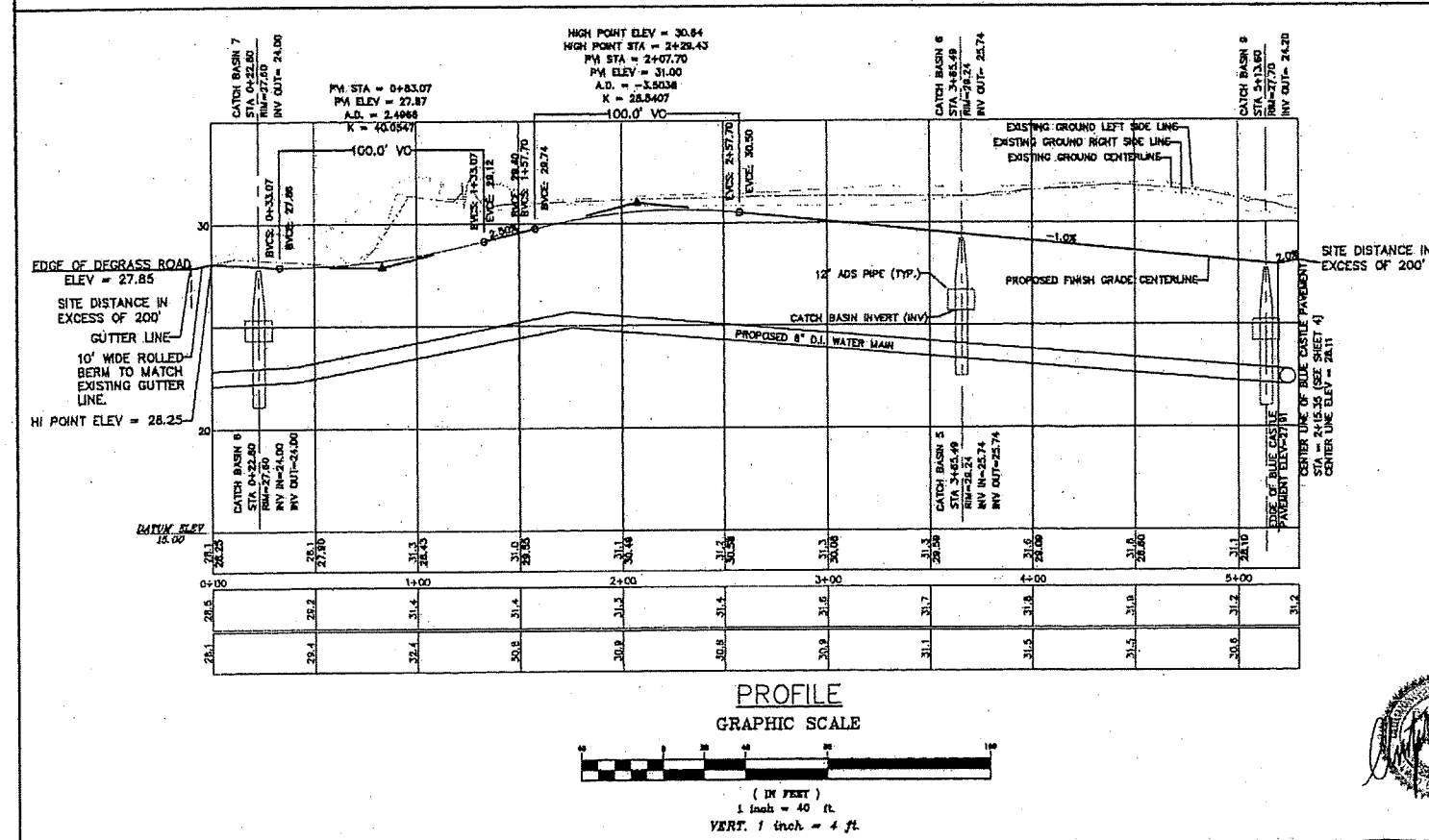
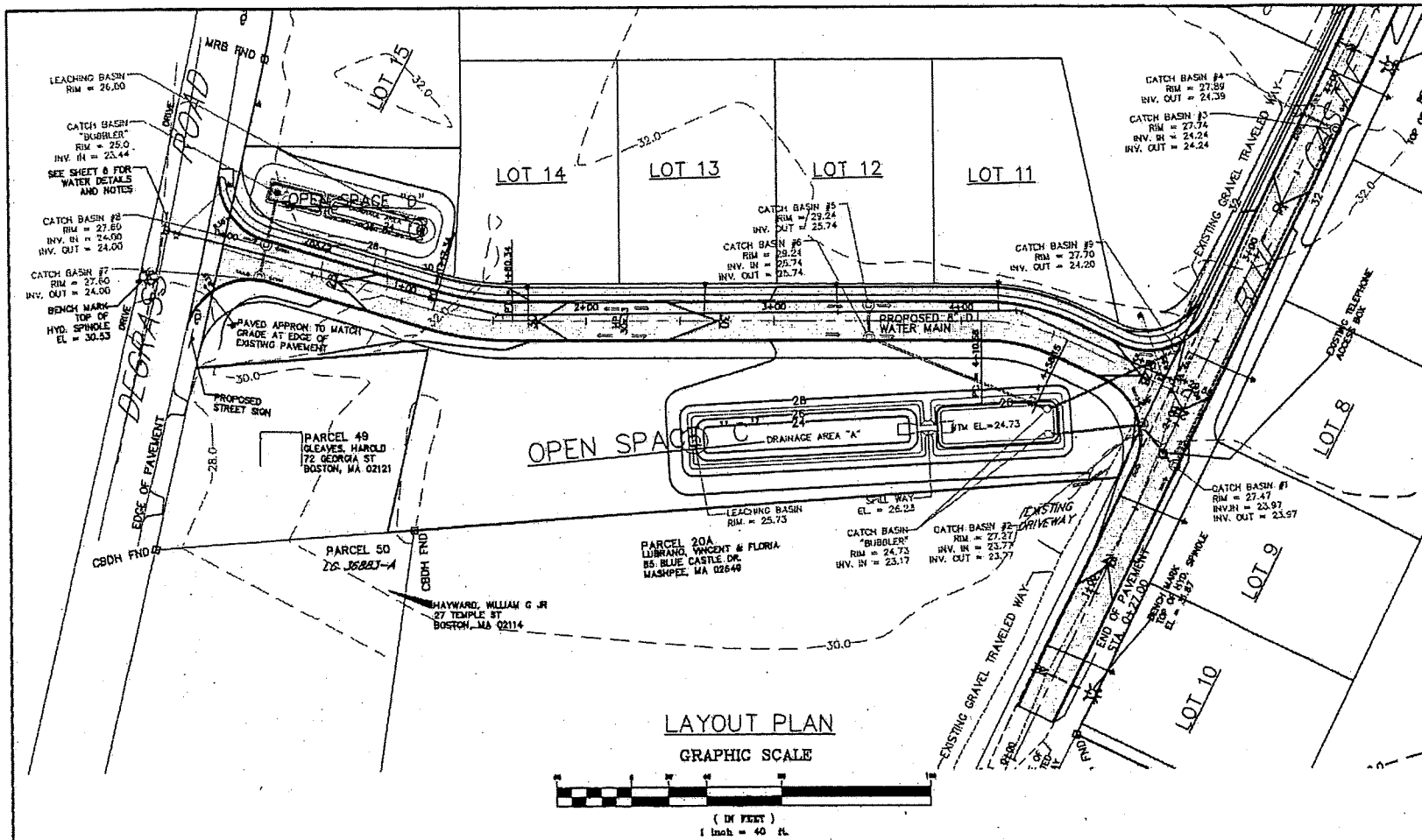
DRAWING TITLE:
ROAD PROFILE
BLUE CASLTE (PROPOSED IMPROVEMENTS)

ASSESSORS INFORMATION: PARCELS 104-20-0-R, 104-48-0-R, 104-14-0-R

LEGEND

EXISTING	PROPOSED
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99	99
100	100

- | | | |
|------|--------|---------------------|
| 50x5 | 50x5x5 | SPOT GRADE |
| | | TEST PIT (TP) |
| | | CONCRETE BOUND (CB) |
| | | SPIKE (SPK) |
| | | UTILITY POLE (UP) |
| | | LIGHT |
| | | WATER GATE (WG) |
| | | WATER SERVICE (WS) |
| | | FIRE HYDRANT |
| | | WELL |
| | | SEPTIC |
| | | FLOW DIRECTION |
| | | WATER MAIN |
| | | STONE WALL |
| | | UTILITY BOX |
| | | STREET SIGN |



ROAD CONSTRUCTION REQUIREMENTS

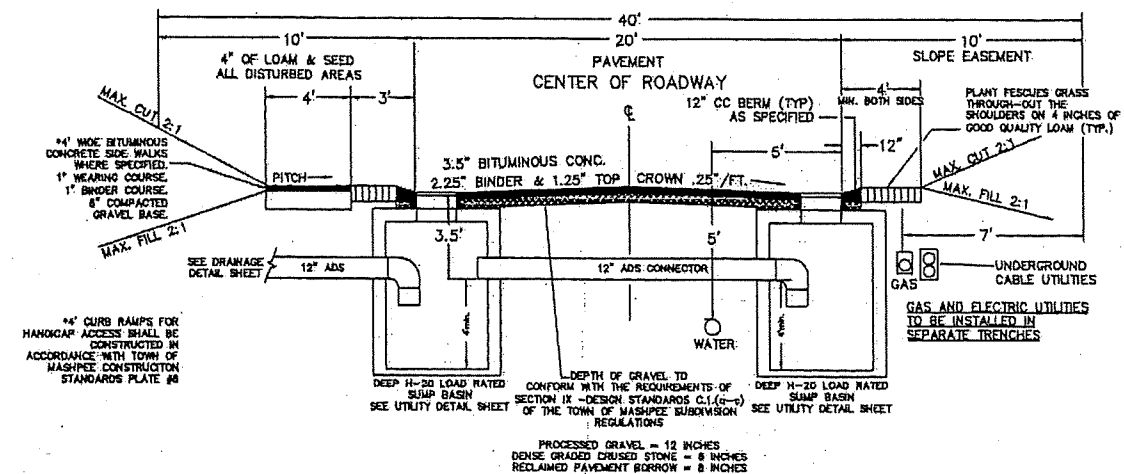
IT SHALL BE THE RESPONSIBILITY OF THE SUBDIVIDER TO NOTIFY THE APPROPRIATE TOWN DEPARTMENTS AND THE DESIGN ENGINEER FOR ROADWAY CONSTRUCTION INSPECTIONS.

DIG SAFE AND ENGINEER ARE TO BE NOTIFIED 72 HRS. PRIOR TO COMMENCEMENT OF WORK.

ALL UTILITIES SHALL BE LOCATED AND MARKED PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES.

ROAD CONSTRUCTION TO COMPLY WITH THE TOWN OF MASHPEE RULES AND REGULATIONS GOVERNING SUBDIVISION OF LAND DESIGN STANDARDS, EXCEPT WHERE NOTED.

IT SHALL BE THE RESPONSIBILITY OF THE SUBDIVIDER TO OBTAIN THE NECESSARY ENTRANCE PERMIT FROM THE TOWN OF MASHPEE DEPARTMENT OF PUBLIC WORKS FOR ALL PROPOSED ROADS CONNECTING WITH PUBLIC WAYS OR TOWN WAYS WITHIN THE TOWN.



ROAD CONSTRUCTION NOTES

WHERE THE SUB-SOIL WITHIN THE ROAD LAYOUT CONSISTS OF PEAT OR A SIMILAR SPONGY MATERIAL, IT SHALL BE EXCAVATED TO A DEPTH OF NOT LESS THAN 5 FEET MORE THAN THE WIDTH OF THE FINISH SURFACE, AND REPLACED WITH SOLID FILL AS NECESSARY TO SUPPORT THE FINISHED ROADWAY AND AS OUTLINED IN MASHPEE SUBDIVISION REGULATIONS FOR ROAD FOUNDATION.

THE AREAS BETWEEN THE FINISHED SURFACE AND THE OUTER BOUNDARIES OF THE LAYOUT SHALL BE CLEARED OF ALL BRUSH, STUMPS, DEBRIS AND ALL TREES, STONES, OR SHRUBS NOT SUITABLE FOR RETENTION FOR SHADE OR ORNAMENTAL PURPOSES. WHERE FEASIBLE, SHADE TREES 6" IN DIAMETER OR LARGER SHALL NOT BE REMOVED.

ROAD BASES SHALL CONSIST OF BASE AS OUTLINE IN THE MASHPEE SUBDIVISION REGULATIONS FOR ROAD BASE (SECTION IX, ROAD CONSTRUCTION STANDARDS C.1.(a-c)) PROPERLY SHAPED AND COMPACTED.


NO PAVING SHALL BE PLACED ON ROAD BASE MATERIAL OF ANY KIND UNTIL IT HAS BEEN INSPECTED AND APPROVED BY THE BOARD OR ITS DESIGNEE AND UNTIL THE APPLICANT'S ENGINEER CERTIFIES THAT THE MATERIAL COMPLIES WITH THE SPECIFICATIONS OF ABOVE REFERENCED SECTION IX.

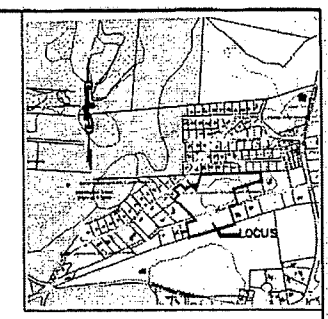
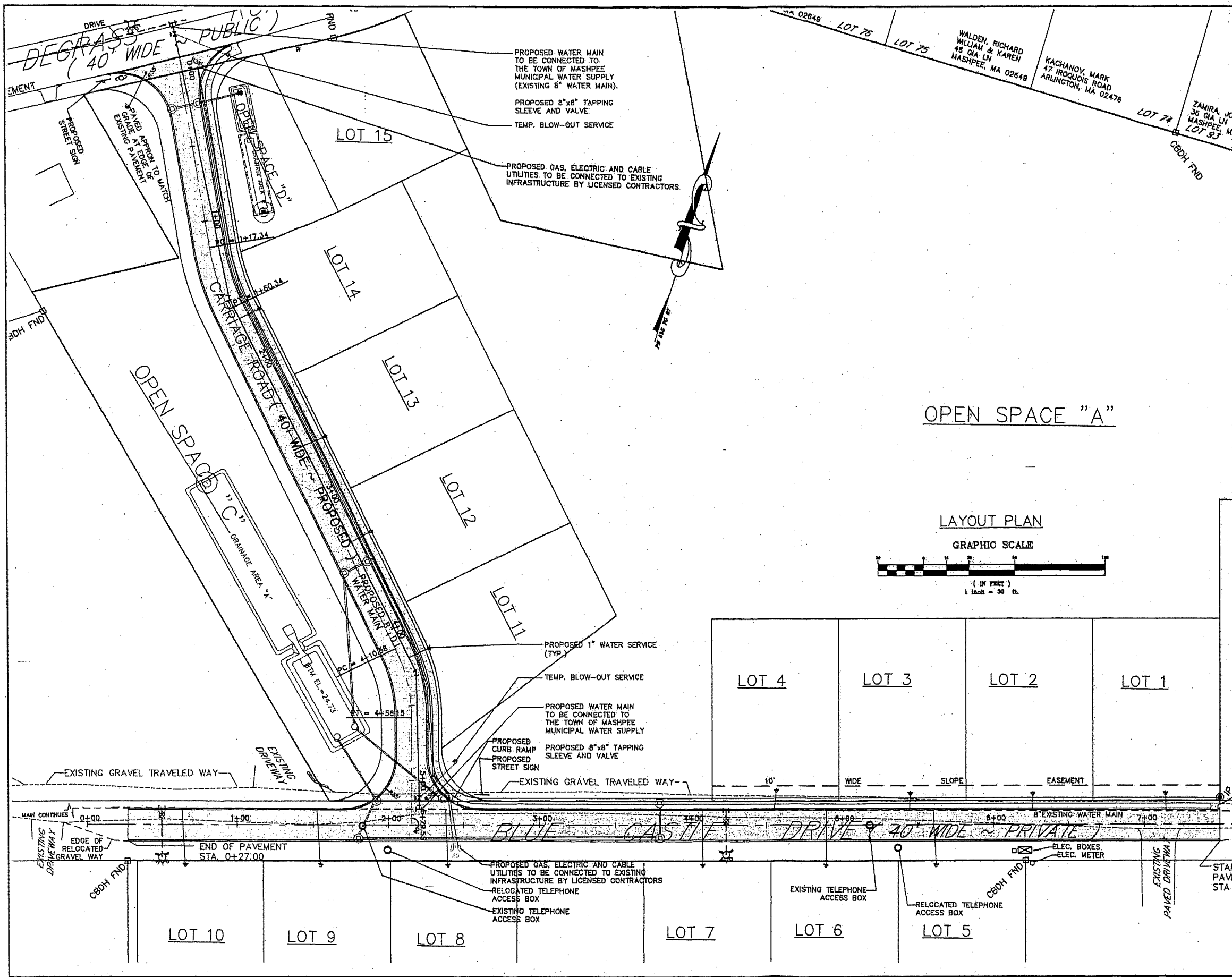
THE ROAD BASE SHALL BE PAVED IN TWO COURSES OF CLASS 1, TYPE 1-1 BITUMINOUS CONCRETE WITH A TOTAL PAVEMENT THICKNESS OF 3.5" WITH A 2.25" BINDER COURSE AND 1.25" WEARING SURFACE (TOP COURSE).

PRIOR TO START OF WORK ALL CONTRACTORS SHALL REVIEW THE TOWN OF MASHPEE RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, DATED MAY 5, 2010; REFERRED TO HEREIN AS "MASHPEE SUBDIVISION REGULATIONS" FOR ADDITIONAL DETAILS AND REQUIREMENTS FOR CONSTRUCTION.

LEGEND

EXISTING	PROPOSED	
50.5	50x5	SPOT GRADE
		TEST PIT (TP)
		CONCRETE BOUND (CB)
		SPIKE (SPK)
		UTILITY POLE (UP)
		LIGHT
		WATER GATE (WG)
		WATER SERVICE (WS)
		FIRE HYDRANT
		WELL
		SEPTIC
		FLOW DIRECTION
		WATER MAIN
		STONE WALL
		UTILITY BOX
		STREET SIGN

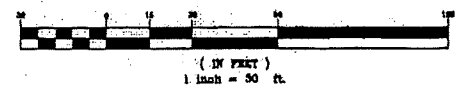
3.	4/16/14	ADDED SIDE WALKS AND SHEET 11	MCC	CC
2.	2/5/14	REVISED AS PER PLANNING BOARD COMMENTS	MCC	CC
1.	9/10/13	REVISED PROPOSED ROAD AND PROPOSED IMPROVEMENTS	MCC	CC
REVISION	DATE	DESCRIPTION	BY	APPR.
APPLICANT:				
BCDM LLC. 66 CHARLES STREET, SUITE 215 BOSTON, MA 02114				
OWNER OF RECORD:				
BCDM LLC. 66 CHARLES STREET, SUITE 215 BOSTON, MA 02114				
PROJECT:				
PROPOSED SUBDIVISION OF LAND "OCKWAY HIGHLANDS" IN MASHPEE, MASSACHUSETTS				
SHEET NO.: 5 OF 11		DATE: JULY 16, 2013		
SCALE: As Noted		PRG FILE: BLUECASTLE_ST_MCDM		
DESIGN BY: MATTHEW C. COSTA, R.S.		CHECKED BY: CHRISTOPHER COSTA, PLS		
PREPARED BY:				
 Costa Associates, Inc. CIVIL ENGINEERING • LAND SURVEYING • ENVIRONMENTAL CONSULTING				
P.O. Box 128 / 465 East Falmouth Hwy. East Falmouth, MA 02536		508.548.6424 PHONE 508.548.0350 FAX www.CostaAssociates.com		
DRAWING TITLE:				
ROAD PROFILE CARRIAGE ROAD (PROPOSED)				
ASSESSORS INFORMATION: PARCELS 104-20-0-R, 104-48-0-R, 104-14-0-R				



OPEN SPACE "A"


LAYOUT PLAN

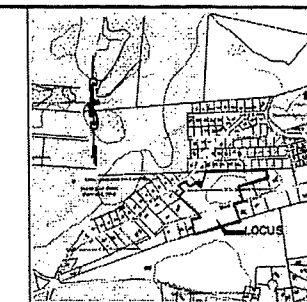
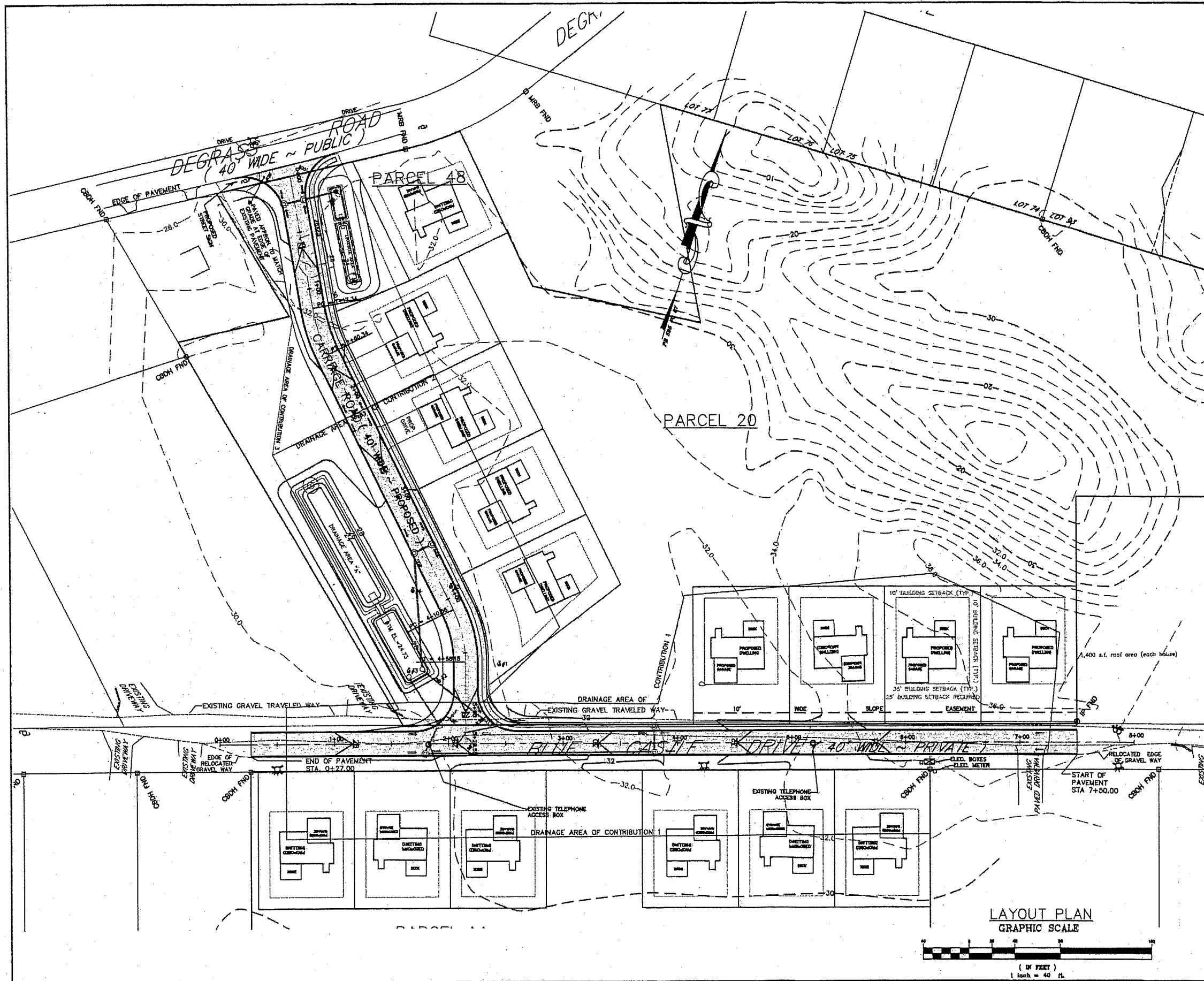
GRAPHIC SCALE



LEGEND

EXISTING	PROPOSED	
50.5	50x5	SPOT GRADE
⊙	⊙	TEST PIT (TP)
□	■	CONCRETE BOUND (CB)
⋄	⋄	SPIKE (SPK)
⋈	⋈	UTILITY POLE (UP)
⋆	⋆	LIGHT
⋈	⋈	WATER GATE (WG)
⋈	⋈	WATER SERVICE (WS)
⋈	⋈	FIRE HYDRANT
⋈	⋈	WELL
⋈	⋈	SEPTIC
→	→	FLOW DIRECTION
—	—	WATER MAIN
—	—	STONE WALL
⊠	⊠	UTILITY BOX
⊠	⊠	STREET SIGN

2.	4/16/14	ADDED SIDE WALKS AND SHEET 11	MCC	CC
1.	2/5/14	REVISED AS PER PLANNING BOARD COMMENTS	MCC	CC
REVISION	DATE	DESCRIPTION	BY	APPR.
APPLICANT:				
BCDM LLC.				
88 CHARLES STREET, SUITE 216				
BOSTON, MA. 02114				
OWNER OF RECORD:				
BCDM LLC.				
88 CHARLES STREET, SUITE 216				
BOSTON, MA. 02114				
PROJECT:				
PROPOSED SUBDIVISION OF LAND				
"OCKWAY HIGHLANDS"				
IN				
MASHPEE, MASSACHUSETTS				
SHEET NO.: 6 OF 11		DATE: JUNE 1, 2013		
SCALE: As Noted		PRO FILE: BLUECASTLE_ST_BCDM		
DESIGN BY: MATTHEW C. COSTA, P.E.		CHECKED BY: CHRISTOPHER COSTA, PLS		
PREPARED BY:				
<div> Costa Associates, Inc. CIVIL ENGINEERING • LAND SURVEYING • ENVIRONMENTAL CONSULTING P.O. Box 128 / 465 East Falmouth Hwy. 508.548.0424 PHONE East Falmouth, MA 02536 508.548.0350 FAX www.costaassociates.com</div>				
DRAWING TITLE:				
UTILITY LAYOUT				
ASSESSORS INFORMATION: PARCELS 104-20-0-R, 104-48-0-R, 104-14-0-R				



NOTES
SEE SHEETS 8 AND 9 OF 10 FOR DRAINAGE CALCULATIONS AND DETAILS

LEGEND	
EXISTING	PROPOSED
50.5	50x5

REVISION	DATE	DESCRIPTION	BY	APPR.
2.	4/16/14	ADDED SIDE WALKS AND SHEET 11	MCC	CC
1.	2/5/14	REVISED AS PER PLANNING BOARD COMMENTS	MCC	CC

APPLICANT: **BCDM LLC.**
66 CHARLES STREET, SUITE 215
BOSTON, MA 02114

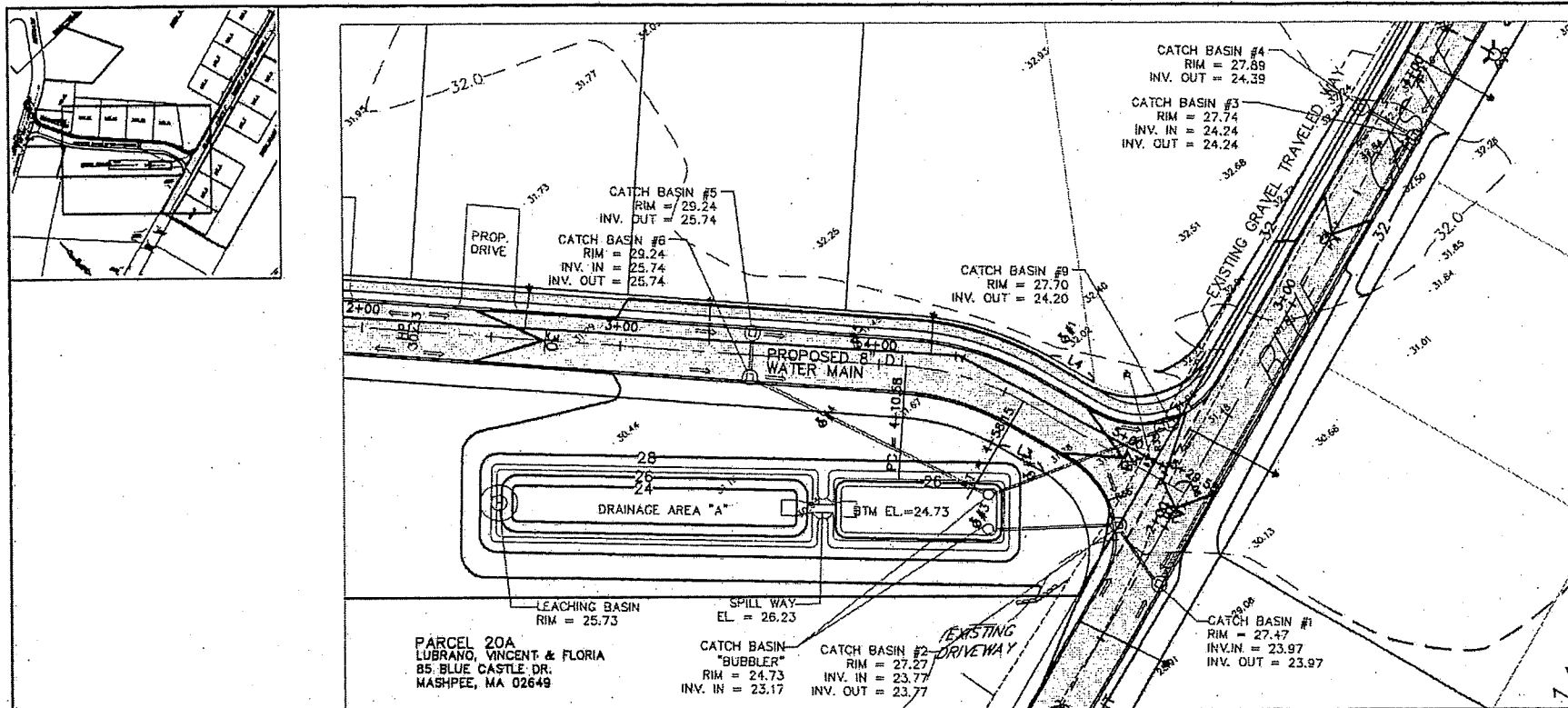
OWNER OF RECORD: **BCDM LLC.**
66 CHARLES STREET, SUITE 215
BOSTON, MA 02114

PROJECT: **PROPOSED SUBDIVISION OF LAND "OCKWAY HIGHLANDS" IN MASHPEE, MASSACHUSETTS**

SHEET NO.: 7 OF 11
DATE: JUNE 1, 2013
SCALE: As Noted
PRG FILE: ALDRICASTLE_BY_BCDM
DESIGN BY: MATTHEW C. COSTA, R.S.
CHECKED BY: CHRISTOPHER COSTA, PLS
PREPARED BY:

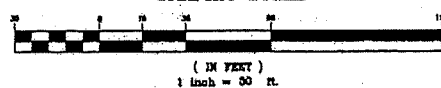
Costa Associates, Inc.
CIVIL ENGINEERING • LAND SURVEYING • ENVIRONMENTAL CONSULTING
P.O. Box 128 / 465 East Falmouth Hwy. East Falmouth, MA 02536
508.548.6424 PHONE 508.548.0350 FAX www.costaassociates.com

DRAWING TITLE: **DRAINAGE AREA OF CONTRIBUTION**
ASSESSORS INFORMATION: PARCELS 104-20-0-R, 104-48-0-R, 104-14-0-R



LAYOUT PLAN

GRAPHIC SCALE



SOIL EVALUATION LOGS

ELEVATION	Depth from Surface (feet)	Soil Color (Munsell)	Soil Texture (USDA)	Soil Moist.	Other	Remarks
31.17	0'-10"	10YR 3/3	LOAM	10YR 3/3		
30.00	10'-24"	10YR 4/6	LOAMY SAND	10YR 4/6		
22.00	24'-120"	2.5 Y 7/2	SAND	2.5 Y 7/2	NO	CLEAN SAND NOT WELL GRADED
30.37	0'-10"	10YR 3/3	LOAM	10YR 3/3		
28.20	10'-24"	10YR 4/6	LOAMY SAND	10YR 4/6		
21.20	24'-120"	2.5 Y 7/2	SAND	2.5 Y 7/2	NO	CLEAN SAND NOT WELL GRADED
30.58	0'-10"	10YR 3/3	LOAM	10YR 3/3		
28.50	10'-24"	10YR 4/6	LOAMY SAND	10YR 4/6		
21.20	24'-120"	2.5 Y 7/2	SAND	2.5 Y 7/2	NO	CLEAN SAND NOT WELL GRADED
30.57	0'-10"	10YR 3/3	LOAM	10YR 3/3		
28.40	10'-24"	10YR 4/6	LOAMY SAND	10YR 4/6		
21.40	24'-120"	2.5 Y 7/2	SAND	2.5 Y 7/2	NO	CLEAN SAND NOT WELL GRADED

PERCOLATION RATE = < 2 MIN./INCH
DEPTH TO GROUNDWATER = NONE ENCOUNTERED
OBSERVATIONS BY: CHRISTOPHER COSTA SE#450
DATE TESTED: 06/11/2013

DRAINAGE AREA CALCULATIONS

TOTAL AREA OF CONTRIBUTION AREA 1 = 104,073 S.F.
TOTAL AREA OF CONTRIBUTION AREA 2 = 40,454 S.F.
TOTAL AREA OF CONTRIBUTION = 144,527 S.F. (3.31 AC)
TOTAL AREA OF ROAD FOR CA1 = 15,700 S.F.
TOTAL AREA OF ROAD FOR CA2 = 6,186 S.F.
TOTAL AREA OF ROAD = 21,886 S.F.
TOTAL ROOF AREA OF HOUSES FOR LOTS 1-4 = 6,028 S.F.
TOTAL ROOF AREA OF HOUSES FOR LOTS 4-13 = 4,950 S.F.
TOTAL ROOF AREA OF HOUSES FOR LOTS 1-13 = 10,978 S.F.
TOTAL AREA OF SINGLE DRIVE = 900 S.F.
TOTAL AREA OF DRIVES FOR LOTS 1-13 = (900 X 13) = 11,700 S.F.
TOTAL IMPERVIOUS AREA (PAVEMENT ONLY) = 21,886 + 11,700 = 33,586 S.F.
TOTAL AREA OF SINGLE LAWN = 2,500 S.F.
TOTAL AREA OF ALL LAWN = 32,500 S.F.
TOTAL AREA OF WOOD LANDS = 57,149 S.F.
SEE SHEET 7 OF 10 FOR GRAPHICAL AREA OF CONTRIBUTION

DRAINAGE SPECIFICATIONS

GROUND WATER ELEVATION AND SOIL CONDITIONS TO BE CONFIRMED PRIOR TO INSTALLATION OF LEACH PIT. BOTTOM OF STONE SHALL BE LOCATED A MINIMUM OF 2 FEET ABOVE GROUND WATER.

ALL UNSUITABLE MATERIAL BELOW THE BOTTOM OF SWALE AND FOREBAY SHALL BE REMOVED AND BACKFILL WITH CLEAN, COARSE SAND AS NEEDED.

ALL GRASS AREAS BELOW THE FULL LEVEL OF SWALE AND FOREBAY SHALL BE PLANTED ON 12" OF A 50% LOAM AND 50% SAND MIXTURE. HYDRO-SEED AND OR FIBER MATS SHALL BE USED TO STABILIZE SLOPES AND IRRIGATION SUPPLIED AS NEEDED UNTIL VEGETATION HAS BEEN FULL ESTABLISHED.

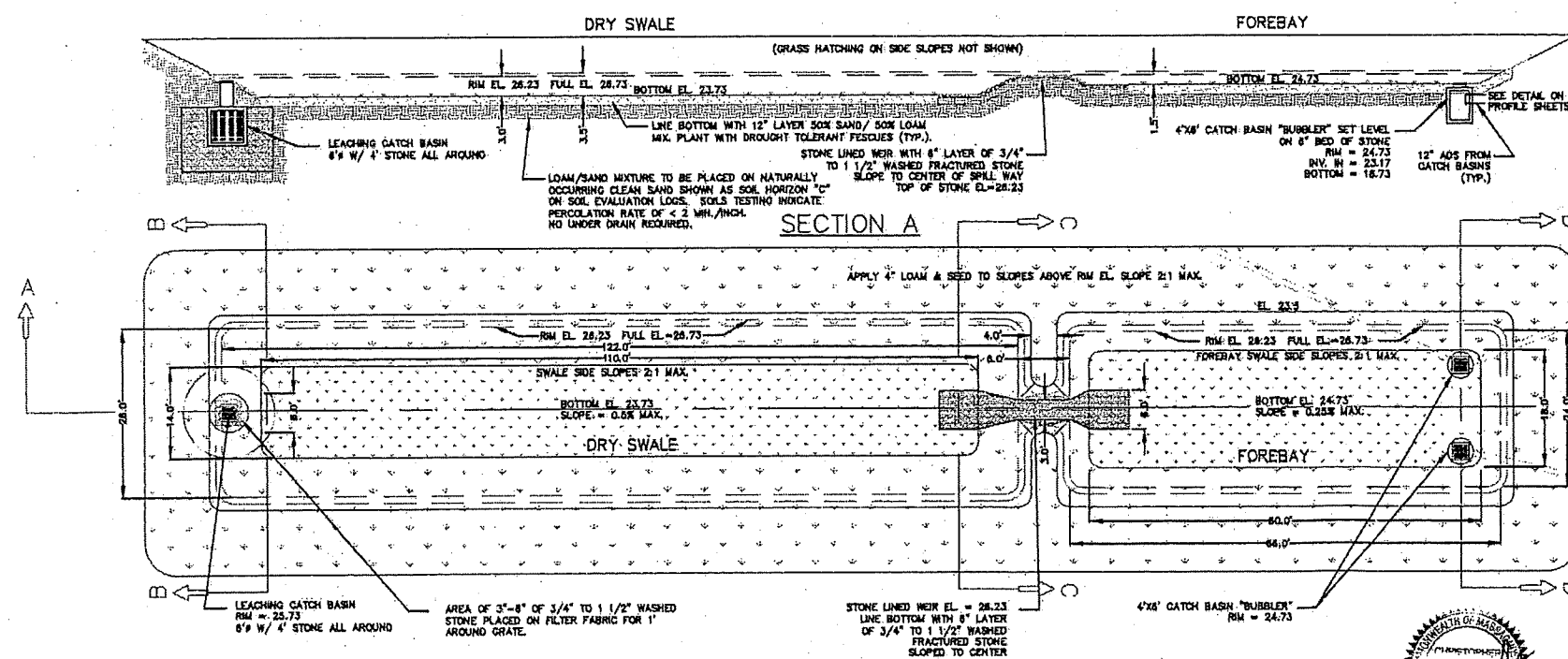
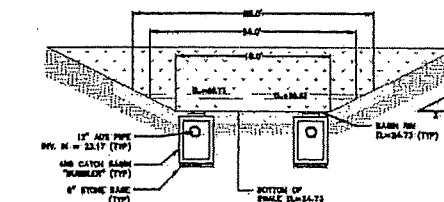
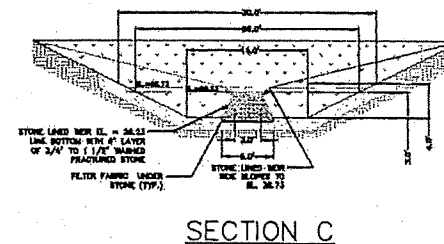
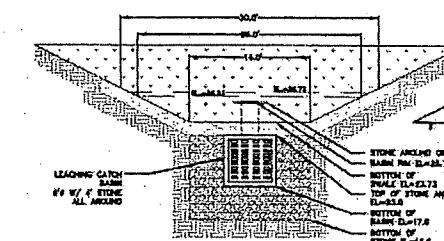
ALL CATCH BASINS, FOREBAY AND SWALE AREAS SHALL BE PROTECTED DURING CONSTRUCTION THROUGH METHODS APPROVED BY ENGINEER TO PREVENT THE BUILDUP OF SEDIMENT AND DURING CONSTRUCTION. ANY SEDIMENT ACCUMULATION FROM CONSTRUCTION ACTIVITIES SHALL BE CORRECTED BEFORE FINAL CONSTRUCTION IS APPROVED.

INSPECT SWALES MONTHLY FOR SIX MONTHS AFTER INSTALLATION OR UNTIL VEGETATION BECOMES ADEQUATELY ESTABLISHED. THEREAFTER, INSPECT SWALES SEMI-ANNUALLY. INSPECTIONS SHALL INCLUDE SLOPE INTEGRITY, SOIL MOISTURE, VEGETATIVE HEALTH, SOIL STABILITY, SOIL COMPACTION, SOIL EROSION, PONDING AND SEDIMENTATION.


REGULAR MAINTENANCE SHALL INCLUDE CLEANING BASINS WHEN SEDIMENT IS GREATER THAN 2" DEEP, MOWING, FERTILIZING, LIMING, WATERING, WEEDING, AND PEST CONTROL. MOW SWALES AT LEAST ONCE PER YEAR TO A LENGTH OF NOT LESS THAN 4 INCHES. GRASS HEIGHT SHALL NOT EXCEED 6 INCHES. ANNUALLY REMOVE SEDIMENT AND DEBRIS AT LEAST ONCE PER YEAR, AND PERIODICALLY RE-SEED, IF NECESSARY, TO MAINTAIN A DENSE GROWTH OF VEGETATION.

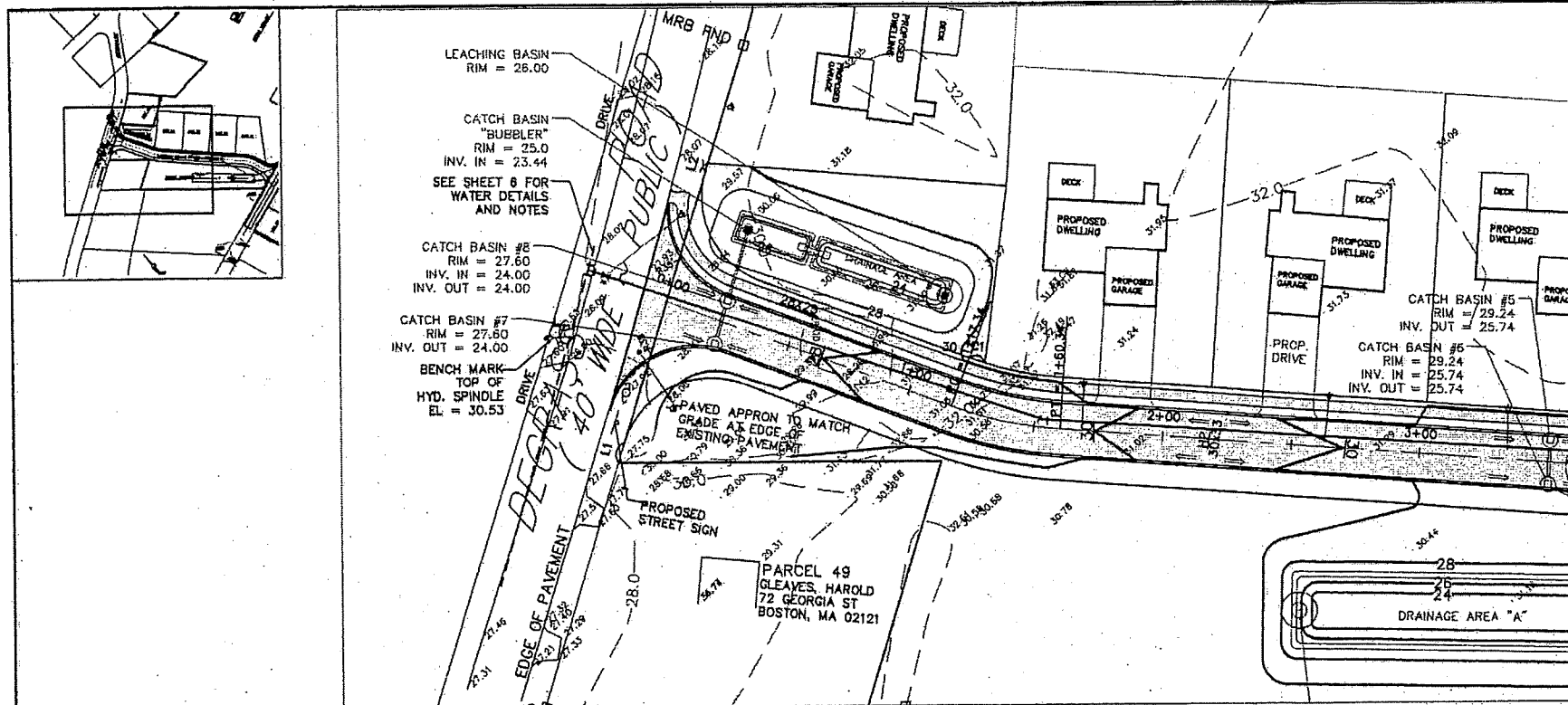
LEGEND

EXISTING	PROPOSED	
50.5	50x5	SPOT GRADE
		TEST PIT (TP)
		CONCRETE BOUND (CB)
		SPIKE (SPK)
		UTILITY POLE (UP)
		LIGHT
		WATER GATE (WG)
		WATER SERVICE (WS)
		FIRE HYDRANT
		WELL
		SEPTIC
		FLOW DIRECTION
		WATER MAIN
		STONE WALL
		UTILITY BOX
		STREET SIGN



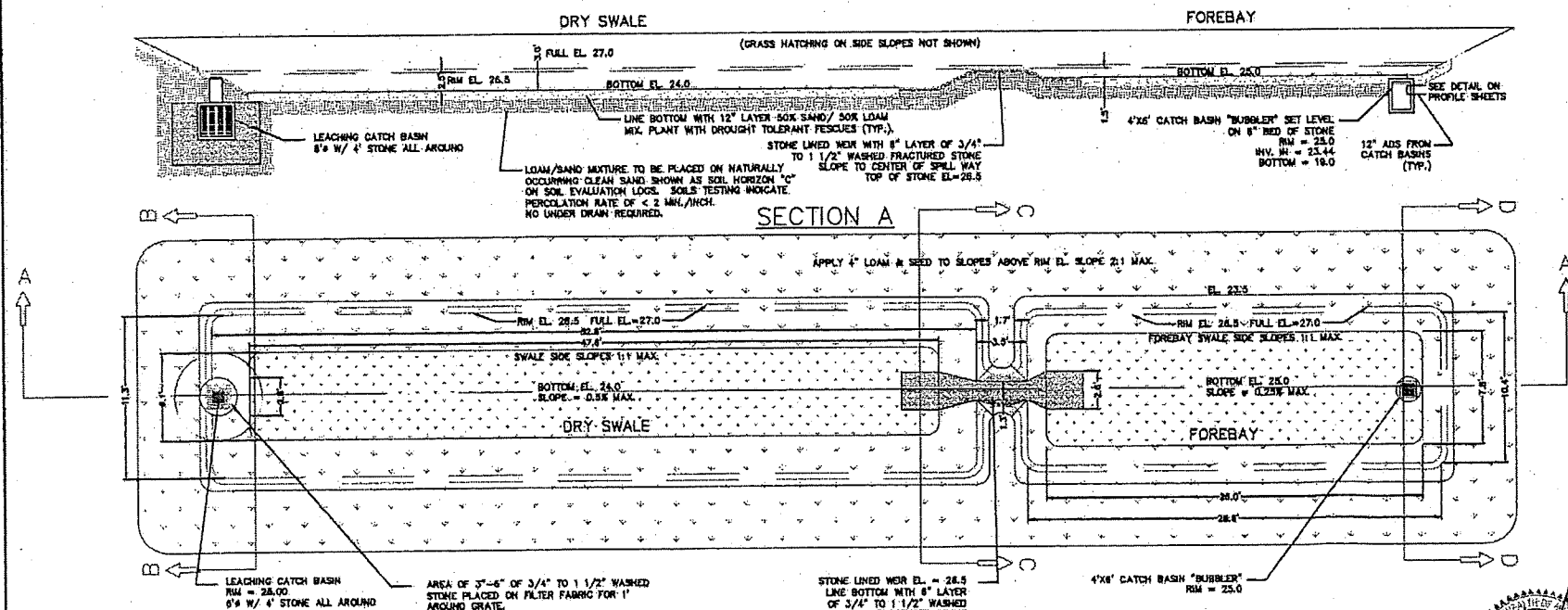
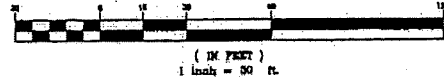
NOT TO SCALE

2.	4/16/14	ADDED SIDE WALKS AND SHEET 11	MCC	CC
1.	2/5/14	REVISED AS PER PLANNING BOARD COMMENTS	MCC	CC
REVISION	DATE	DESCRIPTION	BY	APPROV
APPLICANT:				
BCDM LLC.				
68 CHARLES STREET, SUITE 215				
BOSTON, MA 02114				
OWNER OF RECORD:				
BCDM LLC.				
68 CHARLES STREET, SUITE 215				
BOSTON, MA 02114				
PROJECT:				
PROPOSED SUBDIVISION OF LAND				
"OCKWAY HIGHLANDS"				
IN				
MASHPEE, MASSACHUSETTS				
SHEET NO.: 8 OF 11		DATE: JULY 15, 2013		
SCALE: As Noted		PRG FILE: BLUECASTLE_07_BCDM		
DESIGN BY: MATTHEW C. COSTA, R.S.		CHECKED BY: N. DOUGLAS SCHNEIDER, P.E.		
PREPARED BY:				
				
Costa Associates, Inc.				
CIVIL ENGINEERING • LAND SURVEYING • ENVIRONMENTAL CONSULTING				
P.O. Box 128 / 465 East Falmouth Hwy. East Falmouth, MA 02536		508.548.6424 PHONE 508.548.0350 FAX		www.CostaAssociates.com
DRAWING TITLE:				
DRAINAGE DETAILS 1				
ASSESSORS INFORMATION: PARCELS 104-20-0-R, 104-48-0-R, 104-14-0-R				



LAYOUT PLAN

GRAPHIC SCALE



DRAINAGE SWALE AND FORBAY DETAILS (AREA B)

NOT TO SCALE

SOIL EVALUATION LOGS

(SEE SHEET 8 FOR TEST PIT LOCATIONS)

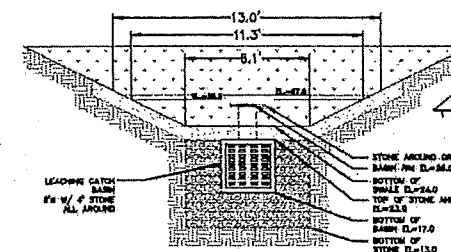
ELEVATION	Depth from Surface (Inches)	Soil Type (USDA)	Soil Color (Munsell)	Soil Moist.	Other Relative Factors
DEEP OBSERVATION HOLE #1 EL. 32.0					
31.17	0"-10"	OA	LOAM	10YR 3/3	
30.00	10"-24"	B	LOAMY SAND	10YR 4/6	
22.00	24"-120"	C	SAND	2.5 Y 7/2	NO CLEAN SAND NOT WELL GRADED
DEEP OBSERVATION HOLE #2 EL. 31.2					
30.37	0"-10"	OA	LOAM	10YR 3/3	
28.20	10"-24"	B	LOAMY SAND	10YR 4/6	
21.20	24"-120"	C	SAND	2.5 Y 7/2	NO CLEAN SAND NOT WELL GRADED
DEEP OBSERVATION HOLE #3 EL. 31.5					
30.88	0"-10"	OA	LOAM	10YR 3/3	
28.20	10"-24"	B	LOAMY SAND	10YR 4/6	
21.50	24"-120"	C	SAND	2.5 Y 7/2	NO CLEAN SAND NOT WELL GRADED
DEEP OBSERVATION HOLE #4 EL. 31.4					
30.57	0"-10"	OA	LOAM	10YR 3/3	
28.40	10"-24"	B	LOAMY SAND	10YR 4/6	
21.60	24"-120"	C	SAND	2.5 Y 7/2	NO CLEAN SAND NOT WELL GRADED

PERCOLATION RATE = < 2 MIN./INCH
DEPTH TO GROUNDWATER = NONE ENCOUNTERED
OBSERVATIONS BY: CHRISTOPHER COSTA SE#450
DATE TESTED: 06/11/2013

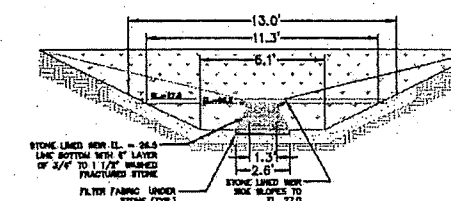
DRAINAGE AREA CALCULATIONS

TOTAL AREA OF CONTRIBUTION AREA 3 = 24,004 S.F.
TOTAL AREA OF CONTRIBUTION = 24,004 S.F. (0.55 AC)
TOTAL AREA OF ROAD FOR C&S = 7,421 S.F.
TOTAL AREA OF ROAD = 7,421 S.F.
TOTAL ROOF AREA OF HOUSES FOR LOT 14
TOTAL ROOF AREA OF HOUSES = (800 X 1) = 800 S.F.
TOTAL AREA OF SINGLE DRIVE = 900 S.F.
TOTAL AREA OF DRIVES = (900 X 1) = 900 S.F.
TOTAL IMPERVIOUS AREA (PAVEMENT ONLY) = 7,421 + 900 = 8,321 S.F.
TOTAL AREA OF SINGLE LAWN = 2,500 S.F.
TOTAL AREA OF ALL LAWN = 2,500 S.F.
TOTAL AREA OF WOOD LANDS = 11,383 S.F.

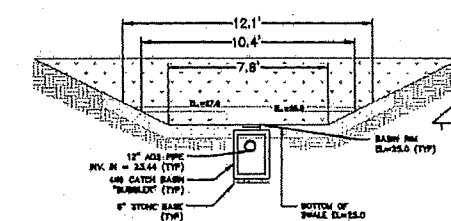
*SEE SHEET 7 OF 10 FOR GRAPHICAL AREA OF CONTRIBUTION



SECTION B



SECTION C



SECTION D

DRAINAGE SPECIFICATIONS

GROUND WATER ELEVATION TO BE CONFIRMED PRIOR TO INSTALLATION OF LEACH PIT. NO GROUND WATER SHALL BE LOCATED WITHIN 2 FEET OF THE BOTTOM OF STONE.

ALL UNSUITABLE MATERIAL BELOW THE BOTTOM OF THE SWALE AND FOREBAY SHALL BE REMOVED AND BACKFILLED WITH CLEAN, COARSE SAND AS NEEDED.

ALL GRASS AREAS BELOW THE FULL LEVEL OF SWALE AND FOREBAY SHALL BE PLANTED ON 12" OF A 50% LOAM AND 50% SAND MIXTURE. HYDRO-SEED AND OR FIBER MATS SHALL BE USED TO STABILIZE SLOPES AND IRRIGATION SUPPLIED AS NEEDED UNTIL VEGETATION HAS BEEN FULL ESTABLISHED.

ALL CATCH BASINS, FOREBAY AND SWALE AREAS SHALL BE PROTECTED DURING CONSTRUCTION THROUGH METHODS APPROVED BY ENGINEER TO PREVENT THE BUILDUP OF SEDIMENT AND DURING CONSTRUCTION. ANY SEDIMENT ACCUMULATION FROM CONSTRUCTION ACTIVITIES SHALL BE CORRECTED BEFORE FINAL CONSTRUCTION IS APPROVED.

INSPECT SWALES MONTHLY FOR SIX MONTHS AFTER INSTALLATION OR UNTIL VEGETATION BECOMES ADEQUATELY ESTABLISHED. THEREAFTER, INSPECT SWALES SEMI-ANNUALLY. INSPECTIONS SHALL INCLUDE SLOPE INTEGRITY, SOIL MOISTURE, VEGETATIVE HEALTH, SOIL STABILITY, SOIL COMPACTION, SOIL EROSION, PONDING AND SEDIMENTATION.

REGULAR MAINTENANCE SHALL INCLUDE CLEANING BASINS WHEN SEDIMENT IS GREATER THAN 2" DEEP, MOWING, FERTILIZING, LIMING, WATERING, WEEDING, AND PEST CONTROL. MOW SWALES AT LEAST ONCE PER YEAR TO A LENGTH OF NOT LESS THAN 4 INCHES. GRASS HEIGHT SHALL NOT EXCEED 6 INCHES. ANNUALLY REMOVE SEDIMENT AND DEBRIS AT LEAST ONCE PER YEAR, AND PERIODICALLY RE-SEED, IF NECESSARY, TO MAINTAIN A DENSE GROWTH OF VEGETATION.

LEGEND

EXISTING	PROPOSED	
50.5	50x5	SPOT GRADE
□	■	TEST PIT (TP)
○	●	CONCRETE BOUND (CB)
×	×	SPIKE (SPK)
+	+	UTILITY POLE (UP)
*	*	LIGHT
△	△	WATER GATE (WG)
▽	▽	WATER SERVICE (WS)
◇	◇	FIRE HYDRANT
◇	◇	WELL
◇	◇	SEPTIC
→	→	FLOW DIRECTION
—	—	WATER MAIN
—	—	STONE WALL
—	—	UTILITY BOX
—	—	STREET SIGN

2.	4/16/14	ADDED SIDE WALKS AND SHEET 11	MCC	CC
1.	2/3/14	REVISED AS PER PLANNING BOARD COMMENTS	MCC	CC
REVISION	DATE	DESCRIPTION	BY	APPR.

APPLICANT: BCDM LLC.
66 CHARLES STREET, SUITE 215
BOSTON, MA 02114

OWNER OF RECORD: BCDM LLC.
66 CHARLES STREET, SUITE 215
BOSTON, MA 02114

PROJECT: PROPOSED SUBDIVISION OF LAND
"OCKWAY HIGHLANDS"
IN
MASHPEE, MASSACHUSETTS

SHEET NO.: 9 OF 11 DATE: JULY 15, 2013

SCALE: As Noted PRG FILE: BLUECASTLE_ST_BCDM

DESIGN BY: MATTHEW C. COSTA, R.S. CHECKED BY: H. DOUGLAS SCHNEIDER, PE

PREPARED BY:

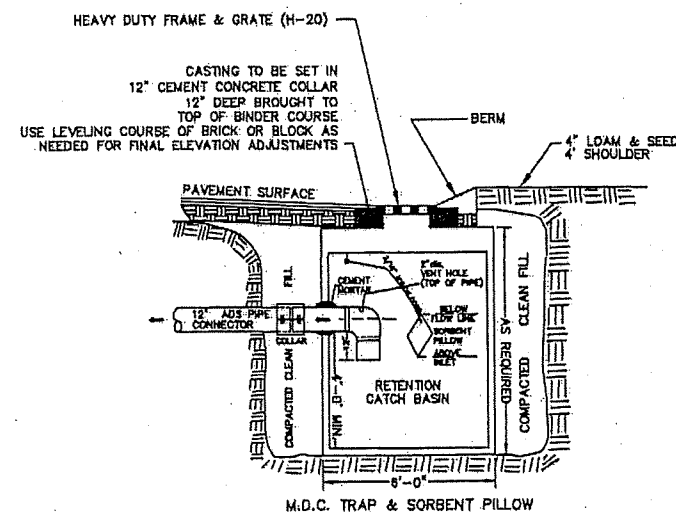
Costa Associates, Inc.
CIVIL ENGINEERING • LAND SURVEYING • ENVIRONMENTAL CONSULTING

P.O. Box 128 / 465 East Falmouth Hwy. 508.548.6424 PHONE
East Falmouth, MA 02536 508.548.0350 FAX www.CostaAssociates.com

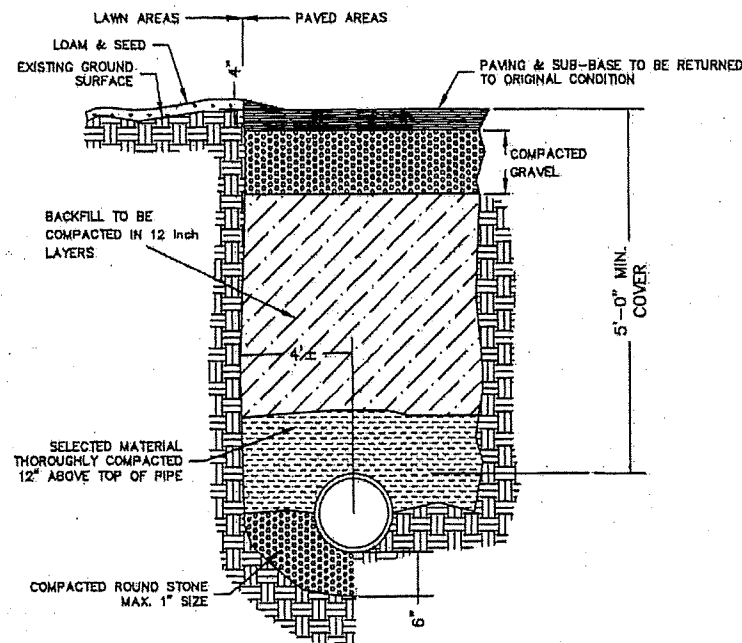
DRAWING TITLE:

DRAINAGE DETAILS 2

ASSESSORS INFORMATION: PARCELS 104-20-0-R, 104-48-0-R, 104-14-0-R



TYPICAL H-20 LOAD RATED
CATCH BASIN DETAIL
NOT TO SCALE



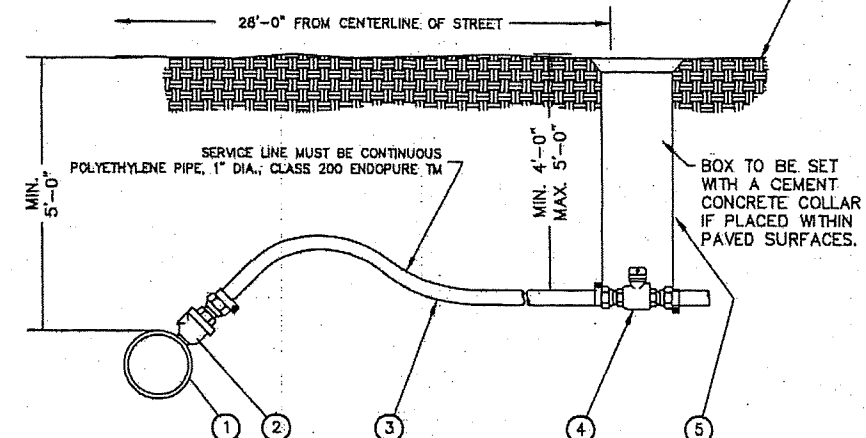
- NOTES: 1. WATER MAIN CONSTRUCTION WILL BE DONE IN COMPLIANCE WITH MASHPEE WATER DISTRICT REGULATIONS.
2. ALL INSTALLATIONS MUST BE INSPECTED BY MASHPEE WATER DISTRICT PRIOR TO BACKFILLING

WATER MAIN TRENCH DETAIL
NOT TO SCALE

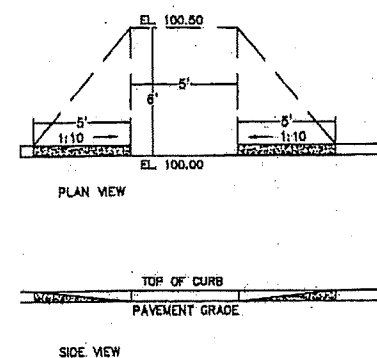
REF.	DESIGNATION
1	a) For D.I.C.L. use Direct Tapping Sleeve b) For PVC & AC only, Service Saddle, Dresser Style 91 or 196 or Approved equal by the Utilities Division c) Tap to be positioned at 45 degree angle.
2	Corporation Stop, Mueller Type 25008
3	Polyethylene Pipe, 1" Dia., Class 200 Endopure TM
4	Curb Stop Valve, Mueller Type B-25209
5	Curb Box, Mueller Type H-10334 Use Sleeve H-10342 where concrete or asphalt exists.

Notes:
1 Service line must be continuous
2 Curb Box Sleeve set to grade after construction

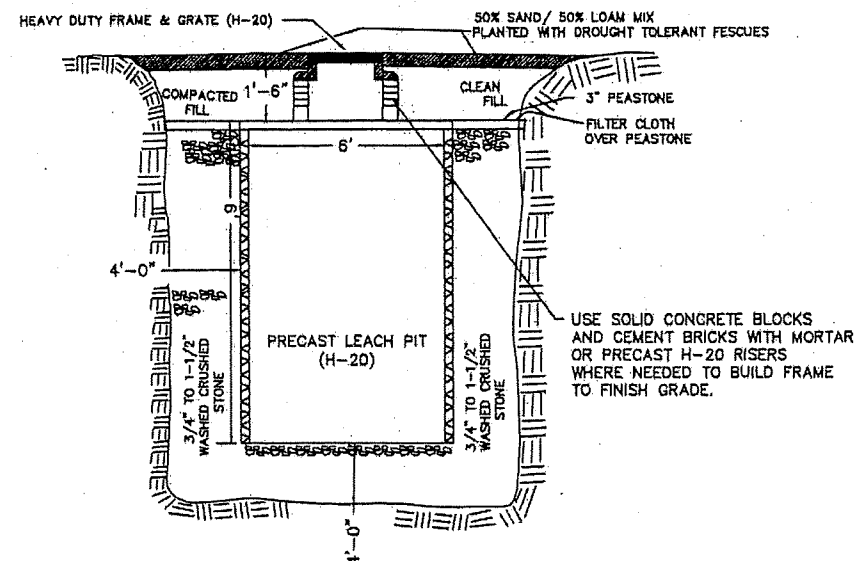
BACKFILL SHALL BE NATIVE MATERIAL, COMPACTED TO A DENSITY OF NOT LESS THAN 90% RELATIVE COMPACTION. SPECIAL ATTENTION MUST BE GIVEN TO BACKFILL AROUND WATER MAIN AND UNDER SERVICE PIPE.



WATER SERVICE DETAIL
NOT TO SCALE

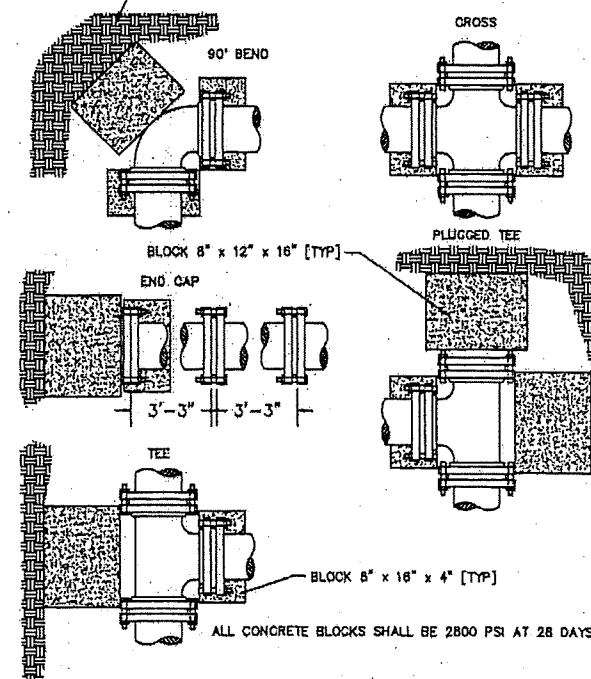


TYPICAL RAMP DETAIL
NOT TO SCALE




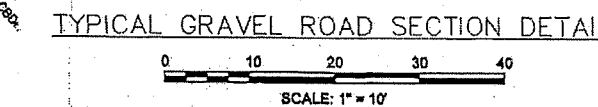
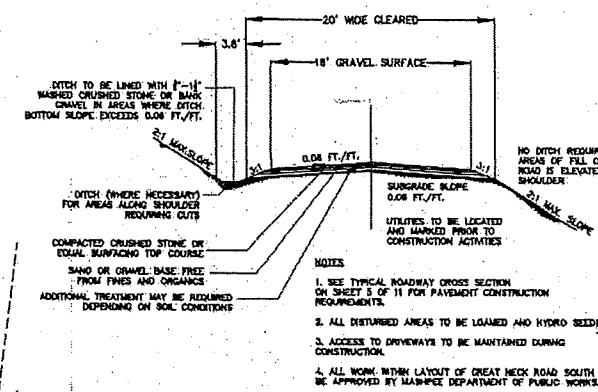
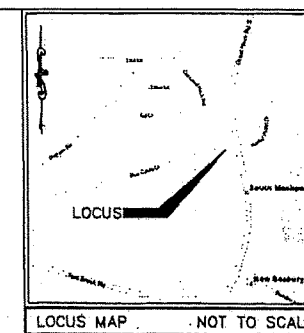
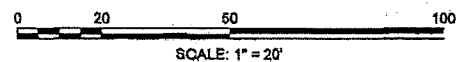
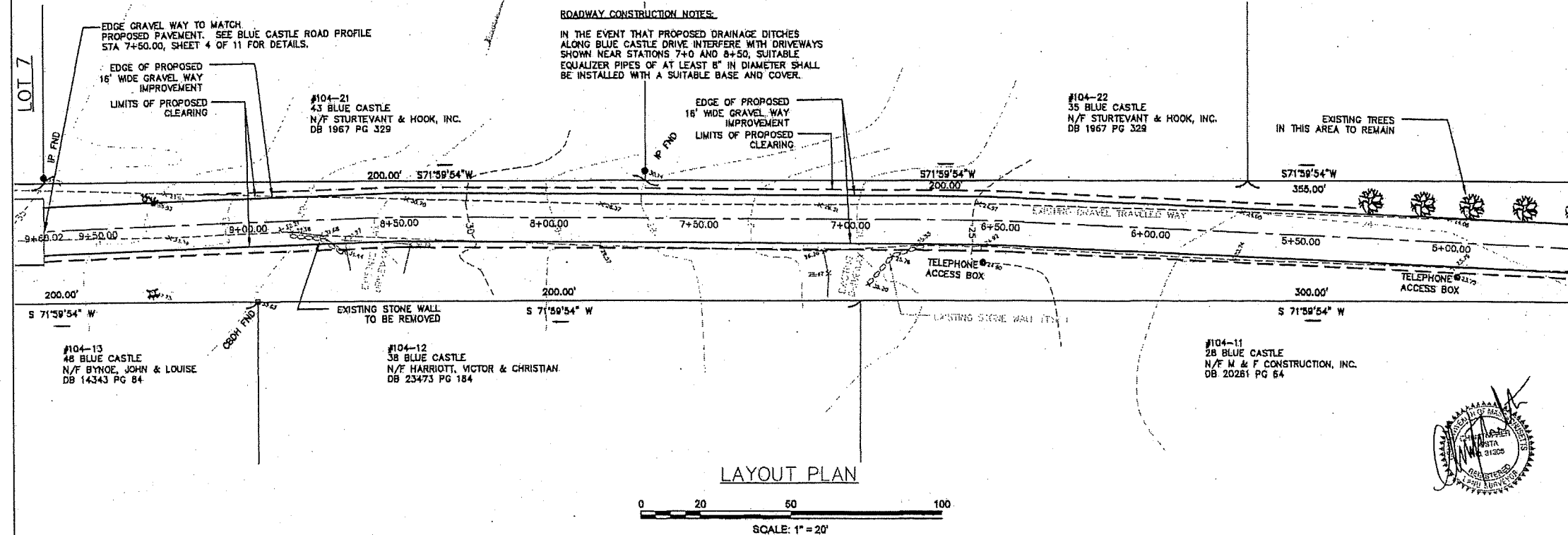
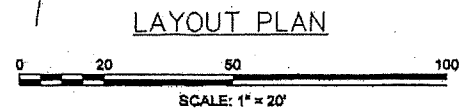
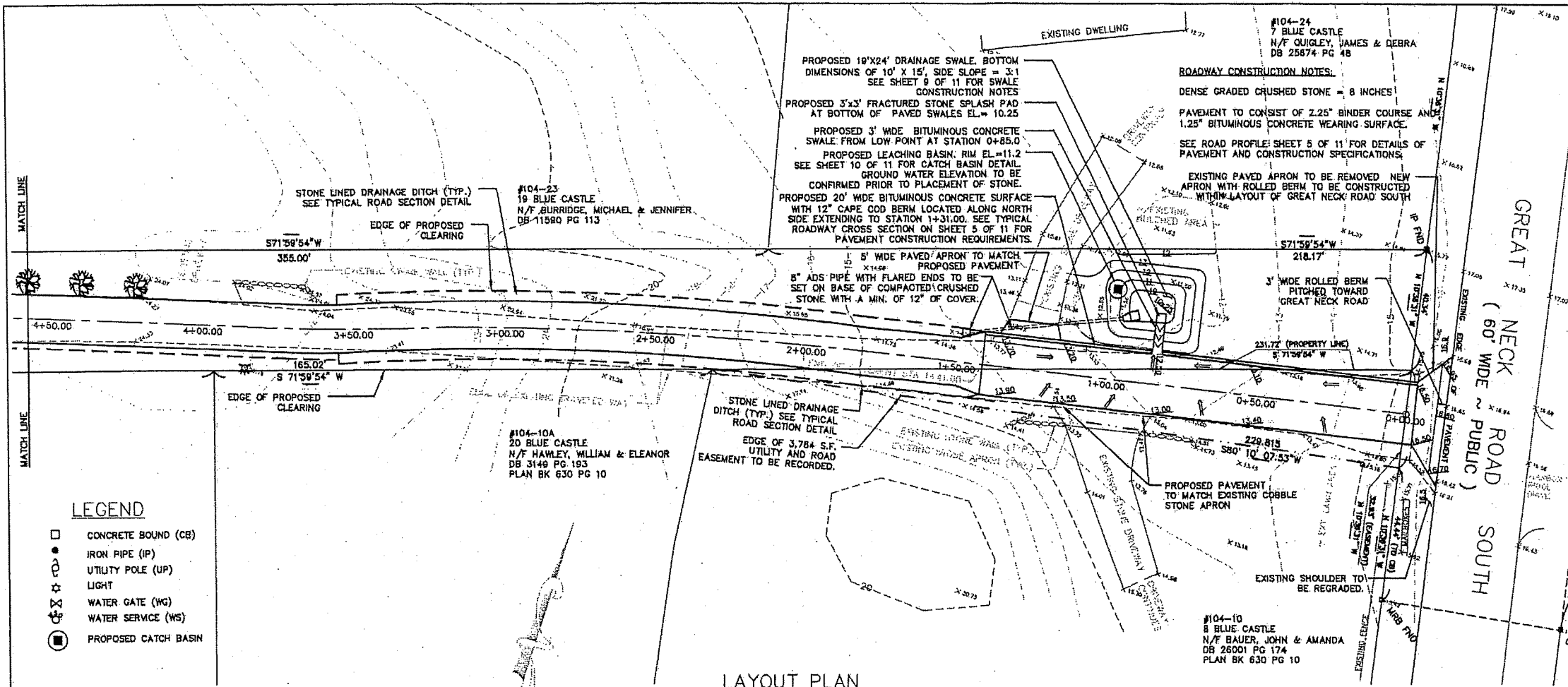
TYPICAL LEACHING PIT DETAIL
NOT TO SCALE


BACKFILL SHALL BE NATIVE MATERIAL, COMPACTED TO A DENSITY OF NOT LESS THAN 90% RELATIVE COMPACTION. SPECIAL ATTENTION MUST BE GIVEN TO BACKFILL AROUND WATER MAIN AND UNDER SERVICE PIPE.



THRUST BLOCKING DETAILS
NOT TO SCALE

2.	4/18/14	ADDED SIDE WALKS AND SHEET 11	MCC	CC
1.	2/5/14	REVISED AS PER PLANNING BOARD COMMENTS	MCC	CC
REVISION	DATE	DESCRIPTION	BY	APPR.
APPLICANT:				
BCDM LLC.				
66 CHARLES STREET, SUITE 216				
BOSTON, MA. 02114				
OWNER OF RECORD:				
BCDM LLC.				
66 CHARLES STREET, SUITE 216				
BOSTON, MA. 02114				
PROJECT:				
PROPOSED SUBDIVISION OF LAND				
"OCKWAY HIGHLANDS"				
IN				
MASHPEE, MASSACHUSETTS				
SHEET NO.: 10 OF 11		DATE: JULY 16, 2013		
SCALE: As Noted		PRG FILE: BLUCASTLE_67_BCDM		
DRAWN BY: MATTHEW C. COSTA, R.S.		CHECKED BY: CHRISTOPHER COSTA, PLS		
PREPARED BY:				
 Costa Associates, Inc. CIVIL ENGINEERING • LAND SURVEYING • ENVIRONMENTAL CONSULTING P.O. Box 128 / 465 East Falmouth Hwy, East Falmouth, MA 02536 508.548.5424 PHONE 508.548.0350 FAX www.CostaAssociates.com				
DRAWING TITLE:				
UTILITY DETAILS				
ASSESSORS INFORMATION: PARCELS 104-20-0-R, 104-48-0-R, 104-14-0-R				



1.	5/1/14	EXTENDED PAVEMENT AND ADDED DITCH NOTE	MC	MC
REVISION	DATE	DESCRIPTION	BY	APPR
APPLICANT: BCDM LLC. 66 CHARLES STREET, SUITE 215 BOSTON, MA. 02114				
OWNER OF RECORD: BCDM LLC. 66 CHARLES STREET, SUITE 215 BOSTON, MA. 02114				
PROJECT: ROAD IMPROVEMENT BLUE CASTLE DRIVE IN MASHPEE, MASSACHUSETTS				
SHEET NO.: 11 OF 11		DATE: 04/01/14		
SCALE: As Noted		PRC FILE: BLUECASTLE_ST_BCDM		
DESIGN BY: MC		CHECKED BY: CHRISTOPHER COSTA, PL		
PREPARED BY:				
 Costa Associates, Inc. CIVIL ENGINEERING • LAND SURVEYING • ENVIRONMENTAL CONSULTING 800 Fairmount Road, Suite 301C Mashpee, MA 02649 508.548.6424 PHONE 508.548.0350 FAX www.costaassociates.com				
DRAWING TITLE: EXISTING ROAD IMPROVEMENT PLAN				
ASSESSORS INFORMATION: N/A				

Law Office of Jonathan M. Polloni, Esq.

P.O. Box 311
Woods Hole, MA 02543
(508) 221-0358

September 25, 2018

Mary Waygan, Chair
Planning Board of Mashpee
16 Great Neck Road
Mashpee, MA 02649

RE: September 27, 2018 hearing – Blue Castle Drive

Dear Mrs. Chairman,

Please accept this letter in lieu of my appearance before the board due to a prior engagement, and on behalf of Ellen Brady of 20 Blue Castle Drive.

This letter is to notify the board of my efforts to address the issue raised in the last hearing on July 18, 2018 of contributions toward maintenance of Blue Castle Drive. In the time since, I have exchanged several emails with Jacques Morin to discuss what amount would be acceptable for abutters to contribute towards maintenance costs. Initially, there was some misunderstanding as to what “costs” we were discussing. Mr. Morin has taken the position that paving is the only option. When I ask him to include information on an amount of contribution towards maintenance he responded that unless I assured him that my clients would agree to pave the road, he would not proceed with calculating an estimate. I took this to mean that a contribution towards maintenance costs was off the table from his perspective. This seems counter to my recollection of the discussion at the hearing, and evidences a clear and serious ongoing disagreement between the abutters and developer.

I want to point out that the impetus for these negotiations comes from the initial hearing on the special permit.

“Chairman Petersen inquired about the annual assessment should Blue Castle property owners wish to join the association and Mr. Wall indicated that typically association membership was approximately \$500-\$600 per year for road maintenance, insurance requirements and capital reserve. Mr. Wall would expect that it would be reduced for economy by scale. Mr. Fudala inquired whether residents outside of the paved area would have to contribute to road costs and there was suggestion that levels be established so that Blue Castle property owners who became members of the association contributed to road maintenance and insurance costs. Mr. Wall indicated that the issue could be addressed and negotiated should the abutters wish to discuss the matter.”

Mashpee Planning Board, minutes of meeting, February 5, 2014, page 2.

Mary Waygan, Chair
September 25, 2018
Page 2

"Mr. Wall indicated that a 2nd class membership could be created allowing Blue Castle members to pay their proportionate share for road maintenance and insurance, but not the capital reserve for the road."

Id., page 3.

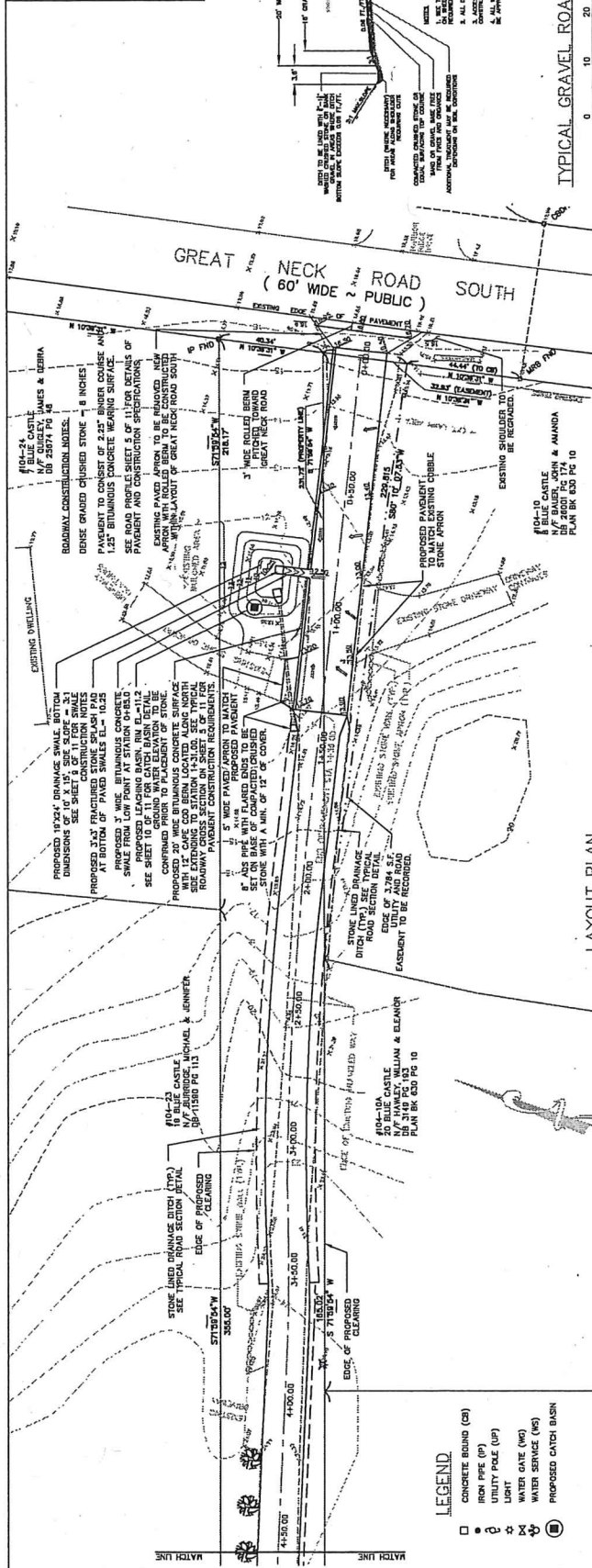
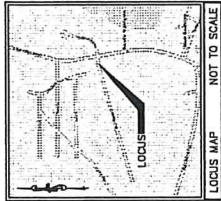
As the minutes show, a negotiated agreement of a contribution to road maintenance on a purely voluntary basis was presented in the initial application for the special permit. Here, the Brady's are being treated differently because of the fact that they own vacant land. I believe the issue that my clients brought before the board in July, whether the graded road satisfies the requirements for adequate access, is independent of contributions towards maintenance of the road. However, the Brady's continue to be amenable to a reasonable contribution towards maintenance costs, one that includes maintenance and insurance costs but not capital reserves of the association.

In light of our efforts and the present impasse, I plan on scheduling another hearing on the issue of the waiver request for a later date. Any further guidance on this issue, as the board sees fit and necessary, is welcome.

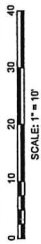
Very truly yours,


Jonathan M. Polloni, Esq.

Cc: Ellen Brady



TYPICAL GRAVEL ROAD SECTION DETAIL



REVISION	DATE	DESCRIPTION	BY	APPV
1.	5/1/14	EXTENDED PAVEMENT AND ADDED DITCH NOTE	MC	MC
2.	5/1/14	EXTENDED PAVEMENT AND ADDED DITCH NOTE	BT	APPV

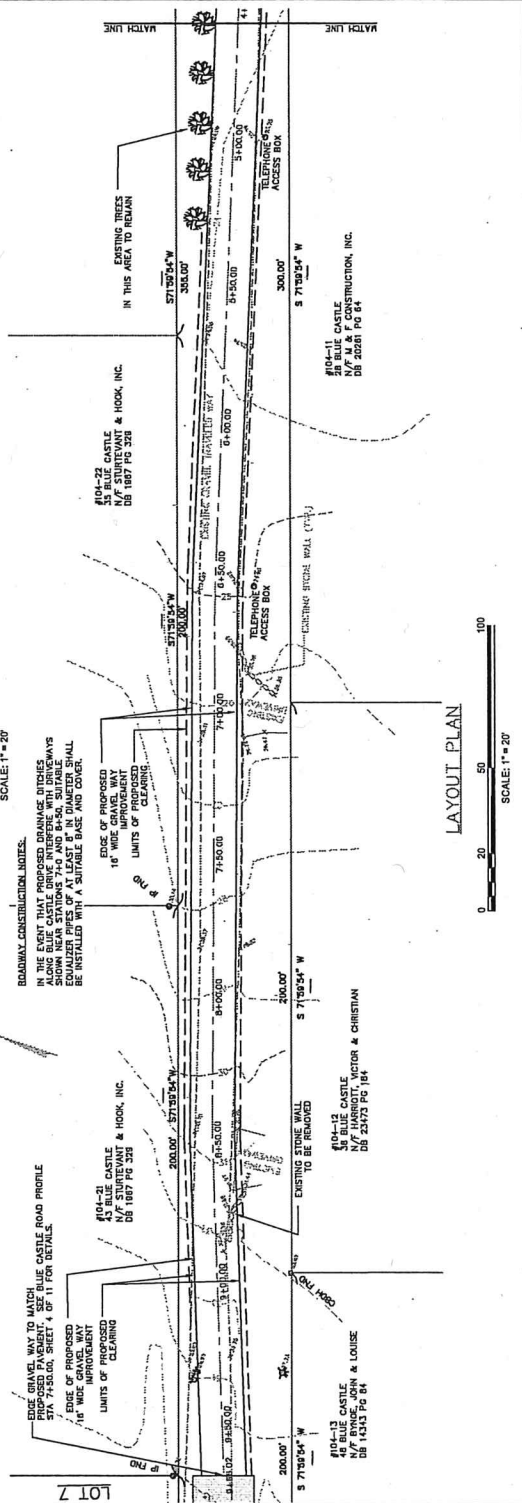
APPLICANT:
BCDM LLC
88 CHARLES STREET, SUITE 216
BOSTON, MA 02114

ENGINEER OF RECORD:
BCDM LLC
88 CHARLES STREET, SUITE 216
BOSTON, MA 02114

PROJECT:
ROAD IMPROVEMENT
BLUE CASTLE DRIVE
IN
MASHPEE, MASSACHUSETTS

SHEET NO. 11 OF 11
DATE: 04/01/14
SCALE: AS SHOWN
CHECKED BY: CONSTRUCTION COSTA, PLS
DESIGNED BY: MC
PREPARED BY: BT
DRAWING TITLE:
EXISTING ROAD IMPROVEMENT PLAN

ASSESSORS INFORMATION: N/A



Law Office of Jonathan M. Polloni, Esq.

P.O. Box 311
Woods Hole, MA 02543
(508) 221-0358

September 25, 2018

Mary Waygan, Chair
Planning Board of Mashpee
16 Great Neck Road
Mashpee, MA 02649

RE: September 27, 2018 hearing – Blue Castle Drive

Dear Mrs. Chairman,

Please accept this letter in lieu of my appearance before the board due to a prior engagement, and on behalf of Duco Associates, Inc., c/o Henry Barr, of 28 Blue Castle Drive.

This letter is to notify the board of my efforts to address the issue raised in the last hearing on July 18, 2018 of contributions toward maintenance of Blue Castle Drive. In the time since, I have exchanged several emails with Jacques Morin to discuss what amount would be acceptable for abutters to contribute towards maintenance costs. Initially, there was some misunderstanding as to what "costs" we were discussing. Mr. Morin has taken the position that paving is the only option. When I ask him to include information on an amount of contribution towards maintenance he responded that unless I assured him that my clients would agree to pave the road, he would not proceed with calculating an estimate. I took this to mean that a contribution towards maintenance costs was off the table from his perspective. This seems counter to my recollection of the discussion at the hearing, and evidences a clear and serious ongoing disagreement between the abutters and developer.

I want to point out that the impetus for these negotiations comes from the initial hearing on the special permit.

"Chairman Petersen inquired about the annual assessment should Blue Castle property owners wish to join the association and Mr. Wall indicated that typically association membership was approximately \$500-\$600 per year for road maintenance, insurance requirements and capital reserve. Mr. Wall would expect that it would be reduced for economy by scale. Mr. Fudala inquired whether residents outside of the paved area would have to contribute to road costs and there was suggestion that levels be established so that Blue Castle property owners who became members of the association contributed to road maintenance and insurance costs. Mr. Wall indicated that the issue could be addressed and negotiated should the abutters wish to discuss the matter."

Mashpee Planning Board, minutes of meeting, February 5, 2014, page 2.

Mary Waygan, Chair
September 25, 2018
Page 2

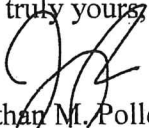
“Mr. Wall indicated that a 2nd class membership could be created allowing Blue Castle members to pay their proportionate share for road maintenance and insurance, but not the capital reserve for the road.”

Id., page 3.

As the minutes show, a negotiated agreement of a contribution to road maintenance on a purely voluntary basis was presented in the initial application for the special permit. Here, Duco Associates, Inc. is being treated differently because of the fact that it owns vacant land. I believe the issue that my clients brought before the board in July, whether the graded road satisfies the requirements for adequate access, is independent of contributions towards maintenance of the road. However, Duco Associates, Inc. continues to be amenable to a reasonable contribution towards maintenance costs, one that includes maintenance and insurance costs but not capital reserves of the association.

In light of our efforts and the present impasse, I plan on scheduling another hearing on the issue of the waiver request for a later date. Any further guidance on this issue, as the board sees fit and necessary, is welcome.

Very truly yours,


Jonathan M. Polloni, Esq.

Cc: Henry Barr, Duco Associates, Inc.

Charles L. Rowley, PE, PLS

Consulting Engineer and Land Surveyor

5 Carver Road
PO Box 9
West Warcham, MA 02576

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

September 25, 2018

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

Inspection of Ockway Highlands
Blue Castle Drive, Carriage Drive

Attention: Mary Waygan, Chairman

Dear Ms. Waygan:

On Friday, September 21, 2018 I made an inspection of the Blue Castle Drive area and Carriage Road connecting with DeGrass Road. The following is a summary of the conditions found:

Blue Castle Drive:

1. The drainage area constructed on Blue Castle Drive near the intersection with Great Neck Road South has not been completed.
2. The area has been loamed out but had not been hydroseeded.
3. Evidence of scouring was observed at the paved waterway.
4. No protection was given to the beehive grate to prevent sediment from entering the subsurface infiltration system constructed below.
5. An open area was observed on Blue Castle Drive where the pipe was placed under the driveway to the Virgilio property.
6. No work has been done to upgrade the width of Blue Castle Drive or to construct the swales in the road shoulders for controlling surface runoff.
7. Blue Castle Drive has been given a binder course of pavement only resulting in surface runoff from Great Neck Road South flowing toward the drainage system. The system was not designed to handle this excess runoff.

Carriage Road:

1. The two drainage areas that collect stormwater runoff from Blue Castle Drive and Carriage Road have been left unfinished.
2. There is evidence of erosion in both areas having taken place from the adjacent slopes.
3. Sediment buildup on the bottom of both areas was observed.
4. No protection of untreated slopes or the areas around the inlet structures for the infiltration systems has been put in place.
5. There is potential for sediment to have been introduced into the subsurface systems and potentially reducing their effectiveness and capacity to operate as designed.

Recommendations:

Blue Castle Drive

1. Inspect the infiltration system for sediment buildup that may have already taken place,
2. Reconstruct the infiltration system if inspection reveals contamination on the sidewalls of the structures and not just on the bottom surface,
3. Hydroseed the drainage area to prevent loss of the graded slopes,
4. Place the final wearing surface on the binder and include the rolled berm across the entrance from Great Neck Road South,
5. Reconstruct the paved waterway to include filter fabric under the stone with the edge of the fabric tacked to the binder course of mix in the paved waterway and lay the final course of mix over the binder and fabric,
6. Install temporary hay bales around the beehive grate of the infiltration system to prevent sediment entry,
7. Construct the remaining portion of Blue Castle Drive from the end of pavement to end of pavement as shown on the plans including the swales, shoulder loam and seed, road surface widening and shaping.

Carriage Drive

1. Inspect the subsurface infiltration structures for sediment contamination and reconstruct if sediment has built up beyond the bottom surface of the systems,
2. Repair the damage done to the slopes of each drainage area and protect with appropriate hay bales, jute netting and wattles,
3. Remove sediment from the bottom surfaces of each area and place filter fabric under the grates of receiving structures to prevent future sediment from entering the subsurface systems. Keep in place until all slopes are loamed and seeded according to the approved plans.
4. Since Blue Castle Drive and Carriage Drive have both been paved with binder, each of the drainage areas should be completed in order to properly capture, treat and infiltrate stormwater. That would include loam and seed of all disturbed areas.
5. Protect road shoulders from further erosion by placing appropriate protection measures on shoulders and slopes until grass has germinated.

Please feel free to contact me if you have any questions. The photos that follow show the site conditions as found on September 21, 2018.

Very truly yours,

Charles L. Rowley

Charles L. Rowley, PE, PLS
Engineering Consultant to Mashpee Planning Board

Photo No. 1



Drainage area in front of Virgilio property, Blue Castle Drive

Photo No. 2



Great Neck Road South and Blue Castle Drive Intersection

Photo No. 3



Drainage Area on Carriage Drive near DeGrass Road

Photo No. 4



Southerly End of Drainage Area on Carriage Drive near DeGrass Road

Photo No. 5



Southerly End of Drainage Area On Carriage Drive at Blue Castle Drive

Photo No. 6



Midpoint of Drainage Area on Carriage Drive, Erosion from Edge of Pavement



Town of Mashpee

Department of Public Works

350 Meetinghouse Road
Mashpee, Massachusetts 02649
Telephone - (508) 539-1420
Fax - (508) 539-3894

MEMORANDUM

September 25, 2018

TO: Planning Board
Evan Lehrer, Town Planner

FROM: Catherine Laurent, Director *CL*

SUBJECT: Ockway Heights Subdivision – Blue Castle Drive and Carriage Way

Per the Town's snow removal policy, private roads are plowed by the Town provided they are maintained to a minimum standard. The DPW inspects private roads annually to assess whether they meet this standard.

Carriage Way is still under construction and therefore will not be plowed. This will not impact any residents as the lots have not been developed. Blue Castle Drive however is a private road which provides access for a number of homes outside of the subdivision. Based on its current condition, it will not be plowed. This will have an adverse impact on the current residents of the neighborhood.

The road's poor condition is due to a large part to the ongoing construction associated with the Ockway Heights subdivision.

- There is not a proper transition between the paved portions of the road and the unpaved portions of the road (2+ inch difference in road elevations).
- There are a number of potholes along the unpaved portion of the road.
- The road shoulders along the paved portions of the road are not suitable graded.
- The castings for the drainage structures are not adjusted to the road elevation (3+ inches higher).
- There are stockpiles of road materials in the road restricting access.
- There is overhanging/overhanging vegetation along the sides of the road, particularly where its location shifted.

I understand the Board will be discussing the status of construction for the subdivision at your meeting tonight. Because Blue Castle Drive is a private road, I do not have any recourse to require action. I am therefore requesting the Board use whatever authority you may have to order the developer to address the above road issues before the first snowfall.



Town of Mashpee

Department of Public Works

350 Meetinghouse Road
Mashpee, Massachusetts 02649
Telephone - (508) 539-1420
Fax - (508) 539-3894

MEMORANDUM

September 25, 2018

TO: Planning Board
Evan Lehrer, Town Planner

FROM: Catherine Laurent, Director *CL*

SUBJECT: October 2018 ATM – Article 14, Cotuit Road Land Taking

As part of re-construction of Cotuit Road, the Town is proposing to realign the intersection of Cotuit Road and Route 130/Main Street. While not necessarily a high accident location for the region (reported crash rates are lower than the MassDOT average for District 5), the intersection's geometry can be improved to lower vehicular speeds and make it safer.

The realignment will require the taking of approximately 1,194 square feet of land from the adjacent property at 226 Cotuit Road. The turning radius for the existing road actually currently encroaches slightly on this property. With the realignment, the road shifts further onto the property.

During the design process it was also found that the water main from Route 130 onto Cotuit Road crosses the private property. The Mashpee Water District has no record of an easement for this main. The proposed taking therefore includes the land under which the water main is located.

Please let me know if you have any further questions on the proposed land taking.



**TOWN
OF
MASHPEE
PLANNING BOARD
PUBLIC HEARING NOTICE**

Pursuant to Massachusetts General Laws, Chapter 40A, the Mashpee Planning Board will hold a public hearing on Wednesday, September 19, 2018 at 7:10 p.m. at the Mashpee Town Hall, 16 Great Neck Road North, to review the following zoning articles proposed for action at the October 15th, 2018 Town Meeting.

Warrant Article 10 (Draft #2) – Limitation of Marijuana Retail Establishments

To see if the Town will vote to amend the Zoning Bylaw to limit the number of marijuana retailers in Town to fewer than 20% of the licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises under M.G.L. c. 138, §15 and restricting the location of Marijuana Establishments to the Commercial (C-1, C-2, C-3) or Industrial (I-1) Districts as a special permit use, or take any other action relating thereto.

Warrant Article 11 (Draft #2) – Amendment to the Article X of the Zoning Bylaw

To see if the Town will vote to add new §175-57.1 Violations and Penalties to enable the Building Inspector to

issue fines as set forth for violations of the Zoning Bylaw regarding Article X-Signs.

Warrant Article 12 (Draft #2) – Amendment to §174-3 of the Zoning Bylaw and adding new §174-57
To see if the Town will vote to amend §174-3 to define 'Seasonal Signs' as any sign(s) that are temporary in nature and have been permitted in accordance with §175-57 enabling the Building Inspector to permit seasonal signs following review and comment by the Design Review Committee. *withdrawn*

Warrant Article 13 (Draft #2) – Mixed Use Planned Development (MPD)

Submitted by the Planning Board amending the Zoning Bylaw to amend §174-3 and add new §174-46.1 to enable mixed-use development of parcels 20+ acres in size by Special Permit so long as a portion of said parcel lies within the C-1 zoning district incorporating a Form-Based Design Code. *withdrawn*

Warrant Article 15 (Draft #2) – Light Industrial Overlay District

To see if the Town will vote to add "Light Industrial Overlay District to the Zoning Map and amending the Zoning Bylaw by adding §174-5 (G) Light Industrial Overlay District that would the development of emerging modern light industrial uses providing opportunities for new business while elevating the architectural integrity of the area by incorporating design guidelines relevant to the Cape Cod vernacular. (12)

Warrant Article 16 (Draft #2) – Raze and Replace
Submitted by the Zoning Board of appeals to amend the Zoning Bylaw by adding §174-17.1 to enable single and two family homes to be razed and replaced so long as the Zoning Board of appeals finds that any changes, extensions, alterations or reconstruction of the pre-existing non-conformities are not substantially more detrimental than exists prior to removal of the existing structure.

Warrant Article 17 (Draft #2) – Mobile Food Truck
Submitted by the Zoning Board of appeals this article will clarify in the Zoning Bylaw the definition of 'Mobile Food Truck' by adding a definition in §174-3 and amending §174-25 to include Mobile Food Trucks as a legal use in C-1, C-2, C-3, and I-1 zoning districts after review and comment by the Plan Review Committee. *withdrawn*

Warrant Article 18 (Draft #2) – Deletion of §174-17 Continuation; Extensions; Alterations in Entirety
Submitted by the Zoning Board of Appeals. (17)

Warrant Article 19 (Draft #2) – Setbacks from Water and Wetlands
Submitted by the Zoning Board of Appeals, this proposed amendment to the Zoning Bylaw would remove a bureaucratic duplication in the approval process. (18)

Warrant Article 20 (Draft #2) – Parking locations in I-1 Districts
Submitted by the Zoning Board of Appeals, this proposal would amend §174-37 of the Zoning Bylaw to allow parking on any side of a building located in an I-1 District: (19)

Warrant Article 21 (Draft #2) – Deletion of §174-25 (9) in entirety from the table of uses.
Submitted by the Zoning Board of Appeals, this proposed amendment to the Zoning Bylaw would remove a bureaucratic duplication in the approval process regarding fixed and floating piers, wharves, docks and boardwalks. (20)

Warrant Article 22 (Draft #2) – Amendment of §174-31, Note 23 of the Zoning Bylaw
Submitted by the Zoning Board of Appeals this proposal seeks to add clarity regarding placement of swimming pools. *withdrawn*

Warrant Article 23 (Draft #2) – Mixed Use Planned Development (MPD)
Submitted by citizen petition amending the Zoning Bylaw to amend §174-3 and add new §174-46.1 to enable mixed-use development of parcels 20+ acres in size by Special Permit so long as a portion of said parcel lies within the C-1 zoning district incorporating a Form-Based Design Code

The full text of these articles may be reviewed in the office of the Town Clerk or Town Planner at Mashpee Town Hall.
Submitted by:
Mary E. Waygan, Chair
Mashpee Planning Board

August 31, 2018
September 7, 2018

*does Mary want me
to reference Notice #
or
Warrant #?
BOTH #*



**TOWN
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PUBLIC HEARING NOTICE**

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Submitted by:
Mary E. Waygan, Chair
Mashpee Planning Board

September 7, 14, 2018

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Submitted by:
Mary E. Waygan, Chair
Mashpee Planning Board

September 7, 14, 2018



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"Preserving public trust, providing professional services"

Deborah Dami, MMC, CMMC
Town Clerk
508-539-1418
ddami@mashpeema.gov



Office of the Town Clerk
Mashpee Town Hall
16 Great Neck Road North
Mashpee, MA 02649

September 15, 2018

Ms. Mary Waygan, Chairman
Mashpee Planning Board
Mashpee, MA 02649

Re: Proposed October 15th ATM Zoning Bylaw Articles


Dear Ms. Waygan,

As a member of the Planning Board you are aware that it is a requirement that all proposed bylaw articles are reviewed and a decision to either support or oppose any and all proposed bylaws is made at a public hearing prior to town meeting. The Mashpee Planning Board will be holding such public hearing on September 27, 2018.

It has been brought to my attention that on Tuesday, September 11, 2018, at the Mashpee Board of Selectmen's meeting, you were witnessed having a conversation before and after the Selectmen's meeting with two gentlemen, Mr. Lynch and Mr. Kelley, who have voiced strong public opposition to the proposed "raze and replace" zoning article.

As an elected official, I cannot stress enough the importance of maintaining a posture of neutrality and avoiding even the appearance that you would show favor toward someone or that you can be improperly influenced by others (see, G.L. c. 268A, Section 23(b)(3)), especially in this era of governmental transparency. Because the implication has been raised that you cannot maintain a neutral position as the Chairman of the Planning Board with respect to this matter, I hereby request that you either file with this office a written disclosure to address any perceived impartiality toward these gentlemen or recuse yourself from further action relative to this matter.

Sincerely,


Deborah F. Dami, MMC, CMMC
Mashpee Town Clerk

Cc: Board of Selectmen
Town Manager
Planning Board
Town Planner
Town Counsel

Received 9/22/18 MEW

9/27/2018

Mail - Mary Mary - Outlook

RE: Mashpee Commons By Design - Form-based Code (7:51 AM)

Tom Feronti <tom@mashpeecommons.com>

Thu 9/27/2018, 3:53 PM

To: Mary Mary <waygan@hotmail.com>

Cc: Evan Lehrer <ELehrer@mashpeema.gov>

Chairman Waygan,

We have evaluated the proposed questions and are working on preparing answers to those that can be answered at this point in time. Many of the questions involve more thorough and comprehensive studies that are not yet complete. We have found that some of the questions are more project specific, relying upon definitive zoning regulations to define the study, and are not able to be answered based on where we are in the process.

Our hope is that the information that we are assembling will help inform the Planning Board, as well as the community as a whole, about the positive benefits that the expansion of Mashpee Commons would be able to provide.

As discussed during our last visit with the Planning Board, we are committed to working with the Planning Board, as well as other Boards and Committees in Town, to take the time necessary to review this zoning proposal. We are working diligently and, while we do not have anything ready to submit to the Planning Board as of yet, very much look forward to continuing the productive dialogue that began earlier this year.

Please let me know if you have any further questions.

Thanks,

Tom

From: Mary Mary <waygan@hotmail.com>

Sent: Friday, September 21, 2018 7:37 AM

To: Tom Feronti <tom@mashpeecommons.com>

Subject: Mashpee Commons By Design - Form-based Code (7:51 AM)

Hi Tom,

The Planning Board meets next Thursday 9/27/18. What materials will you be submitting to the Planning Board for our 9/27/18 meeting in response to the Boards request for information below? Please provide the materials electronically to the Town Planner and to me (waygan@hotmail.com) and by hard copy for distribution to board members, recording secretary, board engineer, town planner, and the file.

Thanks!

Mary Waygan, Chair

Mashpee Planning Board

Sent from Outlook

9/22/2018

Mail - Mary Mary - Outlook

As to our conversation at the One Cape Conference, have you had an opportunity to determine the process that you would like us to follow for providing responses to the Board?

Thanks,
Tom

From: Mary Mary <waygan@hotmail.com>
Sent: Monday, August 27, 2018 7:52 AM
To: Tom Feronti <tom@mashpeecommons.com>
Subject: Mashpee Commons By Design - Form-based Code (7:51 AM)

Dear Tom,

Thank you for your email regarding the Planning Board's August 15, 2018 meeting. In response, on August 15, 2018, at their regular meeting, the Mashpee Planning Board discussed the need for more information regarding the proposed expansion of Mashpee Commons. Listed below is the Planning Board's current request to Mashpee Commons for information. Please submit this information and materials to the Planning Board so that the discussion on the expansion may continue.

Requested information:

1. Master Regulatory Plan as referenced in the Form-based Code book.
2. Visioning plan showing proposed character districts/zones, proposed and existing roads, and traffic controls at Rt 151 and Rt 28.
1. Blank visioning map, in large scale, showing proposed and existing roads, but with no character districts filled-in
2. List of parcels in the proposed expansion, by Assessor's Map and Lot number.
5. Plan for vehicle parking lots for each of the residential, commercial, and mixed-use character districts
6. The complete Fiscal Impact Analysis by Connery of Mashpee Common's CH 40B Proposal from 2005
7. Special permits and all modifications issued to Mashpee Commons by the Town to date, including the book and page or document number from the Barnstable County Registry of Deeds and Land Court
8. Minimum and maximum building height allowed in each character district, including the roof
9. Minimum and maximum residential density allowed in each character district
10. Minimum and maximum commercial square footage allowed in each character district
11. Estimated additional waste water flow, allowed concentration of Total Nitrogen, and remaining capacity of current waste water treatment facility.
12. Minimum and maximum Total Nitrogen loading expected from the expansion
13. Environmental Impact Study including but not limited to and specific plans to protect and improve the environmental quality of the Mashpee River, Quashnet River, Waquiot Bay, with special consideration for the current degraded and impaired state of these water bodies.

9/22/2018

Mall - Mary Mary - Outlook

14. Traffic impact study and plans to mitigate these impacts
15. Stormwater management plan for the expansion and proposal on how the existing drainage system will be incorporated into the expansion drainage.
16. Archeological Sensitivity Study of the expansion area.
17. Identification of all open space, on-site or off-site, connected with the expansion.
18. Identification of any contemporary designs that would be allowed by the proposed Form-based Code
19. Sustainability Analysis of the expansion showing how the expansion balances the environment, equity and the economy of the Town.
Address the following items: drinking water, quality of the proposed built living environment, traffic, noise, services and facilities, harmony with nature, place-based economy, equity, and community character with special attention to Mashpee's unique history, her indigenous residents, accessibility, affordable housing, and open space.
20. Status of the construction permitted under the Jobs Whittings CH 40B Comprehensive Permit, and plans to build out additional phases.
21. Book and page of the CH 40B Comprehensive Permit Decision recorded with the Barnstable County Registry of Deeds.
22. Impacts on the Town's emergency and other public services
23. Review and analysis by the Town's Fire Department regarding planned narrow spaces and alley ways.
24. Identification of the locations of proposed parking garages (if any)
25. Identification of areas within the expansion suited for low impact design and permeable pavement

Yours,

Mary Waygan, Chair

Mashpee Planning Board

Provide

Mashpee Planning Board

To the Members of the Planning Board:

When I heard about the proposed change to the town's accessory dwelling bylaw, I hoped to attend the 8/1 meeting of the Planning Board, but an injury prevents me from being there in person.

As a young professional, resident and homeowner in Mashpee, I believe the town must take steps to create more housing opportunities for people who make too much to qualify for affordable housing programs yet still struggle to pay both rent and other expenses, such as student loans.

One thing most of my employees, friends, and co-workers have in common is the struggle to even find an apartment. The number of rentals on the market is miniscule compared with the number of people looking for an apartment or small house and that's what allows landlords to charge higher prices. We need to add to the supply.

I care about open space, which is why I think the bylaw standards created by the Cape Cod Commission, in their model bylaw, is a great way to achieve both new housing units and open space and community preservation. Individual homeowners can repurpose their existing 4 bedroom home into a 3 bedroom house and 1 bedroom accessory apartment without impacting the environment, traffic, or density.

This is even a program my husband and I would think about taking advantage of ourselves to help us afford to live here and put our kids through college. But under the existing bylaw, with all the hoops and restrictions homeowners have to go through, it's just not worth it. We wouldn't undergo the expense if we were told who we could rent to and what we had to charge and faced other restrictions.

I ask the Board to support the bylaw change submitted by the Town Planner.

Thank you,

Melinda Baker
73 South Sandwich Road
508-280-7462 melindaebaker@gmail.com

Received 8/1/18 MEW



Dunning, Kirrane, McNichols & Garner, LLP

ATTORNEYS AT LAW

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Patricia McGauley, of Counsel

September 4, 2018

Ms. Mary Waygan
Chairman, Mashpee Planning Board
16 Great Neck Road North
Mashpee, MA 02649

Re: Warrant Article 16 – Raze and Replace
Amendment to the Mashpee Zoning By-Laws

Dear Chairperson Waygan:

It is my understanding that the Planning Board will once again be taking up a revision to the Zoning By-Law (Section 174-17) in regard to raze and replace projects. I have recently undergone surgery for a fractured ankle and will not be able to make your meeting on the 5th of September and may not be able to attend the October 19th Public Hearing.

As you know, I have been representing clients in Mashpee for some 35 years. Over that time, the primary focus of my practice has been in the realm of land use and zoning. I have had the opportunity to present a variety of matters to the local permitting authorities and many of those have related to so called raze and replace permits or findings. Over the last 20 years I have presented hundreds of residential raze and replace projects to the Zoning Board of Appeals and the vast majority have been granted pursuant to Section 174-17 as currently written. It is only within the last year based upon the interpretation of that By-Law by the Building Commissioner, who also acts as the Zoning Enforcement Officer, that the question of its interpretation to include voluntary removal of the structure has been raised. It is my understanding and belief that the proposed By-Law Modification will serve to clear up that question of interpretation.

Raze and replace projects come in all shapes and sizes and in the vast majority of cases, present a far more practical and less costly approach than attempting to remodel, on a piecemeal basis, structures that are fifty plus years old that fail to meet present day code requirements.

While it is true that the size of the new buildings generally exceed the size of the old, because in many cases a second story is being added, the degree of increase in square footage is generally limited by the maximum lot coverage of 20% or 25% depending upon the size of the lot in question. With very few exceptions, the Board of Appeals has been vigilant in requiring applicants to adhere to that maximum lot coverage criteria.

The proposed By-Law, which would require a Special Permit, would vest the Zoning Board with the same discretion they have exercised over the years under Section 174-17 to determine if the new structure will be a substantial detriment to the neighborhood and the public in general. In rendering such a decision, the Board generally will look to the character of the neighborhood to determine if what is proposed is consistent with the neighborhood. In addition, under the proposed By-Law, the Board will have to consider whether the interests sought to be addressed in the Special Permit By-Law (Section 174-24C) have been addressed. These are the same criteria that the Planning Board looks to when it is couched with the Special Permit granting authority.

I have had the opportunity to review the minutes of the Planning Board's meeting in the spring when the prospect of a new By-Law was initially discussed. It is not surprising that a couple of individuals spoke in opposition to the proposed By-Law change given they have been in opposition to a proposed raze and replace project on an abutter's property, which happens to stand between the opponent's property and Nantucket Sound. In the interest of full disclosure, my office represents that abutting property owner. While it will serve no useful purpose to get into specific details of that proposal, I would point out that, based upon my experience, that proposal is consistent with other raze and replace projects in the Popponesset neighborhood. I would also suggest that in most cases where opposition is raised, it typically stems from some impairment of view, which is not a zoning consideration.

While it was suggested that the law seeks to make lots and structures as conforming as possible, that concern is more often found in situations where the Town has merged non-conforming lots to bring them into as close conformance to subsequently adopted larger lot size and frontage criteria as possible. That is the general concept relied upon by the Permit Granting Authorities in denying a property owner's application to undo that merger.

DKM:G

Page 3

Warrant Article 16

September 4, 2018

At the same time it is impossible to ignore the protections afforded to pre-existing non-conforming single and two family residential structures under Section 6 of M.G. c 40A. That Statute recognizes that communities often change their dimensional zoning criteria and the inherent unfairness, which would result in requiring a residential home developed years earlier on a smaller lot to be governed by the newly adopted more restrictive dimensional criteria applicable to much larger lots.

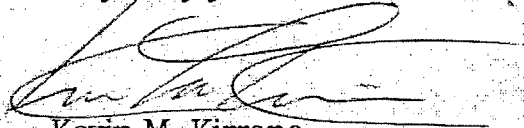
Over the last fifty years land values (in particular waterfront) substantially have outpaced the value of the structures sitting on that land. Property owners, who are willing to invest hundreds of thousands of dollars in these lots inevitably have an interest in upgrading the often outdated and in many cases, seasonal dwellings which occupy these lots, to accommodate the needs of their families.

In so doing, millions of dollars in value have been added to the assessed value of properties, in particular in those waterfront neighborhoods. This increase in value has resulted in significant tax revenue, in most cases, without the corresponding demand for services, since most of the homes are used on a seasonal basis.

Currently this confusion over the interpretation of Section 174-17 has brought to a standstill millions of dollars in home construction projects. I would encourage the Planning Board to support the proposed By-Law change, which would serve to clear up that confusion and return the process followed over the last thirty years to a form of normalcy.

Thank you for your attention.

Very truly yours,



Kevin M. Kirrane

KMK:amb

T. Fudala comments on October 2018 Town Meeting zoning articles

In order of Planning Board September 7 & 14 Public Hearing Notice

"Warrant Article 10 (Draft #2) Limitation of Marijuana Retail Establishments"

This article remains #10 on the published warrant.

It would limit the number of marijuana retail establishment to 20% of the number of permitted liquor stores in town, of which there are currently 9, meaning 1 would currently be permitted, and allows them, by Special Permit, in all Commercial and Industrial zoning districts.

I see no problems with this article.

The Selectmen will move to indefinitely postpone this article if Article 9; a proposed General By-law (simple majority vote needed to pass) which would completely prohibit non-medical marijuana establishments in the town, is approved.

Should both Articles 9 and 10 (which requires a 2/3 majority to approve, as with all Zoning By-laws) not be approved, an unlimited number of Marijuana Retail Establishments would be allowed in the town.

"Warrant Article 11 (Draft #2) – Amendment to the Article X of the Zoning By-law"

This article remains #11 on the published warrant.

This article provides for a set of fines, under the "noncriminal disposition" process provided under MGL C. 40, §21D for enforcement of Town By-laws, for violations of the Zoning By-laws regarding signs. The explanation has been changed since the original filing with the Planning Board to eliminate the inaccurate claim that there is currently no penalty enforcement for sign violations, as there is a complete set of violation and fines (\$300 per occurrence) contained in Article XVIII of the Zoning By-laws, which follows the procedures specified in the Zoning Act (MGL C. 40A). The result is an additional option available to the Building inspector to enforce and penalize sign by-law violations, through a different, and slightly simpler, court process than that provided in the Zoning Act.

I see no problems with this article, although the overriding issue is the problem of knowing what current, grandfathered, or Special Permit-authorized sign regulations are to be enforced in the first place. I doubt that the changed explanation from what was submitted to the Board by the Selectmen for your public hearing will cause too much heartburn at the Attorney General's Office, should the article pass.

"Warrant Article 12 (Draft #2) – Amendment to §174-3 of the Zoning Bylaw and adding new §174-57"

This article, which would have provided for "seasonal signs", has been removed from the Warrant by the Selectmen.

"Warrant Article 13 (Draft #2) – Mixed Use Planned Development (MPD)"

This article, the Planning Board's Mixed-Use Planned Development By-law proposal, was removed from the Warrant by the Selectmen. (The same article remains on the Warrant as a petition article.)

12/ "Warrant Article 15 (Draft #2) - Light Industrial Overlay District"

A greatly-changed version of this article, prepared by the Town Planner, has been placed on the Warrant, at their September 11 meeting, by the Board of Selectmen as an article submitted by them, and is listed as Article 12 on the published warrant. *The changes to the article since the September 7 published notice that its full text was available to be viewed by the public in the offices of the Town Clerk or Town Planner, may create a problem when the Attorney General reviews any approved articles and their notice process prior to her required approval of the article.*

The article now places proposed definitions in their proper place under §174-3, vs. the previous version which listed them in an entirely new §174-45.6, which has now been eliminated, with all aspects of the proposal integrated into their appropriate places in the body of the Zoning By-law.

It enumerates a list of specific uses, of which most are currently allowed by right or Special Permit in the I-1 Industrial District under more general terms and adds them to allowed uses in the C-3 Zoning District, which consists primarily of a strip of land on the southwest side of Route 130 opposite an R-5 Residential District. This more specific list of uses is intended to encourage the type of businesses listed, although they would still be subject to the same Special Permit requirements as any other use. (In my opinion, it may have been possible to provide a simpler approval process, such as Plan Review only, for a number of these uses, in order to encourage them, as was done for renewable energy facilities and "Renewable or alternative energy research and development (R&D) facilities".)

The proposal also provides for a series of "Accessory Uses". Some of the listings are problematic, e.g. the accessory uses allow for "Outdoor seating / eating area", whereas outdoor dining is not allowed in the C-3 or I-1 Districts under the provisions of 174-25.1.(10). There is also confusion between the articles' listing in the definition §174-3 of "**Full Service Café / Restaurant**"— Any food establishment, except for a licensed food truck, that has a fully outfitted commercial kitchen and is not counter service.", which is then not listed as a new allowed use in the overlay district, the existing listing under §174-25.E.(2) of "Eating places serving food and beverages to be consumed within the building" which are currently only allowed in the C-1, C-2 and C-3 Commercial Districts and prohibited in the I-1 Industrial District, and the allowance in the proposed article, as an accessory use, of "Café/Food Service (includes restaurants that are not full service)". I believe that these 2 "accessory uses" should be deleted from the article, and a more thorough review and discussion of the allowance of some sorts of eating places in the I-1 District (not a bad idea if properly done) be taken up for a future zoning article.

The previous architectural standards, which may have run afoul of the provisions of the Zoning Act, have been eliminated.

The previous streetscape requirements (which were admirable), which may have conflicted with the Board's Subdivision Control authority under MGL C. 41, have been eliminated.

All of the site design standards and landscaping requirements, which I think were mostly great, have unfortunately been eliminated. Some version of these standards should be considered in a future zoning amendment, or incorporation into the Special Permit regulations of the Planning Board and ZBA.

The inappropriate / illegal pre-application requirements have been eliminated.

The resulting Zoning amendment, which incorporates most of the changes I suggested to Evan when we met after the last Planning Board meeting, is worthy of support, excepting the few issues I noted.

Ignoring the improper notice of the contents of this article, which may present a problem to the Attorney General, I would suggest that the Board recommend approval of Article 12 on its merits, subject to the deletion of the phrases "Café/Food Service (includes restaurants that are not full service)" and "Outdoor seating/eating area" from "Section D.) Accessory Uses".

"Warrant Article 16 (Draft #2) – Raze and Replace"

This article is listed as Article 16 on the Published warrant.

Aside from the arguments for and against, I see no technical problems with this fairly straightforward article. I would personally recommend approval.

"Warrant Article 17 (Draft #2) – Mobile Food Truck"

This article has appropriately been removed from the warrant by the Selectmen.

"Warrant Article 18 (Draft #2) – Deletion of §174-17 Continuance; Extensions; Alterations in Entirety"

There is now an Article 17 on the Warrant, dealing with "§174-17 Continuance; Extensions; Alterations:" which is *entirely different from the advertised complete deletion of this Section. As such, it has not been properly advertised for the Board's public hearing.*

Beyond that problem, the text of the article, despite the misleading "explanation", would eliminate existing "grandfathered" dimensional requirements now applicable under the current §174-17, to thousands, if not the majority of homes in Mashpee, creating great hardship and a potentially vastly increased load of variances and findings on the ZBA and staff. See my attached full discussion of this article and its effect.

I would strongly recommend that the Board vote AGAINST approval of this article 17.

"Warrant Article 19 (Draft #2) – Setbacks from Water and Wetlands"

The Board's public hearing notice for this article, which has also been changed since it was originally submitted, is totally inadequate as notice to the public of what zoning amendment is being proposed. The notice only says: "Submitted by the Board of Appeals, this proposed amendment to the Zoning Bylaws would remove a bureaucratic duplication in the approval process." It says absolutely nothing about the content of the proposed change.

The article published in the Warrant, now numbered Article 18, intends to eliminate the current requirement under §174-33 that buildings and structures, other than docks etc. be set back at least 50 feet from any water or wetland as defined by MGL C. 131, §40. Aside from the defective notice, and an Article "Explanation" that makes no mention of the removal of the 50 foot setback, this article would appear to be illegal, as it reads "Any building or structure, exclusive of floating piers, wharves, docks, bridges or boardwalks, shall be set back from water or wetlands as the Conservation Commission shall determine in accordance with Chapter 172

of the Town of Mashpee General Bylaws." *The illegality is twofold: 1) any dimensional requirement, such as a setback, must be specifically listed in the Zoning By-law and be the same for all affected properties, not variable based on some case-by-case application, and 2) a Zoning By-law cannot be based on decisions or determinations by a body, in this case the Conservation Commission, which has no legal standing to carry out ANY functions under the Zoning Act.*

For the above reasons, I strongly recommend that the Board vote AGAINST approval of this article 18.

"Warrant Article 20 (Draft #2) – Parking locations in I-1 Districts"

This article now appears on the published Warrant as Article 19. Submitted by the ZBA, which has consistently violated the current requirement of §174-37 that "Parking facilities shall be located to the side or rear of the principal structure(s) on a lot or parcel, unless the permitting authority determines that an alternate location will improve the project aesthetically, substantially reduce impacts on natural or historic resources or improve public safety." The ZBA has apparently decided that it does not like Town Meeting's decision to approve this requirement, to such an extent that applicants to the ZBA do not even bother to propose site plans showing parking as required by the By-law. The ZBA now apparently wants to avoid the bother of coming up with excuses for not enforcing the By-law by eliminating the requirement in I-1 Districts by specifically allowing parking on any side of a building, no matter what the reason and visual impact.

The current requirement requiring parking to be at the side or rear was specifically adopted to improve the appearance of commercial and industrial properties "aesthetically" because of ugly development previously permitted, and is consistent with the design guidelines of the Cape Cod Commission, as well as the intent of Evan's Light Industrial Overlay District and the Town's desire to attract a "higher class" of development in our Industrial Districts which, contrary to the "Explanation" by the ZBA, front on roads very visible to the public such as Mercantile Way, Commercial Street and Route 28. This ugly development reduces the property value of adjacent Industrial property and serves to discourage office or other "higher class" economic development in our Industrial Districts. The ZBA's permits, which it seeks to reinforce with this article even for projects requiring Planning Board approval, have resulted even more "ugly" development, such as the recent atrocity called "Mercantile Place" on Mercantile Way.

THIS IS ESPECIALLY IRONIC, AS ARTICLE 12 OF THE OCTOBER 20, 2003 TOWN MEETING WARRANT, WHICH CREATED THIS REQUIREMENT, WAS SUBMITTED TO TOWN MEETING JOINTLY BY THE PLANNING BOARD, BOARD OF SELECTMEN AND THE ZBA ITSELF!

I strongly recommend that the Board vote to recommend AGAINST approval of Article 19.

"Warrant Article 21 (Draft #2) – Deletion of §174-25-I (9) in entirety from the table of uses"

This article is now listed as Article 20 on the published Warrant.

The Board's public hearing notice for this article, which has also been changed since it was originally submitted as a lengthy article spelling out approval of docks by the Conservation Commission, which had the problem of illegality as mentioned for now-

Article 18 regarding putting a zoning issue under the control of the Conservation Commission, is fairly inadequate as notice to the public of what zoning amendment is being proposed. The notice only says: "Submitted by the Board of Appeals" and does not explain that the article, which as originally submitted was an attempt to remove the requirement that docks which cross over more than 70 feet of wetlands require a Special Permit from the ZBA, now would effectively prohibit all docks in the Town of Mashpee.

Section 174-24.A.5. of the Zoning By-law states that: "Absence of any designation on the table in §174-25 means that the use listed is not permitted, except as provided under §174-24.J."

→ *The article eliminates any designation on the Table of Uses in §174-25, meaning that the use (docks, etc.) will no longer be permitted. The reference to §174-24.J. provides no help, in that it refers to Medical Marijuana establishments (the reference should obviously be to §174-24.K., which provides that "Where a use is not specifically listed in the §174-25 Table of Use Regulations, said use may be allowed if a finding is made by the Zoning Board of Appeals that said use may be allowed in a specific district on the basis that it is substantially similar in its construction, operation, traffic and environmental impact to a specific use allowed as of right or by Special Permit in said district and it is substantially dissimilar in those respects from any uses prohibited in the district. Where the Zoning Board of Appeals cannot make a clear determination, such uses shall be considered prohibited...."). There is clearly nothing else in the Table of Uses similar to docks, etc., once they have been eliminated from the Table, as proposed by this article.*

Based on the above facts, I strongly recommend that the Board vote AGAINST approval of this article. The ZBA needs to go back to the drawing board to create an appropriate article proposing elimination of Special Permits for docks, etc. crossing over more than 70 feet of wetlands.

"Warrant Article 22 (Draft #2) – Amendment of §174-31, Note 23 of the Zoning Bylaw"

This article, which related to setbacks for swimming pools, has been removed from the Warrant by the Selectmen.

"Warrant Article 23 (Draft #2) – Mixed Use Planned Development (MPD)"

This article, which is the petitioned version of the Board's Mixed Use Planned Development by-law, now appears on the published Warrant as Article 21.

Mashpee Raze and Replace needs a real plan



Drainage Issues



Setback Variances

I completely understand and appreciate the needs and desires of the homeowners looking to expand their smaller homes. But I also ask them to understand and appreciate the absolute need to have a plan in place to do so.

I agree that a new Raze and Replace Rule should come into effect. The old Mashpee regulations need a change, BUT removing almost all the rules and protections from these regulations is not the answer.

We need a plan.

Removing the protections of frontage, setbacks, height restrictions, lot coverage, and distance to water, with no oversight by the planning board, will only lead to having a hodgepodge of tiny homes and McMansions built next to each other. With the lack of regulations, our communities will look ridiculous. As a real estate professional myself, I know that this lack of plan will not help our real estate values. It will hurt them.

We need a plan.

The Planning Board is in place to plan, so please come up with a real plan. Using a subjective opinion of whether "a change is or is not substantially more detrimental than exists" should not be the new and only regulation. It is not the answer, nor is it a plan

We need a plan.

The lack of green space will only hurt the environment, and continue our drainage issues and flooded streets. Personally, I would like the option of expanding my home someday, but not to the point of where I will pass butter out my window to my next door neighbor, travel through flooded streets, and swim in an ocean polluted by oversized septic tanks for 5 bathroom homes.

We need a plan. Please help us planning board and put together a plan that works for everyone.

Handwritten signature: Hans Bilmes



TOWN OF MASHPEE

OFFICE OF SELECTMEN

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

MEMORANDUM

TO: Members of the Planning Board
CC: Town Manager, Town Planner

FROM: Terrie Cook – Administrative Assistant to the Town Manager

DATE: September 26, 2018

RE: 2018 October Town Meeting Zoning and Road Petition/ Taking Articles

*Current
Members
for Warrant*

The Final 2018 October Town Meeting Zoning and Road Petition Warrant Articles that were executed by the Board of Selectmen on Tuesday, September 11, 2018 appear on the following pages for the Planning Board's review.

Of note, the following Zoning Articles were pulled from the Warrant on September 11, 2018

- Seasonal Signs – (Article 12 on Draft #2)
- Mixed Use Planned Development (Submitted by the Planning Board) - (Article 13 on Draft #2)
- Light Industrial Overlay District (Submitted by the Town Planner) – (Article 15 on Draft #2) (A similar article appears on the Executed Warrant as Article 12 and was submitted by the Board of Selectmen)
- Mobile Food Trucks – (Article 17 on Draft #2)
- Swimming Pool Setbacks – (Article #21 on Draft #2)

The following Zoning Articles were added to the Warrant on September 11, 2018

- Light Industrial Overlay District (Submitted by the Board of Selectmen) – Article 12 Executed Warrant
- Wireless Facility Overlay District (Submitted by the Board of Selectmen) – Article 14 Executed Warrant

The following Zoning Articles were renumbered in the Warrant on September 11, 2018

- Continuance, Extension or Alterations – Article 17 on Executed Warrant (Article 18 on Draft #2)
- Setbacks from Water and Wetlands – Article 18 on Executed Warrant (Article 19 on Draft #2)
- I-1 District Parking – Article 19 on Executed Warrant (Article 20 on Draft #2)

Thank you.

ZONING & ROAD TAKING ARTICLES

OCTOBER 2018 Annual Town Meeting Warrant (Executed/Final 9-11-2018)

✓ Article 10

To see if the Town will vote to adopt the following Zoning Bylaw amendment limiting the number of marijuana retailers in Town to fewer than 20% of the licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises under M.G.L. c. 138, §15 and restricting the location of Marijuana Establishments to the Commercial (C-1, C-2, C-3) or Industrial (I-1) Districts as a special permit use, or take any other action relating thereto.

Add the following new section:

"174-45.6 Marijuana Establishments"

A. Purpose and Intent

By vote approving Question 4 at the State election on November 8, 2016, the voters of the Commonwealth approved a law allowing the non-medical cultivation, distribution, possession and use of marijuana for recreational purposes (Chapter 334 of the Acts of 2016). Revised/amended law on the subject was enacted by the General Court and the Governor effective December 15, 2016 (Chapter 334 of the Acts of 2016) and, thereafter, on July 28, 2017 (Chapter 55 of the Acts of 2017). The Cannabis Control Commission, created and authorized thereby, issued its final regulations regarding implementation of said law in March, 2018. The new law is codified at G.L. c. 94G. Section 3 of Chapter 94G provides that municipalities may limit the number of marijuana retailers to fewer than twenty percent (20%) of the number of liquor licenses within Town for the retail sale of alcoholic beverages not to be drunk on the premises in accordance with G.L. C. 138 §15, and may govern the time, place and manner of marijuana establishment operations and of any business dealing in marijuana accessories in the Town.

B. Definitions

The terms of this Bylaw shall be construed and implemented in accordance with the definitions set forth in G.L. c. 94G, §1.

C. Limited Number of Marijuana Retailers

In accordance with the provisions of G.L. c.94G, § 3(a)(2)(ii), Mashpee shall limit the number of Marijuana retailers in the Town to the number fewer than twenty percent of the licenses issued within Town for the retail sale of alcoholic beverages not to be drunk on the premises under M.G.L. c. 138, §15.

And, further, to amend Section 174-25, Table of Use Regulations, to add a new Subsection E. (16) "Marijuana Establishment operations and any business dealing in marijuana accessories. (subject to the provisions of Section 174-45.6)", and indicating by the letters "SP" under the C-1, C-2, C-3 and I-1 columns of said Table that such uses may be only permitted by Special Permit in the C-1, C-2, C-3 Commercial and I-1 Industrial zoning district.

Explanation: Mashpee currently has nine (9) retail off-premises alcoholic beverage licenses issued under G.L. c. 138. Twenty percent (20%) of the nine (9) licenses is 1.8. The number of retailers fewer than twenty percent (20%) presently equals one (1) for the Town of Mashpee; therefore, only one location would be currently allowed for the siting of a marijuana retailer. If the number of such licenses for the off-premises sale of alcoholic beverages should change, the number of allowed marijuana retailers could also change. Thus, this Bylaw does not establish a specific number of allowed retailers, but rather a formula for calculating the number of marijuana retailers that are to be allowed. Further, the proposed Bylaw amendment would restrict a Marijuana Establishment use (including a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business) to the Commercial (C-1, C-2, C-3) or Industrial (I-1) Districts upon issuance of a special permit.

Submitted by the Board of Selectmen

The Board of Selectmen recommends Town Meeting approval if Article 9 does not pass by a vote of 5-0

The Board of Selectmen recommends Town Meeting Indefinitely Postpone Article 10 if Article 9 does pass by a vote of 5-0

The Finance Committee recommends Town Meeting approval by a vote of 5-0

ZONING & ROAD TAKING ARTICLES

OCTOBER 2018 Annual Town Meeting Warrant (Executed/Final 9-11-2018)

Article 11

To see if the Town will vote to adopt the following Section §174-57 to the Zoning Bylaws in addition to the enforcement provisions of Section §174-102 to 105 to read as follows:

ARTICLE X – Signs

§174-57.1 Violations and Penalties

The Building Inspector or his/her designee shall enforce this Article and may issue a fine, as set forth below, for violations of the within Zoning Bylaw regarding Signs. Such violations shall be subject to noncriminal disposition in accordance with MGL C. 40, §21D.

First offense	WARNING
Second offense	\$50 per sign
Third and subsequent offense	\$100 per sign

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article establishes a Zoning Bylaw giving the Town an additional fining mechanism.

The Board of Selectmen recommends Town Meeting approval by a vote of 5-0

The Finance Committee recommends Town Meeting approval by a vote of 7-0

ZONING & ROAD TAKING ARTICLES

OCTOBER 2018 Annual Town Meeting Warrant (Executed/Final 9-11-2018)

Article 12 (ARTICLE ADDED TO THE WARRANT ON September 11, 2018)

To see if the Town will vote to amend the Mashpee Zoning Bylaw by adding "Light Industrial Overlay District" to the Zoning Map by adding §174-5(G) - Establishment of Zoning Districts to read as follows:

§174-5 (G) Light Industrial Overlay District

G.) The Light Industrial Overlay District shall include all parcels shown as within the I-1 and C-3 Zoning Districts on the Official Zoning Map.

To amend the Mashpee Zoning Bylaw by adding the following definitions to §174-3 Terms defined as follows:

'LIGHT INDUSTRIAL' - Production of smaller consumer goods generally sold directly to the end user not as products designed as intermediates for use by other industries, often in the form of food and beverage, handicrafts. Non capital intensive consumer focused manufacture of goods by firms with at least one employee and not more than.

'ART, HANDICRAFT, AND APPAREL MANUFACTURING' - Manufacture of crafts, art, sculpture, stained glass, jewelry, apparel, furniture, cabinet making, and similar items using hand tools and small mechanical devices.

'FURNITURE MAKING' - The manufacture of movable objects designed to support human activity and comfort using hand tools and small mechanical devices such as sofas, stools tables, chairs, etc.

'FOOD MANUFACTURING' - The aggregation of food products from hydroponic food production facilities for packaging and sale.

'FOOD PROCESSING' - The combination of raw food products that may or may not be cooked or otherwise prepared to produce marketable food products.

'HYDROPONIC FOOD PRODUCTION' - The cultivation and production of fresh produce grown in a nutrient solution, generally indoors without soil.

'AQUAPONIC FOOD PRODUCTION' - The cultivation and production of fresh produce using any system that combines hydroponics in conjunction with aquatic animals to create a symbiotic environment.

'CO-WORKING' - membership-based workspaces where diverse groups of freelancers, remote workers, and other independent professionals work together in a shared, communal setting

'MAKERSPACE' a place in which people with shared interests can gather to work on projects while sharing ideas and knowledge using shared equipment usually capital intensive and cost prohibitive for the individual maker. Often include information and technology and art communities.

'ARTIST STUDIOS' - an artist or worker's workroom used for the purpose of acting, architecture, painting, pottery (ceramics), sculpture, origami, woodworking, scrapbooking, photography, graphic design, filmmaking, animation, industrial design, radio or television production broadcasting or the making of music.

'FOOD INCUBATOR' - Also referred to as 'shared-use kitchens and food accelerators. Used as a place of business for the exclusive purpose of providing commercial space and equipment to multiple individuals or business entities which commercially prepare or handle food that will be offered for sale

'FOOD TRUCK PARK' - A parcel or lot that is set aside and designed solely for the use of food trucks and other temporary food service establishments.

'FULL SERVICE CAFÉ/RESTAURANT' - Any food establishment, except for a licensed food truck, that has a fully outfitted commercial kitchen and is not counter service.

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Add the following Industrial uses to §174-25(G) Principal industrial, wholesale and transportation uses: with the letters "SP" under the columns identified as I-1 and C-3 numbered sequentially as appropriate to read:

Type of Use	Residential		Commercial			Industrial
	R-3	R-5	C-1	C-2	C-3	I-1
LIGHT INDUSTRIAL	--	--	--	--	SP	SP
ART, HANDICRAFT, AND APPAREL MANUFACTURING					SP	SP
FURNITURE MAKING					SP	SP
FOOD MANUFACTURING					SP	SP
FOOD PROCESSING					SP	SP
HYDROPONIC/AQUAPONIC FOOD PRODUCTION					SP	SP
MAKERSPACE					SP	SP
ARTIST STUDIO					SP	SP
FOOD INCUBATOR					SP	SP

Add the following office uses to §174-25 (D): Principal office and laboratories with the letters "SP" under the columns identified as I-1, C-1, C-2, and C-3 numbered sequentially as appropriate to read:

Type of Use	Residential		Commercial			Industrial
	R-3	R-5	C-1	C-2	C-3	I-1
CO-WORKING	--	--	SP	SP	SP	SP

Add the following commercial uses to §174-25: Land Use Regulations with the letters "PR" under the columns identified as C-1, C-2, C-3 and I-1 numbered sequentially as appropriate to read:

Type of Use	Residential		Commercial			Industrial
	R-3	R-5	C-1	C-2	C-3	I-1
FOOD TRUCK PARK	--	--	PR	PR	PR	PR

To see if the Town will vote to amend the Mashpee Zoning Bylaw §174-45.6 by adding Light Industrial Overlay District to Section IX: Special Provisions to read as follows:

Section A.) Purpose and Intent

- Elevate our established Industrial and Gateway commercial districts by accommodating for emerging light industrial uses with compatible commercial activities and create a sense of place by accommodating suitable accessory uses'.
- Enable a district of creativity and innovation designed to drive community and economic development and contribute to the enhancement of Mashpee's evolving character.
- Enhance the gateways to town by placing greater value on the architectural integrity of the area.
- Bolster a vibrant creative/industrial economy and add to the list of Mashpee destinations.

Section B.) Allowed Uses:

In addition to uses specified in §174-25: Land Use Regulations of the Mashpee Zoning-By Law, this Overlay establishes the criteria to develop, the industrial and C-3 districts, relevant activities and emerging business models that represent industrial uses reflective of the modern era. This district will create a pathway for light-industrial uses, as defined above, to establish a presence and an identity in Mashpee while knitting together town fabric by permitting compatible commercial and miscellaneous uses that help to establish sense of place and character. Uses that reflect modern industrial realities and shall be permitted within the boundaries of the Light Industrial Overlay as defined in §174-25:

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Land Use Regulations. Uses shall reflect the modern industrial typology that does not require significant floor area, produce excessive levels noise or environmental pollution or degradation and shall adhere to the architectural standards identified in the sections in this chapter.

Section C.) General Requirements and Prohibitions

- Allowed uses will conform to the definition of 'Light-Industrial' as per §174-3 or conform to allowed uses specified in §174-25 under the I-1 and C-3 columns.
- Any use whose process produces dangerous or noxious compounds, whether solid or gas, that may impact surrounding parcels and districts is prohibited if the applicant is unable to demonstrate to the permitting authority compliance with this prohibition. .
- No food truck vendor who wishes to conduct business in a Food Truck Park shall do so without acquiring all required licenses and permits from the Board of Health, Board of Selectmen and any relevant state and/or federal permitting/licensing authority.
- District-wide events such as farmers markets, arts and crafts sales, and open studios shall be allowed after the Plan Review Committee has reviewed and approved a planned proposal that indicates the dates, times, locations, events scheduled, vendors, and a statement of expected impact etc.

Section D.) Accessory Uses

A mix of uses will be allowed so long as the permitting authority finds that the accessory use is complementary to the principal business and is not detrimental to the area. Any proposed exterior accessory use shall be included in site plan and shall require approval from the permitting authority.

Accessory uses shall include the following:

- Retail sales and services clearly secondary to the principal business.
- Café/Food Service (includes restaurants that are not full service)
- Outdoor seating/eating area
- Tasting Room/Bar for product sampling.
- Dog Park
- Playground/Skate park
- Family recreation activities (i.e. miniature golf)
- Community Garden
- Band shells/Stage/Amphitheatre as long as any musical performances are not amplified.

Section E.) Dimensional Requirements

Base Zoning Dimensional requirements defined in the Land Space Requirements table in Section 174-31 of the Mashpee Zoning by law shall apply in the Light Industrial Overlay District. Building construction and site design shall be subject to approval by the permitting authority.

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article provides definitions for in demand modern industrial/commercial uses and proposes to add these defined uses to §174-25: Land Use Regulations of the Mashpee Zoning Bylaw, Providing this clarity in the Zoning Bylaw improves the permitting process and creates new opportunities for the small business owner.

The Board of Selectmen recommends Town Meeting approval by a vote of 5-0

The Finance Committee will make a recommendation at Town Meeting

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Article 14 (ARTICLE ADDED TO THE WARRANT ON September 11, 2018)

To see if the Town will vote to amend the Zoning Bylaw by amending Section 174-5. Establishment of Zoning Map as follows:

In Subsection A. replace the phrase "Otis A.N.G.B. Accident Prevention Zone" with the phrase "Wireless Facility Overlay District" and delete the phrase "Groundwater Protective Districts";

At the beginning of Subsection C.2. add the phrase "that parcel of land shown on the 2017 Mashpee Assessors' Maps as Map 104, Block 2 and",

or take any other action relating thereto.

Submitted by the Board of Selectmen

Explanation: This article would amend the Zoning Bylaw by amending the Wireless Facility Overlay District to include a parcel of Town-owned land on Red Brook Road so that a proposed cell tower could be permitted (by Planning Board Special Permit) on the property. The article also corrects an outdated listing of overlay zoning districts which are not shown on the basic Zoning Map.

The Board of Selectmen recommends Town Meeting approval by a vote of 5-0

The Finance Committee will make a recommendation at Town Meeting

Article 15

To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain a portion of a certain parcel of land identified on Mashpee Assessor's Map 37 as Parcel 28 and located at 226 Cotuit Road consisting of 1,194 square feet more or less, as shown on a plan entitled Cotuit Road Road Taking Plan Map 37 and Lot 38 dated 7/6/18, prepared by Baxter Nye Engineering & Surveying, for road and utility purposes, to authorize the Board of Selectmen to raise and appropriate, borrow or transfer from available funds any sum that may be necessary for such purchase or taking, and further, to authorize the Board of Selectmen to execute any agreements, documents or instruments necessary to effect said acquisition upon such terms and conditions as they deem to be in the best interest of the Town, or take any other action relating thereto.

Submitted by the Department of Public Works

Explanation: This article authorizes the acquisition of a portion of the property at the intersection of Route 130 and Cotuit Road necessary for re-alignment of the intersection. Re-alignment will improve traffic flow and safety at the intersection. An existing water main is also located within the property proposed for acquisition.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

The Finance Committee does not recommend Town Meeting approval by a vote of 7-0

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Article 16

To see if the Town will vote to amend the Zoning Bylaws by adding a new section § 174-17.1 to read as follows:

§174-17.1 Raze and Replace:

No pre-existing, non-conforming single or two family dwelling structures shall be torn down and rebuilt on any lot unless there is an issuance of a Special Permit from the Zoning Board of Appeals. Such a Special Permit may be granted only if the Zoning Board of Appeals finds that any changes, extensions, alterations or reconstruction of the pre-existing non-conformities are not substantially more detrimental than exists prior to removal of the existing structure and that there is adequate land area to provide sufficient parking. In no case shall new non-conformities be permitted without the issuance of a Variance.

or take any other action relating thereto.

Submitted by the Zoning Board of Appeals

Explanation: This article will clarify, under the Bylaw, the ability of the Zoning Board of Appeals to review and evaluate existing homes to be torn down and rebuilt which may or may not meet the requirements under the existing Zoning Bylaws.

The Board of Selectmen recommends Town Meeting approval by a vote of 5-0

The Finance Committee recommends Town Meeting approval by a vote of 6-1

Article 17 */18 notice*

To see if the Town will vote to delete in its entirety §174-17 of the Zoning Bylaws and replacing it as follows:

§174-17 Continuance; Extensions; Alterations:

Lawfully created structures or uses may be continued, although not conforming with the provisions of this chapter. Non-conforming single and two family structures may be changed, extended or altered if it is determined by the Building Inspector that such changes, extensions or alterations are in compliance with current zoning and do not increase the nonconforming nature of said structure. Any changes, extensions or alterations which do not comply with the current zoning, require a written finding by the Zoning Board of Appeals that such changes, extensions or alterations shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use and that there is adequate land area to provide sufficient parking and setbacks as may be required. Although said finding shall not constitute a Special Permit as defined by the General Laws and this Bylaw, the Zoning Board of Appeals shall follow the procedures specified in the General Laws for Special Permits in processing such requests for findings. For the purposes hereof, compliance with dimensional requirements shall be determined by the Building Inspector, or take any other action relating thereto.

Submitted by the Zoning Board of Appeals

Explanation: Many times, projects that comply with the zoning setback requirements have to go before the Zoning Board of Appeals because the existing home does not comply with the zoning setbacks. This amended Bylaw will give the Building Inspector the ability to review and evaluate the need to go before the Zoning Board of Appeals. If the proposed work is in compliance with the setbacks for that zoning district, then there would be no need for the applicant to appear before the Zoning Board of Appeals and the project can proceed expeditiously.

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0-1 (abstention)

The Finance Committee recommends Town Meeting approval by a vote of 7-0

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Article 18 *19*

To see if the Town will vote to amend §174-33 of the Zoning Bylaws by deleting the language in its entirety and replacing it as follows:

§ 174-33 Setbacks from Water and Wetlands

Any building or structure, exclusive of fixed or floating piers, wharves, docks, bridges or boardwalks, shall be set back from water or wetlands as the Conservation Commission shall determine in accordance with Chapter 172 of the Town of Mashpee General Bylaws.
or take any other action relating thereto.

Submitted by the Zoning Board of Appeals

Explanation: Chapter 172 of the Town of Mashpee General Bylaws already addresses this with a review by the Conservation Commission. Applying to the Zoning Board of Appeals for relief, which has already been granted by the Conservation Commission is just a duplication of the approval process.

The Board of Selectmen recommends Town Meeting approval by a vote of 5-0

The Finance Committee recommends Town Meeting approval by a vote of 7-0

Article 19 *20*

To see if the Town will vote to amend §174-37 of the Zoning Bylaws by adding the following sentence to the end of the paragraph as follows:

§ 174-37

In the I-1 Zoning District, parking facilities shall be located on any side of the building.
or take any other action relating thereto.

Submitted by the Zoning Board of Appeals

Explanation: In accordance with the Town of Mashpee Zoning Bylaws, the Industrial District is utilized for Uses like automotive, laundry facilities, bottling plants, printing facilities and the like. Allowing them the autonomy to place the parking also assists them with the building orientation which has been an issue in the past. These lots are not on the main street but within a compound that is outside of the general view of the public. Limiting them on where to place the parking is more for aesthetics reasons than for practicality.

The Board of Selectmen recommends Town Meeting approval by a vote of 5-0

The Finance Committee recommends Town Meeting approval by a vote of 7-0

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Article 20

To see if the Town will vote to amend the Zoning Bylaws Table of Use Regulations by deleting §174-25 I (9) in its entirety, or take any other action relating thereto.

Submitted by the Zoning Board of Appeals

Explanation: Currently under the Zoning Bylaw, a property owner is required to apply for an accessory use Special Permit from the Zoning Board of Appeals for proposed fixed and floating piers, wharves, docks and boardwalks, in addition to securing all other permits and approvals required for such structures from Town, State and federal agencies with jurisdiction over inland and/or coastal waterways and wetlands. Historically, the Zoning Board of Appeals has substantively relied on approvals from the Conservation Commission, Shellfish Commission, Waterways Commission, Harbormaster and other such governmental agencies as the basis for its decisions on such Special Permit applications, and it believes that requiring a separate review/approval of such structures by the Zoning Board of Appeals unnecessarily duplicates the permitting process. This amendment will eliminate the requirement of a Special Permit for such structures, thus, streamlining the approval process an applicant must pursue to erect a fixed and floating pier, wharf, dock or boardwalk.

The Board of Selectmen recommends Town Meeting approval by a vote of 5-0

The Finance Committee recommends Town Meeting approval by a vote of 7-0

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Article 21 123

To see if the Town will vote to amend the Zoning Bylaw as follows:

Amend Section 174-3 by adding the following new definitions in their proper alphabetical locations:

"Mixed-use Planned Development (MPD) – A development project containing a mix of commercial, residential, public, entertainment or other land uses conceived and designed as a single environment in a compact form, a portion of which must lie within the C-1 zoning district."

"Form-based Design Code – A set of land development regulations that fosters predictable built results and a high-quality public realm by using physical form as its organizing principle. It addresses the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. It includes 1) a Regulating Plan designating locations where different building form standards apply; 2) Public Standards specifying elements in the public realm, including sidewalks, travel lanes, on-street parking, street trees and furniture etc.; 3) Building Standards controlling the features, configurations and functions of buildings that define and shape the public realm; 4) a streamlined administrative process for implementation of the Code and 5) a glossary of definitions to ensure the precise use of technical terms. The Code may also include architectural standards, landscaping standards, signage standards, environmental resource standards and illustrations explaining the intentions of specific Code provisions."

Amend Section 174-25 Table of Use Regulations as follows:

Add a new subsection H. (14) "Mixed-use Planned Development, allowed by Special Permit pursuant to the provisions of §174-46.1" and add the notation "SP" under the C-1, R-3 and R-5 columns.

Add the following new Section:

174-46.1 Mixed-use Planned Development (MPD)

- A. **Purpose and intent.** The purposes and intent of this Section are to promote an efficient pattern of land development and the more efficient use of land and municipal infrastructure in Mashpee, to enhance the aesthetic character and livability of our built environment, to encourage the preservation of open space and natural areas, to reduce the impact of new development on the Town's water quality and natural resources, to provide affordable housing and to protect and promote the health, safety and general welfare of the inhabitants of the town.
- B. **Approval by Special Permit.** To achieve said purposes, the Planning Board may issue a Special Permit authorizing a Mixed-use Planned Development (MPD) pursuant to the following standards and procedures.
- C. **Land Area Permitted, Open Space Requirement.** A Mixed-use Planned Development shall encompass a minimum land area of twenty (20) acres, which may be in one or more parcels, and shall consist of one acre of allowed developed area for each acre of upland (i.e. excluding water bodies or wetlands as defined under MGL C. 131, §40) permanently set aside as undeveloped open space and deeded to the Town of Mashpee in the care and custody of its Conservation Commission (provided that said land is not subject to any previous conservation restriction or other prohibition on its development), or one-half acre of allowed developed area for each acre of upland (i.e. excluding water bodies or wetlands as defined under MGL C. 131, §40) permanently set aside as undeveloped open space or as agricultural land and deeded to 1) a nonprofit organization, the principal purpose of which is the conservation of open space or agricultural land or 2) a corporation or trust owned, or to be owned, by the owners of lots or commercial or residential units within the MPD, with ownership of the corporation or trust to pass proportionally with the conveyance of the lots or commercial or residential units, in either case subject to a formal conservation or agricultural restriction to be held by the Town of Mashpee. The developer's declaration of his choice of the three open space / agricultural land preservation methods described above, which may be different for individual such parcels, shall be included in his application to the Planning Board for a Special Permit to develop an MPD, along with maps and plans describing the open space areas, except that, where the MPD is to be developed in phases, as provided below, said declaration, maps and plans shall be filed with the application for approval of each phase. Any water

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bodies or wetlands, as defined under MGL C. 131, §40, which lie within the boundaries of the MPD shall also be permanently set aside and deeded to one of the three entities identified above under the terms described. Before final approval of the MPD Special Permit, or of any phase approval within the MPD if it is to be developed in phases, the developer shall also file with the Board a copy of the conservation or agricultural restrictions necessary to secure the permanent legal existence of the open space or agricultural land and a copy of any proposed deed for transfer in fee to the Town or to a nonprofit organization. Approval of the MPD or phase shall require approval by the Planning Board of said conservation or agricultural restrictions after consultation with Town Counsel. As required by law, any such restrictions may also require approval by the Commonwealth of Massachusetts. Any open space required to meet the provisions of this Section shall be surveyed, properly bounded on the ground by concrete monuments and shown on a plan recorded at the Barnstable County Registry of Deeds or Land Court Registry. Said plan shall be recorded and said boundary monuments shall be set within six (6) months of the approval by the Planning Board of the MPD Special Permit, or of phase approval for phased projects. Any transfer of the fee title to property to the Town or a nonprofit organization shall be recorded, along with the required conservation or agricultural restrictions, within one (1) year of the approval of the MPD Special Permit, except that, should the MPD be proposed for development in phases, said transfer shall take place within one (1) year of the approval of the plan for said phase by the Planning Board. In either case, said transfer shall be completed before the issuance of any building permit for development within said phase. No land within the allowed development area of the MPD which is set aside for park, playground or similar uses, the majority of whose area consists of natural or landscape vegetation, and is open to use by the general public shall require any set-aside of open space or agricultural land outside the developed area. In addition, any land which is covered by buildings and directly-associated parking and other infrastructure in existence at the time of application for an MPD Special Permit, or has previously received a Special Permit for commercial or mixed-use development from the Planning Board or Zoning Board of Appeals under the provisions of the Mashpee Zoning By-law, may be incorporated into the developed area of the MPD without any set-aside of open space or agricultural land outside the developed area and retaining any development rights created under said previous Special Permits.

- D. **Allowed uses.** Within a Mixed-use Planned Development, for each acre of open space transferred to the Town under the provisions of Subsection C, 50 bedrooms shall be allowed, and for each acre otherwise set aside as open space or agricultural land under said Subsection, 25 bedrooms shall be allowed, which bedrooms may be incorporated into any form of residential or mixed-use building, notwithstanding any other provisions of this Chapter. In addition, any use allowed by Section 174-25, whether by right, Plan Review or Special Permit, shall be allowed by right upon approval by the Planning Board of the MPD Special Permit. Any use prohibited by Section 174-25 or other provisions of this Chapter shall be prohibited. For uses proposed within such MPD not specifically listed in the §174-25 Table of Use Regulations, said use may be allowed if the Planning Board determines that said use may be allowed on the basis that it is substantially similar in its construction, operation, traffic and environmental impact to a specific use allowed in said Table and it is substantially dissimilar in those respects from any uses prohibited in the district. Where the Board cannot make a clear determination, such uses shall be considered prohibited.
- E. **Affordable housing requirement.** At least fifteen (15) percent of any dwellings or single-family lots allowed within a Mixed-Use Planned Development shall be made subject to a permanent deed restriction meeting the low-income affordability requirements of MGL C. 40B as it existed at the time of approval of the MPD Special Permit. The applicant shall specify and provide evidence regarding the recordation of the required deed restrictions, the method of selection of affordable housing residents and the party or parties who will manage the selection process and management of the affordable dwellings, and shall meet any other requirements to ensure that the affordable dwellings qualify for listing on the MGL C. 40B Subsidized Housing Inventory.
- F. **Land Space Requirements.** A Form-based Design Code may be substituted for the provisions of Article VII Land Space Requirements and any other dimensional requirements contained in this Chapter and be incorporated into the Planning Board's Special Permit decision regarding the MPD.

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- G. **Setbacks from water bodies and wetlands.** The developed area within a Mixed-use Planned Development may not lie within three hundred (300) feet of any water body or stream or within one hundred (100) feet of any wetland as defined under MGL C. 131, §40.
- H. **Water quality requirements.** All development within the MPD shall be connected to a municipal sewer system, or to a private wastewater treatment facility designed to reduce total nitrogen in its effluent to less than 3 Mg/L. The applicant shall demonstrate the existing or future availability of wastewater treatment and discharge capacity to meet the needs of all proposed development, which requirement may be met by phases. In addition, all storm water shall be treated in accordance with the requirements of Section 174-27.2 of this by-law, with particular emphasis on reduction of nutrient flow to groundwater, wetlands or water bodies, with adjustments as approved by the Board based on the nature of proposed development.
- I. **Master Plan.** Any project developed under this Section shall be developed pursuant to a master plan approved by the Planning Board as part of its Special Permit decision for the MPD. Said master plan shall indicate, at a minimum, the approximate boundaries of each project phase (if the project is to be done in phases), the proposed location of any open space or agricultural area required for each phase, the general location of all roads projected to carry over two hundred (200) vehicles per day, the general location of any proposed parks, recreation facilities, civic spaces, improvements to existing roads, sewage treatment plants, commercial uses and similar major structures and amenities in a general manner, showing the areas of residential, commercial or mixed development and the approximate number and type of residential units proposed for development within each area.
- J. **Development in phases.** A Mixed-use Planned Development may be subdivided, developed and constructed in phases according to a phasing plan approved by the Planning Board as part of the MPD Special Permit. As part of the application for approval of each phase, which shall be considered a Special Permit Modification subject to approval after an advertised and noticed public hearing, the applicant shall submit, at a minimum, those items required under Section 174-24.C.3., as well as those required by the Town of Mashpee Planning Board Special Permit Regulations in effect on the date the Special Permit Modification application is made (except as may be waived by the Board). Any proposed subdivision of lots and construction of roadways within each phase shall also conform to the Town of Mashpee Rules and Regulations Governing the Subdivision of Land in effect on the date the subdivision application is made (except as may be waived by the Planning Board in furtherance of the provisions of this Section). Should the MPD not be proposed for development in phases, the items required above shall be submitted for the entire project with the MPD Special Permit application.
- K. **Expiration and extension.** Should the Special Permit expire under the provisions of the General Laws and this By-law, there shall be no effect on the ownership and location of any open space or agricultural areas for which title has passed and any conservation or agricultural restriction which has been recorded as of the date of expiration, nor on the allowed acreage of developed area and number of allowed bedrooms originally approved under the provisions of this Section related to said open space or agricultural areas. Both may be utilized in any re-application for a new Special Permit under this Section. Pursuant to the provisions of the General Laws, the Planning Board may also determine that the Special Permit may remain in effect past the statutory expiration date if it determines, after a properly advertised and noticed public hearing, that the required substantial use or construction has not begun by said date for good cause and determines that there is a reasonable justification for the extension, that the developer is acting in good faith regarding the provisions of the MPD Special Permit and that there will be no adverse impact on the public health, safety and welfare or on the town's environment and natural resources.
- L. **Development within phases.** After the approval of the MPD or any phase plan by the Planning Board, development may proceed within said MPD or phase in conformance with the approved plan and the Form-based Design Code referenced below, without further public hearings by the Board (except in the case that the applicant requests a modification of the text of the Special Permit or phase approval decision). Such development shall, however, be subject to approval by the Board at a regular meeting, after review and recommendations by the Plan Review Committee, to ensure conformance with the master plan, the provisions of this Section and the approved Special Permit, as well as other public safety, health, building code, handicapped accessibility and similar Town or state codes or regulations. In addition, all roadway, parking, drainage and utility designs and construction shall be subject to the normal review and inspection procedures

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and fees specified in the Planning Board's Special Permit Regulations (and Rules and Regulations for the Subdivision of Land, as applicable), said review and inspections to be conducted by the Planning Board Consulting Engineer or another party designated by the Board.

- M. **Form-based Design Code.** Any Mixed-use Planned Development may be made subject to a Form-based Design Code, which shall be incorporated as a condition and attachment to the Special Permit approved for the MPD. Where the MPD is proposed to be permitted in phases, such a Code may be incorporated into the Special Permit Modification approved for each phase which may differ from the Code which applies to other phases. The Code shall regulate, at a minimum, the following elements:
 - 1. Dimensional requirements for lots;
 - 2. Setbacks;
 - 3. Building heights;
 - 4. Architectural design standards;
 - 5. Site design and landscaping standards;
 - 6. Street types and applicable standards, including pedestrian and bicycle facilities.
- N. **Signage.** In lieu of the provisions of Article X, the Planning Board is authorized to approve a sign code for the MPD, to be incorporated into the Special Permit, which is consistent with the intent and purposes of this Section.
- O. **Parking.** Parking shall generally conform to the provisions of Article VIII. However, the Planning Board is hereby authorized, as part of its Special Permit decision, to waive or adjust the parking requirements of Article VIII where the applicant has demonstrated to the satisfaction of the Board, by means of data and studies from similar projects done by qualified persons for similar developments, on parking requirements and use for similar facilities on Cape Cod or on other appropriate information, that proposed parking will be adequate, with regard to number of spaces and their design, for the proposed nearby uses and will further the purposes and intent of the approved Form-based Design Code.
- P. **Revisions to Code.** Any revisions to a Form-based Design Code approved under the MPD Special Permit shall require approval by the Planning Board. The Board shall determine, by the vote of four of five members, whether such revisions shall be considered a Special Permit Modification subject to approval after an advertised and noticed public hearing, or may be approved by the Board at a regular posted meeting, based on the scale and nature of the proposed revisions and the potential for impact on properties abutting the MPD boundaries." or take any other action relating thereto.

Submitted by Petition

Explanation: This article would amend the Zoning By-law to provide a simplified method for permitting the development of Mixed-use Planned Development, containing a mix of residential, commercial and other uses, subject to land use, architectural and public space regulations designed to foster predictable attractive built results and a high-quality public realm at the center of the Town, while protecting the town's environment, providing for affordable housing, providing increased employment opportunities and enhancing the Town's tax base.

The Board of Selectmen does not recommend Town Meeting approval by a vote of 5-0
The Finance Committee does not recommend Town Meeting approval by a vote of 5-0

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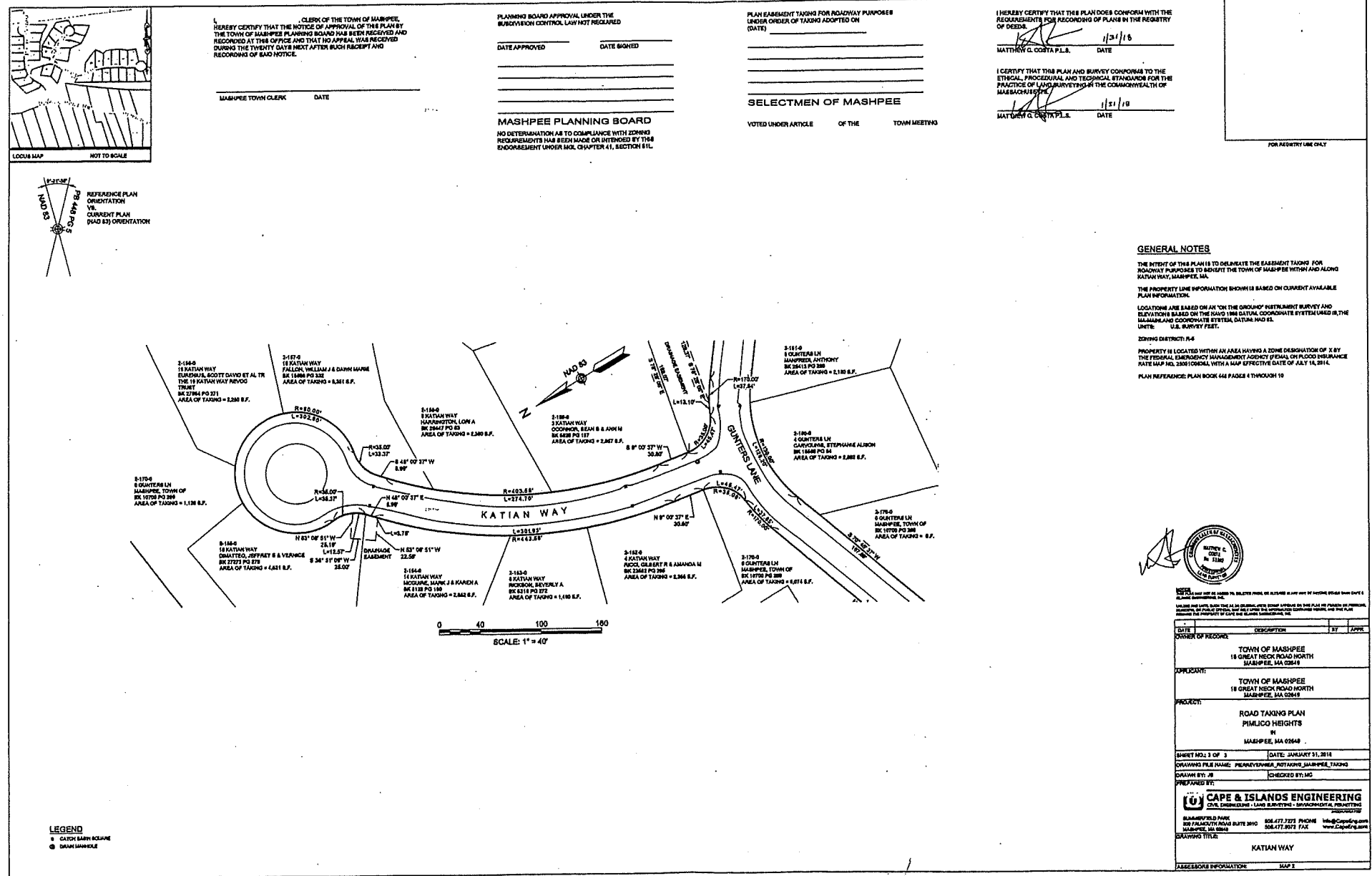
Article 22

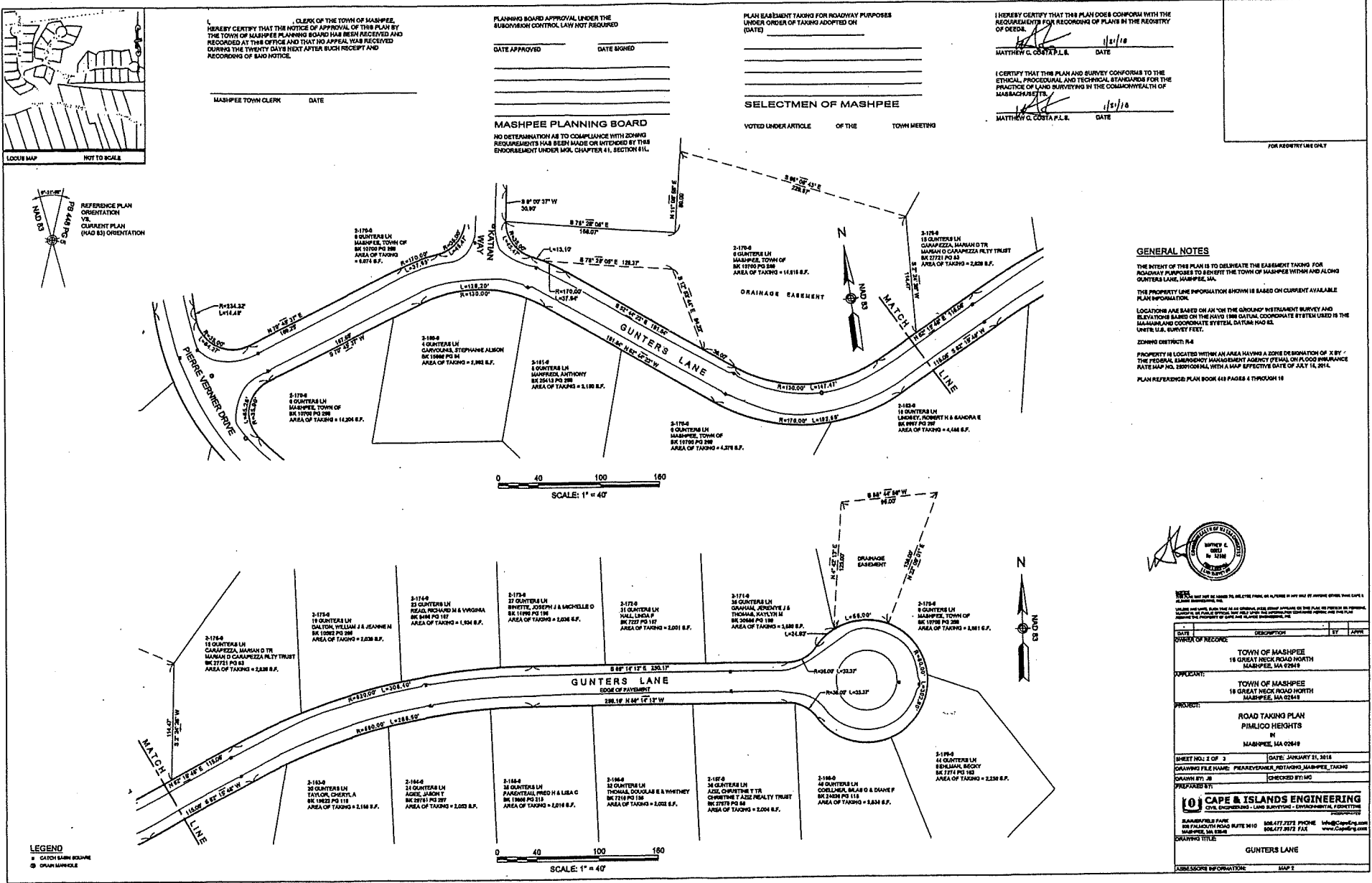
To see if the Town will accept the layouts as public ways of Pierre Vernier Drive, Katian Way and Gunter's Lane (Pimlico Heights) as shown on plans entitled "Road Taking Plan Pimlico Heights – Pierre Vernier Drive" , "Road Taking Plan Pimlico Heights – Gunter's Lane" and "Road Taking Plan Pimlico Heights – Katian Way" in Mashpee, MA, dated January 31, 2018, and prepared by Cape & Islands Engineering, which layouts shall have been filed in the Office of the Town Clerk not later than seven days prior to the date of the vote hereunder, and to authorize the Board of Selectmen to acquire by gift, purchase, or eminent domain taking any land necessary for the purposes of such ways as so laid out, and to appropriate the sum of \$490,953.75 to the Pimlico Heights Roadway Account, and to raise said appropriation, the Treasurer, with the approval of the Board of Selectmen, be authorized to borrow at one time, or from time to time, under and pursuant to Chapter 44 Section 7 or 8, or any other enabling authority for the purchase or taking and layout, including costs of construction such ways, legal financing, and other costs incidental and related thereto, and further authorize the Board of Selectmen to assess betterments to the owners of the land abutting the ways. Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount, or take any other action relating thereto.

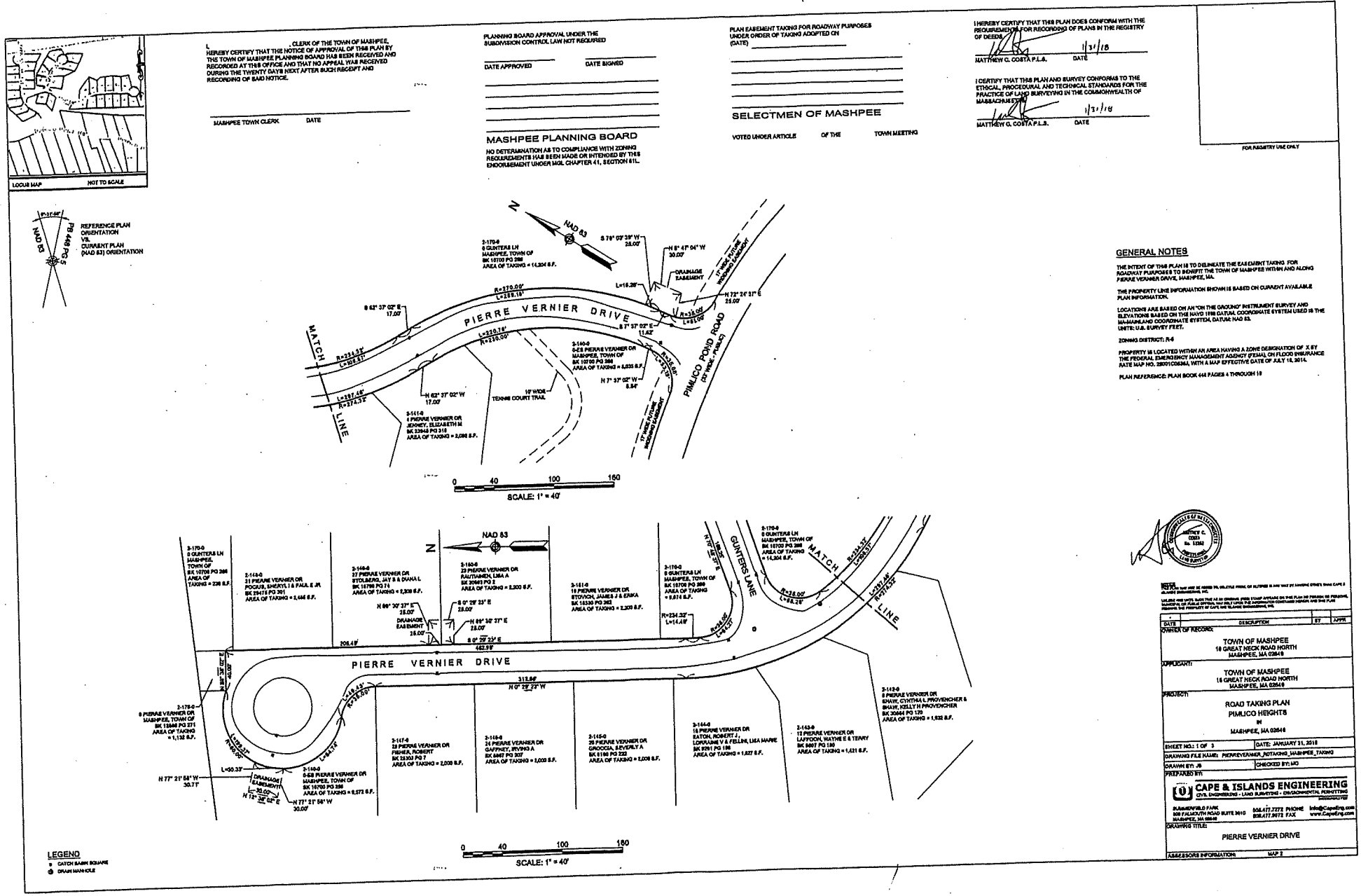
Submitted by Petition

The Board of Selectmen recommends Town Meeting approval by a vote of 4-0

The Finance Committee recommends Town Meeting approval by a vote of 7-0







CLERK OF THE TOWN OF MASHPEE
HEREBY CERTIFY THAT THE NOTICE OF APPROVAL OF THIS PLAN BY THE TOWN OF MASHPEE PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND THAT NO APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.

MASHPEE TOWN CLERK DATE

PLANNING BOARD APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED

DATE APPROVED DATE SIGNED

MASHPEE PLANNING BOARD
NO DETERMINATION AS TO COMPLIANCE WITH ZONING REQUIREMENTS HAS BEEN MADE OR INTENDED BY THIS ENDORSEMENT UNDER MASS. CHAPTER 41A, SECTION 81L.

PLAN STATEMENT TAKING FOR ROADWAY PURPOSES UNDER ORDER OF TAKING ADOPTED ON (DATE)

SELECTMEN OF MASHPEE

VOTED UNDER ARTICLE OF THE TOWN MEETING

I HEREBY CERTIFY THAT THIS PLAN DOES CONFORM WITH THE REQUIREMENTS FOR RECORDING OF PLANS IN THE REGISTRY OF DEEDS.

MATTHEW G. COSTA, P.L.A. DATE 1/31/18

I CERTIFY THAT THIS PLAN AND SURVEY CONFORMS TO THE ETHICAL, PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

MATTHEW G. COSTA, P.L.A. DATE 1/31/18

FOR REGISTRY LINE ONLY

GENERAL NOTES

THE INTENT OF THIS PLAN IS TO DELINEATE THE ROAD TAKING FOR ROADWAY PURPOSES TO BENEFIT THE TOWN OF MASHPEE WITHIN AND ALONG PIERRE VERNIER DRIVE, MASHPEE, MA.

THE PROPERTY LINE INFORMATION SHOWN IS BASED ON CURRENT AVAILABLE PLAN INFORMATION.

LOCATIONS ARE BASED ON AN "ON THE GROUND" INSTRUMENT SURVEY AND ELEVATIONS BASED ON THE NAVD 83 DATUM. COORDINATE SYSTEM USED IS THE MASSACHUSETTS COORDINATE SYSTEM. DATUM: NAVD 83.


UNIT: U.S. SURVEY FEET.

ZONING DISTRICT: R-6

PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE DESIGNATION OF X BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) ON FLOOD INSURANCE RATE MAP NO. 28071C000A, WITH A MAP EFFECTIVE DATE OF JULY 18, 2014.

PLAN REFERENCE: PLAN BOOK 448 PAGES 4 THROUGH 19



DATE	DESCRIPTION	BY	DATE
OWNER OF RECORD			
	TOWN OF MASHPEE		
	18 GREAT NECK ROAD NORTH		
	MASHPEE, MA 02548		
APPLICANT			
	TOWN OF MASHPEE		
	18 GREAT NECK ROAD NORTH		
	MASHPEE, MA 02548		
PROJECT			
	ROAD TAKING PLAN		
	PIMLICO HEIGHTS		
	IN		
	MASHPEE, MA 02548		
SHEET NO. 1 OF 3		DATE: JANUARY 31, 2018	
DRAWING FILE NAME: PIERREVERNIER_TAKING_MASHPEE_TAKING		DRAWN BY: JS	
PREPARED BY:		CHECKED BY: JMD	
 CAPE & ISLANDS ENGINEERING CIVIL ENGINEERING - LAND SURVEYING - ENGINEERING, SURVEYING			
BARNSTABLE FIELD OFFICE 100 FALCONVIEW ROAD SUITE 210 MASHPEE, MA 02548			
TEL: 508.477.7272 FAX: 508.477.7272			
WWW.CAPEANDISLANDS.COM			
DRAWING TITLE: PIERRE VERNIER DRIVE			
LEGEND: INFORMATION MAP 1			

**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

**Mashpee Planning Board
Minutes of Meeting
September 5, 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 7:00 p.m. on Wednesday, September 5, 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 the Board 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— August 1, 2018 and August 15, 2018

The Chair inquired about the status of the July 18 minutes and it was confirmed that they had not yet been approved. The Chair asked that they be added to the agenda for the next meeting.

The August 1 minutes were mistakenly referenced as July 1 minutes, so were motioned and accepted as such.

MOTION: In reference to the August 15th minutes, Mr. Balzarini made a motion to accept as presented. Mr. Kooharian seconded the motion. All voted unanimously.

PUBLIC HEARING

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 count 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, read for the record the Public Hearing Notice and recognized the project proponent. Attorney Jack McElhinney and Mathew Eddy, Baxter and Nye Engineering, represented Southworth Mashpee Properties at tonight's meeting. Mr. McElhinney confirmed that comments provided by Mr. Rowley had been addressed from his September 4 letter and plans had been updated. Regarding background information for the Preservation Restriction for archeological purposes, Mr. McElhinney reported that the restriction was located on an adjacent parcel and did not impact the property in question. Mr. McElhinney forwarded copies of historical information from the late 80s and early 90s regarding the agreements established between the original developers and the Massachusetts Historical Commission to the Board. Mr.

McElhinney emphasized that, due to its location on an adjacent site, restrictions would not impact their work, adding that a perimeter construction fencing would be installed to ensure that there was no accidental encroachment. The Chair inquired whether the information had been provided in the packets and Mr. Lehrer confirmed that it had not, but that he would forward the information to the Board. The Chair recommended that the project proponent point out to Mr. Weeden the delineation of the protected area in relation to the project area.

Chairman Waygan inquired about changes to the retaining wall and whether there was a need to include it as a condition. Mr. Rowley responded that he had been in contact with Mr. Eddy regarding the retaining wall, who indicated that, as a structure, it would fall under the jurisdiction of the building inspector. However, Mr. Rowley pointed out that any significant changes to the location of the wall, may require a modification to the Special Permit. Mr. Rowley noted that a similar situation had previously occurred at Southport. Mr. Rowley suggested that a condition be written into the Special Permit, noting that once the information was submitted to the Building Inspector, details would also be submitted to the Planning Board. Mr. McElhinney agreed to the suggestion. Regarding drainage, Mr. Rowley confirmed that drainage was relocated in two places to provide better access and modifications were made to the plans.

The Chair inquired whether it was expected that the request would extend to a third meeting, noting that Mr. Weeden was not currently present, who had previously expressed some concerns. Mr. Rowley responded that his September 4 letter addressed five minor issues. The Chair stated that there were 4 members seated for the request, for a vote and Mr. McElhinney expressed his preference for the matter to move forward. It was confirmed that Mr. Hansen was present to vote, as an alternate.

Mr. Hansen supported the project, provided the drainage fulfilled Mr. Rowley's requirements. Mr. Balzarini indicated that he was fine with the request. Mr. Cummings inquired whether the project proponent was in agreement with Mr. Rowley's letter and Mr. McElhinney agreed, indicating that he had been in touch with Mr. Eddy. Mr. Cummings inquired about emergency power for the grinder pump and Mr. Eddy confirmed that the grinder pump for the single building provided for 24 hours of emergency storage in the well.

Mr. Lehrer reported that DPW Director Catherine Laurent forwarded an email regarding a culvert and road improvements being developed in conjunction with Barnstable and communicated to Mr. Eddy.

Mr. Rowley discussed the contents of his September 4 letter, including the retaining wall, stating that any adjustments to the wall should again be reviewed by the Planning Board. The Chair agreed that it should be made a condition, which Mr. Lehrer would add to the Special Permit Modification. Mr. Rowley stated that stormwater system 8, with a grass swale along Sampsons Mill Road, would sit on a 15% slope, and would require stabilization during construction to prevent erosion, with grass installed. Mr. Eddy agreed that the area would need stabilization, along with other areas at the site, and did not feel that additional notation was necessary. Mr. Rowley suggested including notes on one copy of the plan and documented in the Special Permit Modification since it would be subject to inspection. Mr. Rowley confirmed that there had been discussion with the Deputy Fire Chief consenting to the project and Mr. Eddy confirmed that he forwarded correspondence to Mr. Lehrer and Mr. Rowley. Mr. Lehrer read the letter. Mr. Eddy stated that all comments had been addressed and did not require any changes

to the plan. Regarding gate access, Mr. Eddy suggested that a condition could be drafted requiring knox box capability or access approved by the Fire Department. Mr. Rowley's next comment was regarding cementing of structures, which would be evaluated during inspections. Finally, the grinder pump emergency 24 hour storage capacity, discussed previously, provided the storage capacity would need to match the anticipated flow for 24 hours.

The Chair opened up the matter to public comment. Charles Gasior, resident at 186 Dunrobin Road, read for the record a letter he submitted to the Planning Board. Mr. Gasior shared concerns expressed by residents, regarding the narrowness of Sampsons Mill Road in the area where the development would be accessed. Mr. Gasior provided details regarding the area in question that had jurisdictional and topographical issues and Ms. Laurent's efforts to make corrections to the roadway. Mr. Gasior asked if Mr. Eddy could describe the project's impacts to Sampsons Mill Road where the access road would enter the development. Mr. Eddy shared the site distance plan which indicated that it would meet the minimum site distance requirements, which would require clearing of vegetation and grading of the slope varying from 3 to 4 feet. Mr. Eddy had also been in discussion with Ms. Laurent about the project. Mr. Gasior expressed concern about the culvert as well as increased traffic on the roadway due to the additional units. Mr. Eddy responded that the additional vehicle trips was considered negligible and movements to the east would be minimal from the project, since it was more likely they would travel through Willowbend to the rotary. Mr. Gasior inquired about the timeline for the work that needed to be completed with Barnstable and the Chair responded that, should Ms. Laurent require the backing of the Planning Board, they would be happy to help build town wide support through the Board of Selectmen. Mr. Gasior expressed concern about a condition he believed had been placed on Willowbend to make improvements to Route 28 but the Planning Board did not confirm that was a condition. Mr. McElhinney stated that, during an earlier project, Willowbend had addressed the intersection of Orchard Road and Route 28 and contributed funds to signalization. In conclusion, Mr. Gasior stated his support for the project provided all Planning Board requirements were met, referencing the project's tie in to Willowbend's treatment facility and the addition of units to the tax base. Mr. Gasior further suggested that the Bylaw be altered to charge a tax for wastewater treatment.

Harold Horton, resident of Willowbend, agreed that the new development would enhance his property, but expressed concern about the state of Sampsons Mill Road, referencing the potentially hazardous area for pedestrians. It was Mr. Horton's opinion that the project would increase the traffic flow at Sampsons Mill Road and felt that the issue needed to be addressed.

Tom Fudala stated that, typically the applicant would have an opportunity to know who he was addressing, so that it would not be legally allowable to seat the alternate later in the meeting. The Chair stated that she would unseat Mr. Hansen, allowing for the participation of the four voting members present.

Regarding comments about traffic issues on Sampsons Mill Road, the Chair stated that she would be forwarding them to Ms. Laurent as she believed that it was outside of the jurisdiction of the Planning Board or the project proponent.

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

Mr. Lehrer will draft the decision. There was consensus to vote on the matter this evening and the following conditions would be added to the decision: if retaining wall positions were modified, changes would return to the Planning Board for approval; information about the retaining walls submitted to the Building Department would also be submitted to the Planning Board; notification to be placed on the plan and in the Special Permit Modification that the grass swale access for stormwater system #8 should be stabilized during construction to prevent erosion of the proposed 15% slope; reference made to the email received from Deputy Fire Chief Phelan for conditions for the Special Permit Modification; access would be subject to the provisions as approved by the Mashpee Fire Department in regard to gates and emergency access.

MOTION: Mr. Balzarini made a motion to accept the modification with the five conditions written in. Mr. Kooharian seconded the motion. All voted unanimously.

Mr. Eddy will add an archeological notation to the plan.

PROPOSED AMENDMENTS TO MASHPEE ZONING BYLAW

The Chair confirmed that she had attended the last Board of Selectmen meeting, the second of three, where they were setting the Town Warrant for the October Town Meeting. The Chair provided recommendations to the proposed zoning amendments. The Board of Selectmen realized that the Planning Board had not seen many of the proposed amendments and determined that they wished to receive feedback from the Planning Board. Although tonight's meeting was not a public hearing, the Chair confirmed that there would be a Public Hearing on the proposed amendments to the Zoning Bylaw as set by the Board of Selectmen, which would not occur prior to September 11. The Chair stated, however, that she would be providing feedback to the Board of Selectmen on the proposed amendments. Reference was made to the August 28 Memo from Terrie Cook in the Town Manager's Office, containing the 2018 October Town Meeting Zoning and Road Petition/Taking Articles.

It was noted that the Planning Board's next meeting would occur on Yom Kippur and that it was the Town's policy not to hold meetings on holidays. There was discussion regarding identifying another meeting date.

A recess was taken at 8:02 p.m. to look into meeting date options. The meeting reconvened at 8:08 p.m. Mr. Weeden arrived to the meeting. There was discussion regarding the scheduling of the meeting on September 25 or 27.

Warrant Article 10: Marijuana Establishments-It was noted that there would be two Articles, the first which would identify whether or not it would be allowed in the Town, and if so, a second Article would create a Zoning Bylaw to establish the guidelines. In reference to a buffer around establishments, Mr. Lehrer noted that the State approved a minimum buffer zone requirement of 500 feet away from any school. Mr. Lehrer would submit a map identifying the schools for the next meeting.

Mr. Fudala was recognized and pointed out a contradictory statement in the last sentence of the Article "under the C-1, C-2, C-3 and I-1 columns of said table that such uses may be only permitted by Special Permit in the I-1 Industrial zoning district." C-1, C-2, C-3 should also be added to the second part of the sentence, so the Chair will make the recommendation to the Board of Selectmen.

Warrant Article 11: Signs-Violations & Penalties-It was noted that Mr. Fudala had provided explanations and clarifications regarding the proposed Bylaw Amendments, but his comments did not appear to be in Board Member packets. Mr. Fudala explained that the Zoning Act allowed for Zoning Enforcement.

Bryan Anderson, a former member of Mashpee sign committees, noted Town Counsel's attendance at two meetings, who suggested that Mashpee's Bylaw was non-compliant with State and Federal Code. Mr. Anderson added that the existing Sign Code was confusing for small businesses, due to numerous contradictions, and expressed concern about the addition of penalties. Mr. Anderson inquired whether the Town Planner had reviewed this proposed Warrant Article and the Seasonal Sign proposed Article. It was Mr. Anderson's opinion that the existing Sign Bylaw should be reconsidered prior to adding penalties.

Mary Lou Palumbo, Mashpee Chamber of Commerce, stated that it was necessary to make it easier for businesses to do business in Mashpee, rather than making it more difficult with additional penalties. Ms. Palumbo noted that, in many cases, a sign was a business' only form of advertising. Ms. Palumbo added that, if signage was going to be enforced, she asked that it be equally enforced throughout Town. In addition, Ms. Palumbo stated that the Chamber of Commerce would be happy to help educate Mashpee businesses about any changes.

Building Commissioner Mike Mendoza was recognized and acknowledged that he was instructed by the Board of Selectmen's office to draft the Article, which was then reviewed by Town Counsel. The Chair invited Mr. Lehrer to share his thoughts and he stated that he would share his comments at the Public Hearing. Mr. Rowley inquired about defining what constituted a second offense and how the fining would occur, suggesting that further definition would be needed. Mr. Mendoza stated that he did not have definitions but shared his experience of over 30 years. Mr. Mendoza stated that when he was called to District Court with penalties, he needed to show proof to defend a ticket, adding that courts did not want municipalities excessively issuing tickets. Mr. Mendoza suggested that the warning would be followed by a conversation. The Chair will share comments with the Board. Mr. Hansen inquired about current violations and whether existing signage would be exempt. Mr. Mendoza responded that violations were addressed when brought to his attention.

Warrant Article 12: Seasonal Signs-The Chair will make the comment to the Board of Selectmen that, although listed March to October 15th, the summer season began in June, believing that the season recommended was too long. Mr. Balzarini inquired about signage for Christmas and other holidays. Ms. Palumbo was acknowledged to speak and stated that March 1 was the start of the spring season and when businesses started to become busy, adding that Christmas should also be a consideration. The Chair asked if businesses would agree to starting with a June-October timeframe and Ms. Palumbo responded that the season began in the spring and inquired why Mashpee would want to make it harder for the businesses. Mr. Balzarini inquired why it had to be limited since there were holidays throughout the year. Ms. Palumbo agreed that businesses needed to have visually pleasing signage but it needed to be a faster process and one that did not make it more difficult for small businesses. The Chair stated that she would propose a three week timeframe for Christmas starting on December 1 and Ms. Palumbo responded that it began on Black Friday. Mr. Kooharian suggested defining seasonal signage, as one that references the appropriate holiday, suggesting that there was too much regulation. Mr. Cummings suggested allowing 30 days before and the Chair added one week following. Mr. Balzarini suggested the focus should be on the size of the sign and inquired why the Town would want to make it harder for businesses. Mr. Kooharian suggested it was not unreasonable that a business may want to coordinate their sign with the appropriate season. The Chair

stated that she would be requesting June-October and Ms. Palumbo asked that the Chair reconsider. Mr. Lehrer asked to make a comment but he was not recognized, though the Chair acknowledged he would be recognized after taking comments first from Board members.

The Chair pointed out that the Article defined dimensions as four, eight square foot signs for a particular site and sandwich signs measuring 24 inches by 36 inches. Mr. Balzarini again expressed that he had no issue with the signage. It was noted that the seasonal signs would be reviewed by Design Review and Mr. Cummings agreed that there should be a time limit on the signs, as there would already be a business sign in place. Ms. Palumbo pointed out that seasonal signs were useful when there was an increase in shoppers, because many businesses were tucked in out of the way locations and it was a request based on feedback from businesses and meetings with the Town. Mr. Weeden and Mr. Hansen asked for clarification regarding signage as one per business or not more than four per site. Mr. Mendoza responded that their intent was to limit a front yard with too many signs. Mr. Mendoza confirmed that there was a meeting between businesses and Town officials and confirmed that there were a number of business off the main way and the Article was intended to assist business owners during the busy summer season. In reference to the question, Mr. Mendoza cited an example of Dino's where only four signs would be allowed at the site, as defined by the Zoning Bylaw. Mr. Anderson pointed out that the existing Bylaw created conflicting situations, and the new amendments would add more confusion. Mr. Lehrer stated that site was defined as the entire tract where proposed use or development was located.

Mr. Kooharian suggested that seasonal signs should be allowed as needed, with some definition as to the size, and Mr. Balzarini agreed. Mr. Hansen inquired about the 10 foot setback, noting that it would hamper the business in its ability to use sandwich board signage as a means to attract customers. Mr. Lehrer agreed that something needed to be done about the existing Sign Bylaw, requiring additional work. Mr. Lehrer discussed his experience working with Signage Bylaw in Brookline, noting that typically there was a maximum square footage allowed. A sandwich board in Brookline was dealt with separately and it was Mr. Lehrer's opinion that a sandwich board should be an allowable use that could be approved administratively rather than through Design Review. Mr. Lehrer added that a free standing sign was a different situation, with a different role, with a maximum square footage allowed, which could better meet the needs of local business owners. Mr. Rowley recommended the easiest means to assist the business owner without creating issues for the neighborhood.

Mr. Fudala was recognized and stated that the Article was submitted by the Board of Selectmen and noted that there was inconsistency regarding the fine and suggested that it be removed. Mr. Fudala pointed out that the last sentence of the fourth paragraph was missing an action verb. Mr. Fudala noted that a Bylaw had been developed previously to better clarify signage, adding that signs should be a General Bylaw rather than a Zoning Bylaw, to eliminate grandfathering, but the proposed Bylaw was not accepted.

Ms. Palumbo read for the record an email received from Polar Cave business owner, Mark Lawrence, seeking clarification regarding the definition for "site" and expressing his concern about the disadvantage of merchants at a group location and the constraints of a 10 foot requirement of the sign. Mr. Mendoza explained that 10 feet was determined to ensure the sight line. Mr. Fudala suggested that the proposed Article would not address business owners seeking signage to direct customers to their site, since the Article required the signage to be located on site.

Mr. Anderson pointed out that Design Review served as an advisory Board in the Zoning Bylaw, but the Building Commissioner had established standards and issued the permit and expressed concern that

sometimes the Sign Bylaw was enforced and other times it was not. Additionally, there were conflicts between the Bylaws, which should be reviewed more closely before adding a new Bylaw. Mr. Anderson also asked about the definition for illumination, but Mr. Lehrer noted that there were some unclear definitions in the Sign Bylaw. Mr. Mendoza stated that the intent was that seasonal signs would not be illuminated. Mr. Mendoza inquired why the Sign Bylaw could not be consistently enforced throughout the Town and Mr. Lehrer emphasized that there would be a Public Hearing on the matter and that tonight's meeting was intended to provide comment to the Board of Selectmen. The Chair indicated that she would be sharing Mr. Anderson's comments with the Board.

Warrant Article 13: Mixed-Use Planned Development—There was no comment

Warrant Article 15: Light Industrial Overlay District—Copies were made of Mr. Fudala's comments regarding Article 15. The Chair inquired about minutes from EDIC and Mr. Lehrer responded that the last approved set of minutes included only discussion. Mr. Lehrer referenced two of Mr. Fudala's comments, stating that the comments regarding the façade had been addressed and that he used the tools that were available to him, so that if maps and lots needed correction, he would do so. There was discussion about using the Assessor's online map. Regarding 40A, Architectural Guidelines (H), Mr. Lehrer suggested use of "Cape Cod vernacular" to address Mr. Fudala's comments, further suggesting consulting with an architect since the Chair did not feel that vernacular was defined. Mr. Lehrer stated that he used the guidelines to draft the Article.

Board members did not have additional comments. The Chair expressed concern about some of the lots that may be abutting residential property and the conflict of noxious substances, which could occur with some of the proposed uses, suggesting her preference to strike science and technology uses. Mr. Lehrer responded that the focus was intended to be light industrial uses and that he was unable to remove those uses. Members of the public were invited to address the Board.

Mr. Fudala was recognized and noted that all of the uses were already permitted in I-1. It was Mr. Fudala's opinion that the uses should be added to the table of uses. Mr. Fudala stated that much of the proposed uses were handcrafts, but fell under manufacturing and suggested an accompanying scale requirement. Due to conflicting information, it was Mr. Fudala's opinion that the Article could be re-worked to fit into the rest of the Zoning Bylaw and offered his assistance to assist Mr. Lehrer. Mr. Lehrer responded that he would be happy to collaborate if possible, wishing to address the issue sooner rather than in public session. The Chair noted that she did not receive the Article until August 29. Mr. Fudala also noted that the Planning Board was the only granting power in the C-3 Zone, not the Zoning Board of Appeals. Mr. Lehrer stated that C-3 featured a 300 foot buffer from the street, which he felt was a problem to be fixed by improving the architecture and integrity. Chairman Waygan suggested that the Board of Selectmen be advised to hold on this Article so that it could be further worked on. There was consensus from Board members.

Warrant Article 16: Raze and Replace—Mr. Mendoza explained that Article 16 was a collaboration between him and the Zoning Board of Appeals, to address the issue of homeowners wishing to re-build homes on an undersized lot. Several meetings had occurred with Town Counsel and the Town Manager's office to identify a solution. The Chair reported that Town Counsel had requested that the ZBA tighten up their regulations because some decisions could have resulted in liability. Mr. Mendoza stated that the ultimate decision was to keep the Article as is, with the addition of "or reconstruct," keeping it cleaner while also addressing the issue. There was discussion noting that Article 16 appearing in the Warrant Packet was not the same Article voted on by the ZBA. There was consensus from members of the ZBA that the Article was not correct. Ron Bonvie stated that the

ZBA added “reconstruct.” Mr. Mendoza provided copies of the Article from packets from the Board of Selectmen’s meeting which showed in the fourth line the addition of “or reconstruction.” There was discussion about not permitting “new non-conformities” without a variance. Mr. Lehrer confirmed that there was case law supporting the validity of the Article. The Chair sought comments from Board members. Mr. Balzarini stated that he would like to see the Article pass. The Chair inquired about not more substantially detrimental “to the neighborhood” in the fourth line and inquired whether the ZBA would support the addition. Attending ZBA members did not have an issue with the addition. There was no additional Board or staff comment. The Chair invited public comment.

John Lynch, 25 Overlook Knoll, stated that he had trouble with the Article, as it was the same Article that the Planning Board considered on May 2, with a decision from the Planning Board, with full discussion that it had issues. At that meeting, there was discussion about plans remaining within the footprint, allowing the homeowner to rebuild. It was Mr. Lynch’s belief that there had been agreement to include such a statement in the Article and the Planning Board would work on a Raze and Replace Article that would be amenable to all parties. Mr. Lynch felt that the proposed Article was less protective than what was originally proposed on May 2, including the statement “not more substantially detrimental to the neighborhood.” Mr. Lynch suggested that this was a Town wide problem, adding that he had received numerous calls about the upcoming Public Hearing and expressing concern about monstrous houses being built. Mr. Lynch felt that the proposed Bylaw was watering down the existing Bylaw, accelerating the process and providing discretion to the Building Inspector with a vote by three members instead of four. Although he felt that Raze and Replace would be a good addition, Mr. Lynch felt that the proposed Article was not ready for Town Meeting vote. Mr. Lynch felt that the Planner’s Article #14 was a better option and that Article 16 may create more litigation.

Marissa Pointbroder, representing her parents, the Tourneys at 23 Treasure Lane, expressed her support for the Bylaw. The Tourneys owned a 760 square foot cottage on cinder blocks, with a leaching field, and they wished to improve the two bedroom cottage to three bedrooms, creating more conformity in a nonconforming lot, in an existing nonconforming dwelling. The family looked into several options under the current Bylaw, all of which have been cost prohibitive. Their plans would require a variance of only .9 feet with their final plan.

Steve McDonald, not a permanent resident of Mashpee, but a homeowner in New Seabury, stated that he purchased a home, for the land, two years ago to convert it into a family home for his children. Mr. McDonald pursued a design and received approval from the Conservation Commission, but found that decisions made by the ZBA had changed in that time. It was Mr. McDonald’s opinion that homeowners should be able to build within their existing confines, adding that his design had nothing closer to the setbacks than what was existing. Mr. McDonald discussed the issues of the existing home, stating that it was impractical to renovate the home and adding that a new home would be an improvement to the neighborhood. Mr. McDonald expressed concern about the intent and direction of the proposed Bylaw.

Mashpee resident, Ken Bates, expressed concern about Popponesset setbacks. There was confirmation for Mr. Bates that frontage was 60 feet.

Dave Caparella stated that his family owned property on Popponesset Island for 40 years, now being passed along to the second generation, who would be unable and uninterested in knocking down the original structure to rebuild and instead, planned to renovate the home. Mr. Caparella asked for clarification regarding renovation at a cost that exceeded the 50% value of the structure, stating that the

value was in the land and the home was \$200,000 allowing for only a \$100,000 renovation. Scott Goldstein, member of the ZBA, confirmed that 50% was a FEMA requirement for homes located in a flood zone, adding that Mr. Caparella would also not be able to Raze and Replace under the proposed Bylaw. Mr. Rowley stated that a homeowner could go beyond the 50% value, provided he comply with FEMA regulations, and Mr. Mendoza agreed, but the house may need to be rebuilt to comply with FEMA. The Chair referenced what was originally presented to the Planning Board, which allowed for a wall to remain, and Mr. Bonvie responded that there was no legal status to allowing a wall. Mr. Caparella agreed that he was in support of the proposed Article.

Mr. Goldstein referenced Mr. Lynch's comment regarding the allowance of McMansions and stated that it was not the intent of the ZBA to allow oversized structures and were strict about lot coverage. The Chair referenced Planning Board minutes from May 2 that inquired of the ZBA whether they would accept a limit on the increase of the footprint of a house to 25%. Mr. Goldstein responded that he would not. The Chair read the minutes and discussion, as presented by ZBA members, a dialogue that no footprint would be increased, but in fact then corrected that the footprint would be increased. Mr. Goldstein responded that the ZBA was meeting lot coverage and setbacks. Mr. Bonvie stated that in the last several years, they did not support any variances related to lot coverage, which was 20% in most parts of Town. Requests were now often received with 19.8% lot coverage, in order to provide McMansion protection. The Chair asked if the ZBA would codify that. Mr. Bonvie provided an example whereby an expansion could not exceed 50%. The Chair asked if the ZBA would codify that they would not provide any relief for lot coverage and Mr. Bonvie responded that he could not agree on behalf of the Board, but did not believe that he voted in the past on any lot coverage variance. The Chair stated that she requested on August 14 examples for consideration at the Public Hearing and Mr. Bonvie confirmed that they would be providing the information. Mr. Bonvie stated that the Article would not allow any alterations, other than existing pre-existing non-conformities.

Fred Naddaff, 29 Overlook Knoll, stated his belief that the proposed Article was intended to clarify the Raze and Replace rule, which seemed more difficult to acquire since it went from a written finding to a Special Permit. Mr. Naddaff felt that there was no need for additional restrictions since non conformities could not be increased, it was limited to 20% lot coverage and there were height restrictions. Mr. Naddaff referenced the May 2 meeting and neighbors expressing concerns. Mr. Naddaff expressed his support for this proposed Article, noting that his project was stalled despite having met with various Town parties who indicated he would have no trouble with his project and expressing his frustration that he submitted plans that had been approved and was now carrying the costs of two households. Mr. Naddaff emphasized that property improvements and increased taxes would benefit the Town.

Christina Thomas, 123 Short Drive, stated that she lived in a 900 square foot house which she would love to rebuild, stating that it was unfair that she could not rebuild and adding that she would leave Mashpee if she could not rebuild.

Tom O'Neil stated that he had spent 26 years in the community and felt that this was his first crisis he had encountered with customers in his business of reconstructing homes. Mr. O'Neil stated that other communities allowed homeowners to tear down and rebuild their homes. Mr. O'Neil further stated that the homes did not meet energy or building codes, some of which were built before building codes existed. Mr. O'Neil noted that Mashpee was an energy community requiring 2x6 construction with proper insulation and proper wind requirements within one mile of the coast. It was Mr. O'Neil's opinion that there were already so many restrictions in Mashpee, with safeguards already in place and being stalled since December, it created a real danger to the community to not provide new housing

stock. Mr. O'Neil suggested that more people were staying longer than the summer season to use their properties. Mr. O'Neil discussed the development of Mashpee's new library, suggesting that the idea of building new and bigger was bad, was misinformation.

Mr. Fudala stated his opinion that the Article was a good one, adding that the ZBA had been violating the law at every meeting due to requests for lot size and frontage requirements, which made it necessary to have the new Bylaw in place. The Chair asked for final comments from Board members.

Mr. Weeden expressed his concern regarding the protection of historic property. Mr. Weeden indicated that there were a few structures that remained as personal properties. Mr. Bonvie responded that research was typically conducted prior to being considered at the ZBA, should a property fall within an archeologically significant area. Mr. Mendoza responded that there were currently no requirements in town regarding historically registered homes but structures located within the Historic District were first reviewed by the Historic District Commission. Mr. Weeden responded that Mashpee had a town-wide sensitivity assessment with recommendations by PAL for eligible structures, but not on the Register, but Mr. Mendoza responded that it had no legal bearing.

Mr. Balzarini highly recommended the Article. It was noted that there would be a public hearing on the issue.

Warrant Article 17: Mobile Food Truck-Mr. Mendoza explained that, one year ago, a mobile food truck operator expressed interest in setting up at a particular location. The issue was not currently addressed in the Bylaws. Mr. Mendoza confirmed that the Board of Health would still address the food aspect of the operation. There were no comments from members of the Board, the staff or the public.

Mr. Fudala stated that a food truck was a vehicle and, as such, could not be regulated under the Zoning Bylaw and suggested that the Article be withdrawn. Mr. Fudala indicated that a Food Truck Court could be created as a use, but otherwise zoning could not regulate the location of a food truck. Mr. Mendoza responded that the table in the Article dealt with food truck use. Mr. Lehrer suggested that food trucks would follow the traffic, relocating as needed to reach the most customers and inquired what currently precluded them from setting up in a location. Mr. Mendoza referenced the example of the truck being parked at Botelho's which did not list food truck as a use at that location. Mr. Lehrer inquired whether a license could be obtained from the Board of Selectmen but Mr. Mendoza responded that they did not wish to go that route as concern was expressed from the DPW and Police Department, as well as concerns expressed by the Board of Health.

Chairman Waygan stated that it was unlikely that the Planning Board would ask the Selectmen to withdraw the Article. Mr. Lehrer further inquired whether food trucks were licensed and Mr. Mendoza inquired what would give him the right to grant the use on the table. The Chair stated that the Planning Board did not object to the Article, wanting only for it to be a legal mechanism, suggesting that Town Counsel review the Article.

Warrant Article 18: Continuance, Extension or Alteration-It was Mr. Fudala's opinion that Article 18 should be withdrawn because it would eliminate grandfathering and increase variances. Mr. Fudala stated that the current Bylaws allowed that the rules applied to a home were the rules that were applied when it was built. Mr. Mendoza agreed, stating that the only addition was the second sentence and provided an example of a request to add a deck to the back of a home not meeting the setbacks, but the deck would meet setbacks, which would need to be sent to the ZBA for consideration. Mr.

Mendoza stated that other communities had the same language, with granting from the Building Commissioner. Mr. Fudala stated that the Article removed grandfathering and Mr. Mendoza strongly disagreed. The Chair invited public comment.

Mr. Lynch agreed that the proposed Article was a radical change to the existing Bylaw, suggesting that it watered down the current safeguards. The Chair wished to comment to the Board of Selectmen that there was passionate discussion regarding the Article and whether or not it dissolved grandfathering, and asked to seek advice from Town Counsel with feedback to be provided prior to the Public Hearing.

MOTION: Mr. Balzarini made a motion to adjourn.

It was noted that there were additional Articles to be considered.

Warrant Article 19: Setbacks from Water or Wetlands-The Chair stated that the Planning Board had seen the Article before and had voted against it. The Article would be further discussed at the Public Hearing although Mr. Fudala pointed out that the Article had a technical problem. Mr. Fudala recommended stating that a Zoning Bylaw could not refer to a non-zoning entity, listed as the Conservation Commission in the proposed Article, suggesting instead that the Article end it at "in its entirety." Mr. Mendoza agreed to the change and in responding to the public, confirmed that it would eliminate the 50 foot setback. The Chair stated that Mr. Fudala was recommending a change that would eliminate illegal language. The Chair stated that they were correcting language, suggesting that they were not sure the Article would receive support at the Public Hearing. Mr. Mendoza clarified that the 50 foot setback would not be removed, but that instead, the Conservation Commission would protect the buffer. The Chair indicated that the Planning Board may not be in agreement with the Building Commissioner but wished to correct the language so that it would be acceptable to the Attorney General.

Warrant Article 20: I-1 District Parking-The Chair stated the likelihood that she would not support the Article that allowed parking on any side of a building, but did not see any error in the text. Mr. Lehrer made a comment to the Building Commissioner about not allowing parking on a primary thoroughfare. Mr. Fudala stated that the Bylaw requiring parking at the side or the rear had been jointly submitted by the Planning Board, Board of Selectmen and the ZBA. Mr. Fudala noted that the ZBA continued to grant variances, adding that the intent of the Bylaw was for aesthetic reasons, requiring that vehicles parked at the side or the rear of buildings.

Warrant Article 21: Deletion of Section 174-25 I(9) in its entirety-According to Mr. Fudala, the Chair indicated that the Article would eliminate the requirement that a dock proposed to exceed 70 feet in length must receive a Special Permit from the ZBA. Mr. Lehrer responded that the Conservation Commission was the authority on the issue but the Chair responded that the Planning Board preferred extra protection. Mr. Fudala stated that the Bylaw being proposed to be deleted provided the use list and provided an explanation for the ZBA to prove a Special Permit. Mr. Fudala also stated that the deletion would remove the right to build a dock and recommended re-drafting the listing of the use, creating a table of uses. There was consensus for the Chair to notify the Selectmen that there was concern that the proposed Article could remove the right to have the uses allowed by right in Town. Mr. Fudala could provide a draft to the Chair.

Warrant Article 22: Swimming Pool Setbacks-Mr. Mendoza stated that the Bylaw did not properly define the location of a pool, which he felt would best be placed with Sheds. There were no comments from the Board. Mr. Fudala commented that it should be changed to 10 feet.

The Chair recognized Mr. O'Neil, who commented that, due to the small lots, with more homeowners staying in Mashpee year round, he would also recommend a 10 foot setback rather than a 15 foot setback. Mr. O'Neil stated that small pools were being installed and a 15 foot setback could be impossible to achieve. Mr. Hansen responded that a shed had a 5 foot setback with little activity as compared to a pool which would have increased activity and 15 feet could provide abutters with some buffer. Mr. O'Neil responded that the 15 foot buffer did not work because it would not leave enough square footage to create a rectangle. Mr. O'Neil further noted that many other towns offered a 5 foot setback and today's pools often had no apron and were more eco-friendly. Mr. O'Neil asked for the Board's consideration, noting that he currently had three sites with this particular issue, homeowners who were limited due to lot sizes, suggesting that 10 feet was sufficient distance from the neighbors. Mr. Kooharian suggested that the Board ask the Board of Selectmen for a 10 foot setback and there was consensus.

NEW BUSINESS

Request Release of Covenant, 12 Cyprus Circle (Map 21 Parcel 33)-Christine Marano, property owner, was present to request a Release of Covenant. Mr. Lehrer indicated that an email had been received requesting the release, and Mr. Lehrer further described the other documentation related to the request, including a prior correspondence with Mr. Fudala. Mr. Lehrer forwarded information to Mr. Rowley for his opinion, recommending that Ms. Marano attend tonight's meeting to discuss her request. Ms. Marano confirmed that she wished to acquire the Release of Covenant in case she wished to sell or develop the parcel. Ms. Marano shared photographs of Fox Hill and Cypress with Mr. Rowley, noting that a landscaper would be clearing the area. Mr. Lehrer stated that Mr. Fudala's letter indicated that the parcel in question was the set aside for reserve recreation and green space, which was protected for three years, but was available for sale or development once the time had lapsed. Mr. Rowley stated that he would typically inspect the condition of the road, noting that the last time he was in the area, a clean-up was needed and adding that a base course of mix had been installed many years ago. A culvert would need to be inspected and the installation of concrete bounds completed. Mr. Rowley confirmed that he could inspect the area and report at the next meeting, and the homeowner confirmed she would return to a future meeting. Mr. Rowley was authorized to speak with the homeowner to address questions.

Plans to Upgrade Wastewater Treatment Facility at South Cape Village-Myles Ostroff of Charter Realty, managing South Cape Village, and Ben Shriver of Weston & Sampson, were present to provide an update regarding planned upgrades for the wastewater facility. Mr. Ostroff noted that, prior to purchasing the property in 2015, the site was not in compliance with the nitrogen discharge limit of 5 mg/L. They have since been working with Weston & Sampson in order to develop a strategy to improve the plant.

Mr. Shriver stated that Charter Realty had shown commitment to meeting the 5 mg/L nitrogen requirement, adding that they had been meeting with the original provider of the system. Mr. Shriver explained the plans for the upgrades to the system, which would include odor control and a minor disturbance for a small enclosure and concrete pad added. Mr. Shriver confirmed that the facility would not increase its capacity beyond 24,000 gallons per day. Mr. Lehrer confirmed that he had met with Mr. Ostroff on site and followed up with Mr. Rowley, and both concurred that the work likely did not require a modification to the Special Permit, but wished to present it to the Board for their

consideration. Mr. Lehrer confirmed that existing shrubs would be removed to install a cedar six foot fence to provide screening to the facility. Mr. Ostroff confirmed that there was an existing structure adjacent to the parking lot. It was expected that construction would begin before the end of the year. Board and staff members had no additional comments.

MOTION: Mr. Balzarini made a motion that this did not need a formal Special Permit Modification but that plans are submitted by the project proponent showing the final built design for our files. Mr. Kooharian seconded the motion. All voted unanimously.

Charles Rowley Bill for Services Rendered August 2018-Mr. Lehrer stated that a bill in the amount of \$845 was received for services rendered in August.

MOTION: Mr. Balzarini made a motion to pay Charles Rowley \$845 for the services in August. Mr. Kooharian seconded the motion. All voted unanimously.

OLD BUSINESS

DRI Referral to Cape Cod Commission, Wireless Service Facility Red Brook Road-No update

BOARD MEMBER COMMITTEE UPDATES

Chairman's Report-No update

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

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

Plan Review-No update

Greenway Project & Quashnet Footbridge-No update

PLANNING STAFF UPDATES

Communications with Mashpee Commons Re: Expectations & Procedures- No update

Communications/Public Hearing Information Re: Ockway Highlands- No update

Naukabout Update- No update

Special Permit Regulations 2017 Amendments-No update

Correspondence to Cape Cod Commission Re: DRI Referral of Proposed Personal Wireless Service Facility-No update

OneCape Summit-No update

Affordable Housing Working Group Progress-No update

CORRESPONDENCE

-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

-June 2018 Discharge Monitoring Report for South Cape Village N=5.80

WATERWAYS LICENSES

None at this time

ADDITIONAL TOPICS

None at this time

ADJOURNMENT

MOTION: Mr. Balzarini made a motion to adjourn. Mr. Kooharian seconded the motion. All voted unanimously. The meeting ended at 11:20 p.m.

Respectfully submitted,



Jennifer M. Clifford
Board Secretary

LIST OF DOCUMENTS PROVIDED

- Willow Park Townhomes at Willowbend
- 8/1/18 Jack Phelan, Mashpee Deputy Fire Chief, Email
- 9/5/18 Charles Gasior Letter to Planning Board Re: Willowbend Development Public Hearing
- 8/28/18 Terrie Cook Memo Re: 2018 October Town Meeting Zoning and Road Petition/Taking Articles
- Portions of Tom Fudala Comments Re: 2018 October Town Meeting Zoning and Road Petition/Taking Articles
- 9/5/18 Mark Lawrence, Polar Cave, Email Re: Article 12-Seasonal Signage
- South Cape Village Wastewater Treatment Facility Upgrade
- 9/4/18 Letter from Attorney Liza Cox Re: Wastewater Treatment Facility Upgrade, South Cape Village