



Town of Mashpee

Planning Board

16 Great Neck Road North
Mashpee, Massachusetts 02649

Mashpee Planning Board MEETING NOTICE and AGENDA

**The Mashpee Planning Board will hold a Public Meeting at the
Mashpee Public Library
64 Steeple Street, Mashpee, MA
on
THURSDAY June 28, 2018
6:00 p.m.**

NOTE SPECIAL DAY, TIME and LOCATION

Call Meeting to Order: 6:00 p.m. – Event Room – Mashpee Public Library

Approval of Minutes

None

New Business

Proposed Mixed-use Planned Development Bylaw for zones C1, C2, R3, and R5

Form Based Code by Mashpee Commons/Mashpee Commons by Design

Old Business

None

Correspondence

None

Additional Topics

Adjournment

For October, 2018 Annual Town Meeting

Article _____

To see if the Town will vote to amend the Zoning By-law as follows:

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

“Mixed-use Planned Development (MPD) – A development project containing a mix of commercial, residential, public, ~~or~~ 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, C-2, 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 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 occupancy 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, ~~as described under Subsection M below,~~ may be substituted for the provisions of ~~the Section 174-31~~

Article VII Land Space Requirements **Table** and any other dimensional requirements contained in this Chapter and be incorporated into the Planning Board's Special Permit decision regarding the MPD.

- 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 ~~Development~~ 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 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, ~~in lieu of the requirements set forth in the Section 174-31 Land Space Requirements Table~~, 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 related thereto.

Submitted by Planning Board

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.

Mixed-use Planned Development By-law

DRAFT

Amend Section 174-3 by adding the following new definition in its proper alphabetical location:
“**Mixed-use development** – A development project containing commercial, residential, public or entertainment uses conceived and designed as a single environment in a compact form.”

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, C-2, 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 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 occupancy 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 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 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, any use allowed by Section 174-25 shall be allowed by right upon approval by the Planning Board of the MPD Special Permit.
- 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, as described under Subsection M below, may be substituted for the provisions of the Section 174-31 Land Space Requirements Table and be incorporated into the Planning Board's Special Permit decision regarding the MPD.
- 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.
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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 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 Development or phase in conformance with the approved plan and the 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 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's 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, in lieu of the requirements set forth in the Section 174-31 Land Space Requirements Table, 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 Code.
- P. **Revisions to Code.** Any revisions to a 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.

