

Planning Board

Meeting Materials for July 13, 2020

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Town of Barnstable
Planning and Development Department
Staff Report



330, 370, 390, 400 & 420 Main Street, Route 6A, West Barnstable
Approval Not Required (ANR) Plan

Date: July 10, 2020
To: Steven Costello, Chair, Planning Board
From: Department of Planning & Development Staff
Owners: **Robert P. Madonna**
Applicants: **Robert P. and Paula M. Madonna**
Property Address: 330, 370, 390, 400 & 420 Main Street, Route 6A, West Barnstable
Assessor's Map/Parcel: 134/026; 133/002-001; 133/002-002; 133/002-003; 133/002-004
Zoning: Residence F (RF); Resource Protection Overlay District (RPOD)

An Approval Not Required Plan "Plan of Land in Barnstable, MA (W. Barnstable Fire District" prepared for Robert P. Madonna drawn and stamped by Alan M. Grady of Bracken of Bracken Engineer, Inc., dated March 5, 2020 and revised June 22, 2020, has been submitted to the Board for endorsement as an Approval Not Required (ANR) plan.

The Plan proposes to reconfigure the boundary lines of five parcels to create three new Parcels as follows:

- Proposed Lot 1 containing 492,878 square feet (97,756 sf of upland) with 510.6 feet of frontage on Main Street.
- Proposed Lot 2 containing 309,978 square feet (147,094 sf of upland) with 155.01 feet of upland on Main Street
- Proposed Lot 3 containing 492,878 square feet (187,031 sf of upland) with two separate sections frontage – one section with 150.01 feet of frontage on Main Street, which connects to the buildable portion of the lot via a 40 foot wide connector strip, and a separate section with 335.27 feet of frontage on Main Street, which is not connected to the buildable portion of the lot by upland.

Main Street (Route 6A) is a 50 foot wide public state highway. Although all lots meet the minimum lot area of 87,120 square feet in the Resource Protection Overlay District, there is question of whether Proposed Lot 1 meets shape factor requirements found in Section 240-7 of the Zoning Ordinance. However, (as referenced on the plan) no determination as to compliance with the zoning ordinance requirements has been made or intended by the Planning Board's endorsement of the plan.

The plan as submitted qualifies as an ANR Plan and it should be endorsed by the Board as:

- it does not constitute a subdivision as each of the three lots being created has the minimum required frontage on an improved public way; and
- all materials and conditions of Chapter 801, Article IV Approval Not Required Plans, have been submitted and are in full compliance.

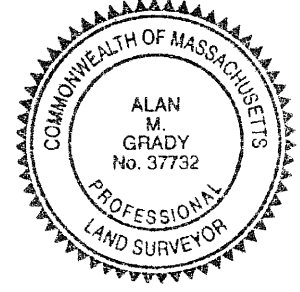
If the Board agrees, a motion should be formulated to:

Endorse the land division plan entitled “Plan of Land in Barnstable, MA (W. Barnstable Fire District” prepared for Robert P. Madonna drawn and stamped by Alan M. Grady of Bracken of Bracken Engineer, Inc., dated March 5, 2020 and revised June 22, 2020, as an Approval Not Required Plan.

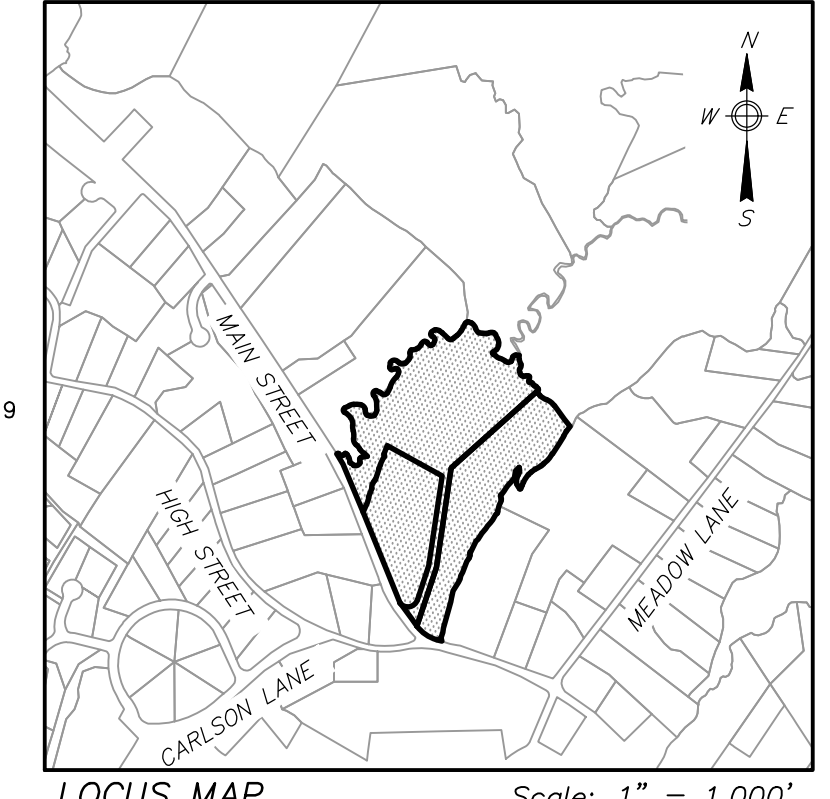
Line #	Bearing	Distance
L17	S 25° 09' 14" E	199.82'
L18	S 48° 19' 36" W	299.61'
L19	N 17° 00' 05" W	139.97'
L20	N 70° 18' 54" W	252.10'
L21	N 49° 34' 08" E	164.40'
L22	S 89° 48' 21" E	145.69'
L23	N 69° 20' 17" E	156.37'
L24	N 48° 19' 36" E	221.16'
L25	S 45° 26' 46" E	188.60'
L26	S 31° 12' 27" W	136.37'
L27	S 42° 18' 09" W	178.93'
L28	S 17° 19' 49" W	143.56'
L29	S 83° 11' 24" W	123.52'
L30	N 8° 23' 16" E	390.11'

RESERVED FOR REGISTRY USE

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.



ALAN M. GRADY, PLS
MASSACHUSETTS REG.
No. 37732

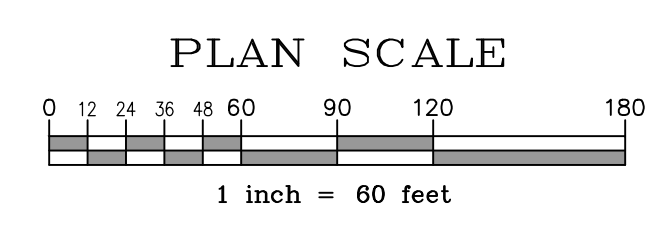
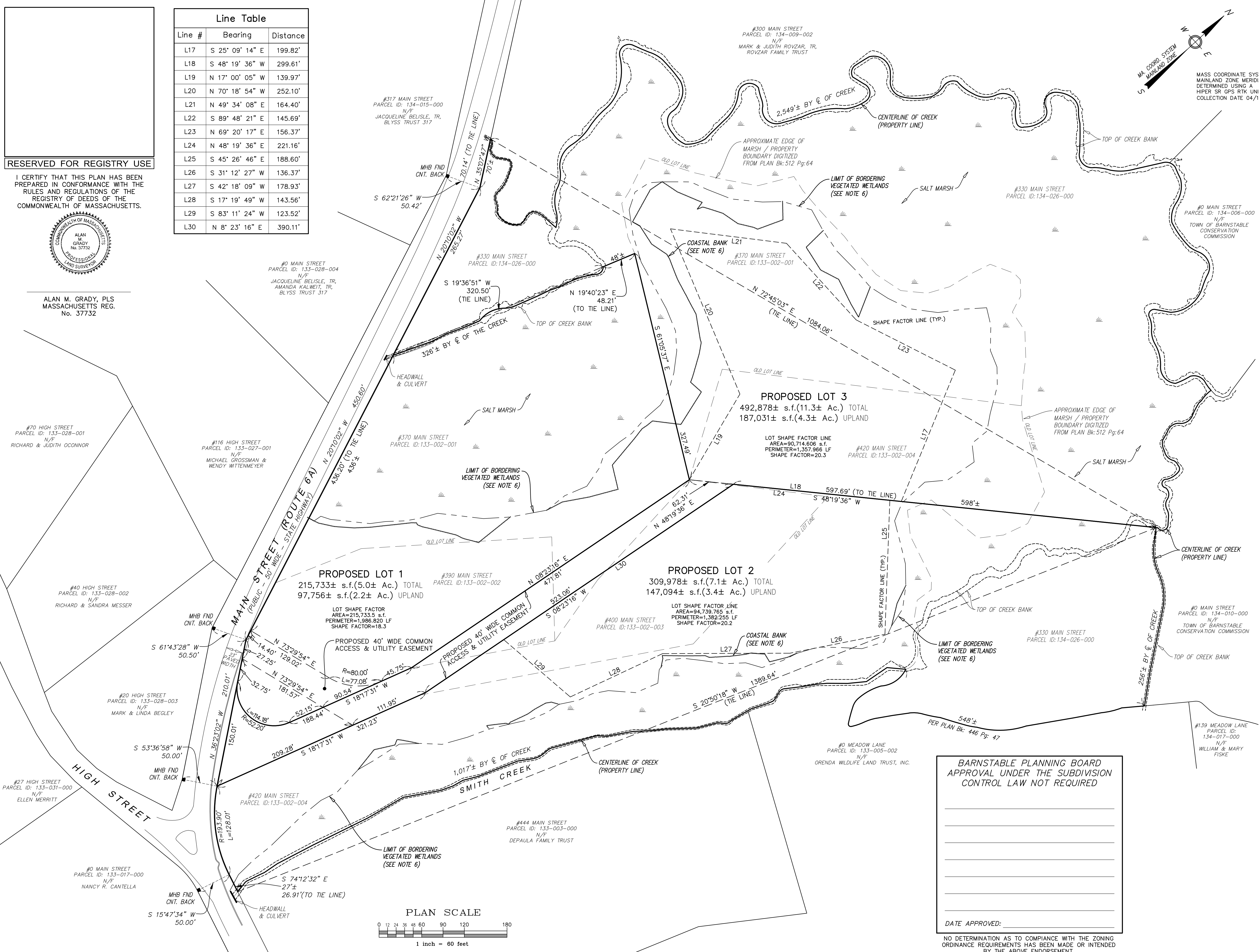


ZONING DISTRICT: RF
OVERLAY DISTRICT: AQUIFER PROTECTION
OVERLAY DISTRICT RESOURCE PROTECTION REQUIRED

MIN. LOT AREA: 87,120 s.f.*
MIN. FRONTAGE: 150'
MIN. FRONT YARD: 30'
MIN. SIDE YARD: 15'
MIN. REAR YARD: 15'
MAX. BUILDING HEIGHT: 30'

* MIN. LOT AREA 87,120 s.f. DUE TO RESOURCE PROTECTION OVERLAY DISTRICT, CHAPTER 240 ZONING SECTION 14E FOOTNOTE 2
** MAXIMUM LOT SHAPE FACTOR IS 22. LOT SHAPE FACTOR = Perimeter²/Area. SEE CHAPTER 240 ZONING SECTION 7D.

- Notes:**
- LOCUS: #330 MAIN STREET PARCEL ID 134-026-000
#370 MAIN STREET PARCEL ID 133-002-001
#390 MAIN STREET PARCEL ID 133-002-002
#400 MAIN STREET PARCEL ID 133-002-003
#420 MAIN STREET PARCEL ID 133-002-004
 - OWNER: ROBERT P. MADONNA & PAULA M. MADONNA
886 MAIN STREET
OSTERVILLE, MA 02655
 - DEED REF: Bk: 9647 Pg: 18
 - PLAN REF: Bk: 512 Pg: 64 (LOTS 1-4)
 - LOCUS FALLS WITHIN SPECIAL FLOOD HAZARD ZONES "AE" (el. 13 & el. 14 & "VE" (el. 16) AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP No. 25001C-0532-J & 25001C-0534-J dated 07/16/2014.
 - SEE ORDER OF RESOURCE AREA DELINEATION (ORAD), MassDEP File No. SE3-5696, APPROVED BY THE TOWN OF BARNSTABLE CONSERVATION COMMISSION ON JULY 10, 2019 FOR APPROVED RESOURCE AREA BOUNDARY DELINEATIONS.
 - THE PURPOSE OF THIS PLAN IS TO RECONFIGURE THE BOUNDARY LINES OF THE FIVE (5) PARCELS NOTED ABOVE TO CREATE THREE (3) NEW PARCELS.



BARNSTABLE PLANNING BOARD
APPROVAL UNDER THE SUBDIVISION
CONTROL LAW NOT REQUIRED

DATE APPROVED: _____
NO DETERMINATION AS TO COMPLIANCE WITH THE ZONING ORDINANCE REQUIREMENTS HAS BEEN MADE OR INTENDED BY THE ABOVE ENDORSEMENT.

PLAN OF LAND
IN
BARNSTABLE, MA
(WEST BARNSTABLE FIRE DISTRICT)
PREPARED FOR
ROBERT P. MADONNA
#330 MAIN STREET PARCEL ID 134-026-000
#370 MAIN STREET PARCEL ID 133-002-001
#390 MAIN STREET PARCEL ID 133-002-002
#400 MAIN STREET PARCEL ID 133-002-003
#420 MAIN STREET PARCEL ID 133-002-004
PREPARED BY
BRACKEN ENGINEERING, INC.
49 HERRING POND ROAD
BUZZARDS BAY, MA 02532
tel: (508) 325-0044 fax: (508) 833-2282
SCALE: 1" = 60' MARCH 5, 2020
REVISED: JUNE 22, 2020

20 JUN 19 P1:43



**Town of Barnstable
Planning Board**

**Request to Extend Time Limit Approval Not Required (ANR) Plan
Chapter 801, Article IV Approval Not Required Plans**

Date: 6/19/20

I hereby agree to extend the required time limits for the Planning Board to take final action on an Application for Approval Not Required Plan filed with the Barnstable Planning Board on 6/9/20, entitled "PLAN OF LAND" (Form A - Approval Not Required), dated, 3/5/20 drawn by BRACKEN ENGINEERING, INC.

This extension requires the Planning Board take final action and file a Decision/Notice of such action no later than July 27, 2020.

Applicant Signature Donald F. Bracken, Jr. Date 6/19/20
(Applicant and/or Applicant's agent who signed the original application)

Applicant/Agent Name: DONALD F. BRACKEN, JR.
PRESIDENT
BRACKEN ENGINEERING, INC.

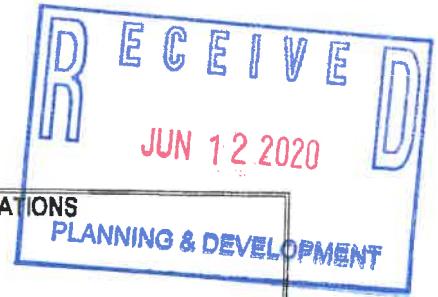
Planning & Development
200 Main Street, Hyannis, MA 02601
Phone: 508-862-4064 Fax: 508-862-4784

cc: Applicant
Town Clerk
File

PROPERTY: 330, 370, 390, 400 + 420 MAIN ST.

SUBDIVISION REGULATIONS

801 Attachment 2



TOWN OF BARNSTABLE SUBDIVISION RULES AND REGULATIONS
FORM A
APPLICATION FOR DETERMINATION THAT PLAN DOES NOT REQUIRE APPROVAL

Date: 6 / 9 / 2020

The undersigned owner(s) or authorized applicant(s) of the land shown on the accompanying plan request a determination and endorsement by the Barnstable Planning Board that approval under the Subdivision Control Law is not required.

Plan Title: Plan of Land in Barnstable, MA (W. Barnstable Fire District) prepared for Robert P. Madonna

Plan Date: 3 / 5 / 2020

Assessor's Map and Parcel Number: Map (s): 133 / 134 Parcel (s): 2-1, 2-2, 2-3 & 2-4 / 2-6

Zoning: RF Area: Number of Lots: 3

Drawn By: Bracken Engineering, Inc, Alan M. Grady, PLS

Address: 49 Herring Pond Road, Buzzards Bay, MA 02532 alan@brackeneng.com

Phone: (508) 833-0070

20 JUN -9 P 2:55

BARNSTABLE TOWN CLERK

The undersigned's title to said land is derived as follows: Deed from Mary E. Paananen, recorded 4-28-1995 in Deed Book 9647, Page 47

PLEASE COMPLETE THE FOLLOWING

- 1. The proposed lots do X do not meet the present Zoning Ord. lot size requirements, including lot shape factor requirements.(Check one).
2. The applicant believes that the plan does not require the Planning Board's approval because (please circle):
A. Each lot has the minimum required frontage required under the Zoning Ord. on Main Street (Route 6A) Street, which is:
1. A public way, certified by the Town Clerk as maintained and used as a public way, or
2. A way shown on a subdivision plan # dated / / , and endorsed and installed in accordance with the Subdivision Rules and Regulations, or
3. A private way which provides adequate access in accordance with § 801-12B of these Subdivision Rules and Regulations.
B. The division proposed is for conveyance purposes and does not reduce the lot frontage less than the minimum required in the Zoning Ordinance.
C. The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings shown on the accompanying plan were standing prior to the date in which the Subdivision Control Law was implemented in the Town of Barnstable. The date the buildings were constructed and the use is as follows:

BARNSTABLE CODE

Building #1 : ___/___/___ date _____ use _____

Building #2 : ___/___/___ date _____ use _____

Building #3 : ___/___/___ date _____ use _____

Other reasons: _____

4. Has a plan of this land been submitted to the Planning Board before? Yes No _____ (check one). If yes please provide the date of the plan, date of recordation with the Registry of Deeds or of the date of filing with Land Court, date of plan: ___/___/___ date of recording: 4 / 28 / 1995
Plan of Land prepared for Sheila Bearse Crowell, dated February 14, 1995

5. Are there any wetlands within this tract of land? Yes No _____ (check one).

6. The owner/applicant owns adjoining land _____ yes no

 886 Main St., Osterville, MA 02655 / 508-833-0070 (Agent)

Signature of Owner Address Telephone
Robert P. Madonna

Print Name of Owner

Signature of Owner Address Telephone

Print Name of Owner

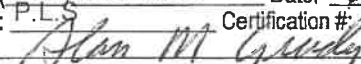
Signature of Authorized Applicant Address Telephone

Print Name of Applicant

Applicant's Authorization:

This section is to be completed by the Registered Land Surveyor who prepared the plan or by the legal counsel representing the applicant:

I certify that no other conditions or limitations from prior plans apply to the plan of land submitted.

Company/Firm: Bracken Engineering, Inc.
Address: 49 Herring Pond Road, Buzzards Bay, MA 02532
Telephone: (508) 833-0070 Date: 6 / 9 / 2020
Certification: P.L.S. Certification #: MA #37732
Signature: 

Received by Town Clerk:

Date: ___/___/___ Time: _____ Fee: _____

Signature: _____

Please make check payable to the Town of Barnstable.

SUBDIVISION REGULATIONS

TOWN OF BARNSTABLE SUBDIVISION RULES AND REGULATIONS
FORM A
APPROVAL NOT REQUIRED PLAN - SUBMISSION CHECKLIST

This form must be completed by the plan preparer, signed, dated and returned with the completed copy of Form A along with the appropriate fee. For the complete submission requirements see Article IV of the Rules and Regulations. Please check each item submitted:

- One Copy of the completed Form A, and Form A Checklist.
- Filing Fee Paid \$ 250.00
- Copy of most recently recorded deed and copy of recent tax bill. Evidence of payment of taxes on all lots. *Karen to request*
- If the applicant is not the owner, a copy of authorization to apply signed by land owner(s).
- Evidence of right of access over any private way that provides access and frontage.
- ~~Ten~~ *8 reduced 11 x 17 copies* copies of the plan at a reduced scale of 1"=100" or other suitable scale for distribution.
- GIS file (see Appendix A) and original mylar.
- ~~Original color tracing and eight (8) prints of the plan containing the following information:~~ *4 Full-Size Prints*
 - Locus Map at a scale of 1" = 2,000'.
 - Undereath the locus map, the assessors map and parcel number(s), zoning district(s), zoning overlay district(s), and zoning area, frontage and dimensional requirements. North arrow.
 - Title block location and Fire District, owner, applicant, date scale and bar scale. Firm responsible and original seal on all copies with signature and date. Revisions with dates and descriptions..
 - Adjoining lots and owner(s). Frontage of any remaining adjoining land.
 - Location of existing buildings, including front, side and rear yard setbacks and street address.
 - Location and width of streets, ways and easements: legal status, name and pavement widths. Type of surface of way which gives frontage.
 - Location and area of wetlands on any buildable lot.
 - Lot sizes in sq. ft and/or acres; area of any remaining land; lot shape factor calculations on separate building lots.
 - Lots created for conveyancing purposes only, so noted.
 - Note: "No determination as to compliance with the Zoning Ordinance requirements has been made or intended by the above endorsement".

Signature of registered land surveyor or registered engineer: *Alan M. Grady*

Print name: Alan M. Grady, PLS

Company/Firm: Bracken Engineering, Inc. Address: 49 Herring Pond Road, Buzzards Bay, MA 02532

Telephone: (508) 833-0070 Date: 6/9/20 Certification: PLS Certification #: 37732

I, **MARY E. PAANANEN**, having a mailing address of P. O. Box 99, Barnstable (West), Barnstable County, Massachusetts 02668, for consideration paid of \$600,000.00

grant to **Robert P. Madonna and Paula ^{M.} Madonna**, husband and wife, as tenants by the entirety, both of 208 Carlson Lane, Barnstable (West), Barnstable County, Massachusetts 02668

with quitclaim covenants, the land, together with any buildings thereon situated in Barnstable (West), Barnstable County, Massachusetts, described as follows:

Lot 1 containing 3.53 acres, more or less of upland and 2.96 acres, more or less of wetland for a total area of 6.49 acres, more or less; and Lot 2 containing 1.76 acres, more or less; and Lot 3 containing 1.66 acres, more or less; and Lot 4 containing 3.76 acres, more or less of upland and 1.37 acres, more or less of wetland for a total area of 5.13 acres, more or less.

The above described four lots are shown on a plan of land entitled: "Plan of Land in Barnstable, Mass. prepared for: Sheila Bearse Crowell, Scale 1" = 50', February 14, 1995, Eagle Surveying & Engineering, Inc. 10 Seaboard Lane, Hyannis, Ma. 02601 (508)778-4422", which said plan is to be duly filed herewith in the Barnstable County Registry of Deeds in *Plan Book 512, Page 64*

The above described premises are conveyed subject to an Order under Massachusetts General Laws Chapter 130 §105 recorded in said Registry in Book 3355 Page 213.

Being the same property conveyed by deed from Martha W. Dickey to Everett W. Paananen and Mary E. Paananen, husband and wife, as tenants by the entirety dated March 2, 1972 recorded in Book 1610 Page 297. Everett W. Paananen died August 29, 1991 as evidenced by Death Certificate recorded herewith. See also Massachusetts Estate Tax Lien Release re the interest of Everett W. Paananen recorded in Book 8202 Page 265.

Location of property:
400 Route 6A
West Barnstable, MA 02668

EXECUTED AS A SEALED INSTRUMENT this 28th day of April, 1995.

Mary E. Paananen

Mary E. Paananen

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss:

April 28, 1995

Then personally appeared the above named **Mary E. Paananen** and acknowledged the foregoing instrument to be her free act and deed, before me,

Donald F. Henderson

Notary Public

My Commission Expires:

Donald F. Henderson
My Commission Expires
April 19, 1996

BARNSTABLE REGISTRY OF DEEDS
CANCELLED
900.00
CANCELED
488.00
CANCELED

DEEDS RE
BARNSTABLE
04/28
CANCELED

TAX 2052.00
CASH 2052.00
0768A000 14:23
EXCISE TAX

B. NEW BUSINESS (Refer to Planning Board)

BARNSTABLE TOWN COUNCIL

20 JUN 24 P4:27
ITEM# 2020-193
INTRO: 06/18/2020

**2020-193 ORDER AMENDING CHAPTER 240 ZONING, ARTICLE II, SECTION 7
ADDING CERTAIN PROVISIONS PERTAINING TO SHORT TERM RENTALS**

ORDERED that the Code of the Town of Barnstable, Chapter 240 Zoning, Article II, Section 7, be amended by adding the following subparagraph (J) to Section 240-7:

“J. Short term rentals. Notwithstanding any provisions to the contrary in this Chapter 240, short term rentals shall be permitted within lawful dwelling units in all zoning districts. A short term rental shall be defined as a residential dwelling or any portion of a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or under Chapter 506 of the Code of the Town of Barnstable; bed & breakfast establishments or bed & breakfast homes licensed under said Chapter 506. Cottage Colony shall be defined as a group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis. When a property is in use as a short term rental, on-site parking shall not be in any cultivated or landscaped area between a roadway and the part of the principal structure nearest to the roadway.”

SPONSOR: Town Council Committee to Review Zoning & Permitting Regulations: Paula K. Schnepf, Chair, Councilor Precinct 12, Britt Beedenbender, Councilor Precinct 4, Kristine Clark, Councilor Precinct 11, Jennifer Cullum, Councilor Precinct 13, Gordon Starr, Councilor Precinct 1

DATE	ACTION TAKEN
_____	_____
_____	_____

- _____ Read Item
- _____ Motion to Open Public Hearing
- _____ Rationale
- _____ Public Hearing
- _____ Close Public Hearing
- _____ Council Discussion
- _____ Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2020-193
INTRO: 06/18/2020

SUMMARY

TO: Town Council
FROM: Town Council Committee to Review Zoning & Permitting Regulations
DATE: June 12, 2020
SUBJECT: Order amending Chapter 240 Zoning, Article II, Section 7 adding certain provisions pertaining to Short Term Rentals

RATIONALE: This proposed amendment to Chapter 240, Zoning, aims to provide a clear understanding of what is permitted in terms of renting a residential dwelling as a Short Term Rental in the Town of Barnstable. Currently, Short Term Rentals are neither expressly permitted nor prohibited in the Town of Barnstable; the use is not addressed in any municipal ordinance. Short Term Rentals are being, and historically have been, operated in all villages in Barnstable. According to the latest data set provided by the Massachusetts Department of Revenue, there are 663 short term rentals currently registered in the Town of Barnstable.

This proposed amendment to the Town's zoning ordinance defines Short Term Rentals in a manner consistent with the Commonwealth in the Short-Term Rental Law (Chapter 337 of the Acts of 2018, revising G.L. c. 64G, Section 3A), which includes Short Term Rentals among the list of establishments subject to the local excise tax. Short Term Rentals are broadly defined as residential dwellings, or portions of dwellings, that are rented out in advance for less than 31 days (including weekly rentals).

The proposed approach to Short Term Rentals is two-fold: a general ordinance to register Short Term Rentals with the Inspectional Services Department and require that certain standards, including life safety standards, are met; and an amendment to the zoning ordinance to recognize Short Term Rentals as an allowed use of a residential dwelling.

This item is a proposed amendment to the Zoning Ordinance to recognize and define Short Term Rentals. Short Term Rentals are defined consistent with the Short-Term Rental Law, as noted above; the definition also includes exclusions, including historical cottage colonies. The amendment also establishes parking standards for the use. Parking is appropriately addressed through zoning, as opposed to a general ordinance.

This proposed amendment to the zoning ordinance was developed with the assistance of consultant groups who provided background research on short term rental operations in Barnstable; meetings with the Centerville, Osterville, West Barnstable, Barnstable, Marston Mills, and Greater Hyannis Civic Associations; and public input at multiple Town Council and Zoning & Regulatory Subcommittee meetings.

A proposed zoning amendment requires referral by the Council to the Planning Board, and a recommendation by the Planning Board to the Town Council. The amendment then must be considered by the Town Council at an advertised public hearing, and requires a two-thirds majority vote for passage.

STAFF ASSISTANCE: M. Andrew Clyburn, Assistant Town Manager, Karen Nober, Town Attorney, Charles McLaughlin, Assistant Town Attorney, Brian Florence, Building Commissioner, Elizabeth Jenkins, Planning & Development Director, Paul Wackrow, Senior Planner, Gloria McPherson, Planning & Economic Development Coordinator

B. NEW BUSINESS (Refer to Public Hearing 07/16/2020)

BARNSTABLE TOWN COUNCIL

**ITEM# 2020-192
INTRO: 06/18/2020**

2020-192 ORDER AMENDING THE GENERAL ORDINANCES BY ADDING CHAPTER 190 SHORT TERM RENTAL PROPERTIES AND AMENDING CHAPTER 170 RENTAL PROPERTIES

SECTION 1. ORDERED that the Code of the Town of Barnstable be amended by adding the following Chapter 190, Short Term Rental Properties, to the General Ordinances:

“CHAPTER 190 SHORT TERM RENTAL PROPERTIES

§ 190-1 Purpose

The purpose of this chapter is to protect the health, safety, and welfare of both the occupants of short term rental units and the general public and to maintain the quality of life in residential neighborhoods and the availability of the Town’s housing stock. It will assist the Town in the enforcement of state and local health and safety regulations and provide a method of correcting violations when requiring immediate attention.

§ 190-2 Definitions

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING COMMISSIONER

The Building Commissioner of the Town of Barnstable or his designee.

COTTAGE COLONY

A group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis.

DWELLING

Any building or area in a building used or intended for use for human habitation, including, but not limited to, apartments, condominiums, cottages, guesthouses, one-, two- or multiple-unit residential buildings/dwellings, except those licensed under any state or local laws or regulations other than those licensed under this chapter.

INSPECTIONAL SERVICES DEPARTMENT

Consisting of Town Building and Health Divisions.

OCCUPANCY

The use or possession of or the right to use or possess a short term rental.

OCCUPANT (GUEST)

Any individual residing overnight in a short term rental.

OPERATOR (HOST)

Any individual operating a short term rental.

OPERATOR'S AGENT

An individual who, on behalf of an operator of a short term rental: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent. An "operator's agent" shall include, but not be limited to, a property manager, property management company or real estate agent.

OWNER

Any person, as defined immediately below, whom alone or severally with others has legal or equitable title or a beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or other person appointed by the courts.

PERSON

An individual, partnership, trust or association, with or without transferable shares, joint-stock company, a corporation which is not publicly traded, society, club, firm, organization, institution, estate, receiver, trustee, assignee or referee any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other combination of individuals, directly or indirectly or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever acting as a unit, including a governmental unit other than the Town of Barnstable or any of its agencies.

SHORT TERM RENTAL

A residential dwelling or any portion of a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 31 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter, 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or under Chapter 506 of the Code of the Town of Barnstable; and bed & breakfast establishments or bed & breakfast homes licensed under said Chapter 506.

§ 190-3 Short Term Rental Registration

A.Registration Required

No Owner shall rent, or offer to rent, any Short Term Rental prior to registering with the Inspectional Services Department. No tenant or lessee of an Owner shall let or sub-let a Short Term Rental under any circumstances.

B. Limits on Number of Registrations per Owner

A maximum of two (2) Short Term Rental registrations shall be issued per Owner; provided that Owners who have short term rentals registered with the Massachusetts Department of Revenue as of April 30, 2020, will be eligible to register those short term rentals with the Inspectional Services Department, notwithstanding the limit of two set forth herein.

C. Compliance

A dwelling used as a Short Term Rental shall be in compliance with the provisions of all state and local health and safety laws, ordinances and regulations. Demonstration of compliance shall be in the form of a sworn affidavit submitted as part of the registration application described in Section D below to the Inspectional Services Department prior to occupancy. Operators shall comply with all applicable federal, state and local laws, ordinances and regulations, including, but not limited to, Chapter 133 Noise, Chapter 353, Art. 1, Storage of Garbage and Refuse, the Fair Housing Act, G.L. c. 151B, and

local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, except as specifically set forth otherwise herein.

D. Application Required

The Owner of the dwelling shall be required to complete a short term rental registration application, the form and content of which shall be provided by the Inspectional Services Department.

E. Registration Renewal

Short term rental registrations shall be renewed biennially (every two years) after a satisfactory inspection by Inspectional Services and upon payment of the renewal fee.

F. Fees

The fee for a short term rental registration or a renewal of a registration shall be initially set at \$35 and thereafter may be modified by the Town Manager at a fee hearing.

G. Non-Transferability

Short term rental registrations shall be granted solely to an Owner and shall not be transferable or assigned to any other person, legal entity, or address. The registration does not run with the property; it shall be terminated upon sale or transfer of the property for which the registration has been issued.

§ 190-4 Publication of Registration Number

The Town-issued registration number shall be included on any listing offering the Short Term Rental for rent.

§ 190-5 Contact Information of Owner, Operator and/or Operator's Agent

- A. An Owner of a Short Term Rental shall provide the Inspectional Services Department with his/her current residential address and telephone number upon application for a Registration as well as a full and complete list of persons (as defined above) or who have a direct or indirect interest in any property for which a Short Term Rental Registration in the Town of Barnstable has been issued or for which a Short Term Rental Registration application is pending.
- B. If the Owner is a corporation, the name, address, and telephone number of the president and legal representative of the corporation shall be provided. If the Owner is a realty trust or partnership, the name, address, and telephone numbers of the managing trustee or partner shall be provided.
- C. The name and contact information of the Operator must be provided, along with the name and contact information of an Operator's Agent, if different from the Operator, who is able to respond in person to any issues or emergencies that arise during occupancy within one (1) hour of contact by Inspectional Services Department, Barnstable Police, or any Fire District to complaints regarding the condition or operation of the Short Term Rental. Contact information must include a telephone number that is available 24 hours per day, 7 days a week to Short Term Rental Occupants and the above-stated public safety agencies. This contact information shall be included in the application for a Short Term Rental Registration and shall be posted conspicuously within the rental unit.

§ 190-6 Good Neighbor Information

Short term rental registrations will be published to the Inspectional Services page of the Town's website and shall include the contact information required in section 190-5(C) above. The website shall also include information about these short term rental regulations, and instructions and contact information to file a complaint.

§ 190-7 Posting of Notices

The Town shall provide information to each registered Operator summarizing the regulations for short term rentals. For each Short Term Rental Registration issued, this will include, but shall not be limited to: the name and 24-hour contact information of the Operator or Operator's Agent designated in the Application, requirements for trash removal, occupancy requirements, parking, and noise restrictions.

The Operator shall:

- A. Provide occupants a copy of the provided information; and
- B. Post the information, along with the Short Term Rental Registration, in a conspicuous location within the Short Term Rental.

§ 190-8 Trash Removal.

The Short Term Rental Operator shall be responsible for ensuring that household trash is removed from the premises immediately after Occupancy is concluded or once per week, whichever is more frequent, in addition to compliance with the requirements of Chapter 353, Art. 1, Storage of Garbage and Refuse.

§ 190-9 Occupancy Requirements.

Notwithstanding the provisions of Chapter 59-3, the maximum number of Occupants in a Short Term Rental shall be two per bedroom, plus an additional two.

§ 190-10 Smoke detectors and carbon monoxide alarms

Each Short Term Rental shall contain functional smoke detectors and carbon monoxide alarms. In addition, the Operator shall provide and maintain one 2.5 lb. multi-purpose fire extinguisher on each floor. Extinguishers shall be maintained or replaced in accordance with the manufacturer's specifications. Operators shall test and perform maintenance on every smoke detector, carbon monoxide alarm upon renewal of the Short Term Rental Registration. Any detector or alarm found to be defective shall be repaired or replaced forthwith. The Occupant(s) shall be notified to report faulty or inoperative smoke detector unit(s) to, first, the owner of the dwelling and, second, the Inspectional Services Department.

§ 190-11 Keeping of Register

The Operator or Operator's Agent shall be responsible for keeping a register containing the name of the Occupant who is the leaseholder, total number of occupants, and dates of occupancy. The register shall be retained for a period of two (2) years and shall be made available upon request to Inspectional Services Department staff, police, or other duly appointed or authorized code compliance staff of the Town of Barnstable.

§ 190-12 Ineligible Units

The following are not eligible to be rented or offered to rent as Short Term Rentals:

1. Dwellings designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under local, state, or federal law;
2. Family Apartments or Accessory Affordable Apartments;
3. Dwellings subject to any requirement of local, state, or federal law that prohibits the leasing or subleasing of the unit or use of the unit as a Short Term Rental.
4. Dwellings that are the subject of any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders.
5. Properties designated as Problem Properties under Chapter 160.

§ 190-13 Failure to Pay or to Make Suitable Arrangements for the Payment of Municipal or District Taxes, Fees, Assessments, and Charges

The privilege of receiving or holding a Short Term Rental Registration is contingent upon the timely payment of municipal and district taxes, fees, assessments, and charges. Failure of a Person to comply with this requirement shall be cause, after notice and hearing pursuant to the requirements of G.L. c. 40, § 57, for denial, suspension, amendment, or revocation of a Short Term Rental Registration for any and all property in which the person holds a direct or indirect ownership interest, as above defined.

§ 190-14 Inspections

Short term Rentals shall be subject to reasonable inspections by Town and District inspectional staff (“Inspectors”).

§ 190-15 Complaint Process, Violations

- A. **Complaint.** A complaint alleging that a Short Term Rental is in violation of this Chapter or any applicable law, code or regulation may be filed with the Inspectional Services Department. The complaint must contain the Short Term Rental address, unit number, date and nature of alleged violation(s), and name and contact information of complainant.
- B. **Written notice of any violations of this chapter shall be treated as a complaint and may also be given by Inspectors.** The notice shall specify the nature of the violation to the Occupant and Owner and the time within which compliance must be achieved. The requirements of this subsection shall be satisfied by mailing such notice, through the United States Postal Service by certified mail, or by delivering in hand such notice as memorialized by an affidavit of any Town employee or officer authorized to serve any form of process notice to the Owner or legal representative named on the registration application.
- C. **Any notice required or contemplated by this chapter shall be deemed sufficient if delivered to or mailed to the mailing address listed by the owner on the Short Term Rental Registration application then on file with the Inspectional Services Department.** A written change-of-address notice signed by the Owner/s and delivered to the Inspectional Services Department may be filed at any time.
- D. **Review of Complaint.** The Commissioner or his designee shall investigate complaint(s) within a reasonable timeframe and shall determine whether there may be a violation. If the alleged violation is under the jurisdiction of another city or state or federal agency, the Commissioner shall refer the complaint to such agency for further action. Upon a finding of a potential violation, the Commissioner or designee shall serve notice of the violation upon the Owner of the Short Term Rental. The Commissioner shall keep records of all complaints received and determinations made.
- E. **Offering an Ineligible Unit as a Short Term Rental.** Any person who offers a unit as a Short Term Rental, where such unit is not an eligible Dwelling Unit or is not registered, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. The Commissioner or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the offering of the unit as a Short Term Rental.
- F. **Failure to Obtain a Registration.** Any person who offers an eligible Dwelling Unit as a Short Term Rental without a valid Short Term Rental Registration, or any person who offers an eligible

Dwelling Unit as a Short Term Rental while the unit's registration is suspended, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

- G. Failure to Comply with Notice of Violation. Any person who fails to comply with any notice of violation or other order issued pursuant to this section by the Commissioner or a designee for a violation of any provision of this section may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- H. Right to Hearing. A person upon whom a notice of violation has been served may request a hearing by filing a written petition requesting a hearing on the matter with the Inspectional Services Department within fourteen days after the day the notice of violation was served. Upon receipt of a petition for hearing, the Inspectional Services Department shall notify the complainant of the place, date and time of the hearing. The hearing shall be conducted by a Hearing Officer designated as such by the Town Manager and shall occur no later than three (3) weeks after the date the Inspectional Services Department receives the petition for hearing. The time period in which violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held and the Hearing Officer has issued a decision.
- I. Decision. Within seven days after the conclusion of the hearing, the Commissioner or designee shall sustain, modify, or withdraw the notice of violation and shall inform the person upon whom a notice of violation has been served, in writing, of its decision and the reasons therefor. If the Inspectional Services Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.
- J. Violations of an unoccupied dwelling shall be corrected prior to occupancy. Violations found in an occupied dwelling shall be corrected within the time specified as determined by the Inspectors.
- K. If a written petition for a hearing is not filed within fourteen (14) days after the notice of violation has been served, or if, after a hearing, the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute a separate violation.

§ 190-16 Registration Suspension, Modification and Revocation

In addition to, and not in lieu of, the penalties that may be assessed pursuant to this chapter, the Inspectional Services Department, after notice and public hearing, may suspend, revoke or modify any or all registration approvals issued hereunder to an Owner for violation of these regulations or of any conditions imposed by the Inspectional Services Department, notwithstanding that a violation may have been found with respect to one or more, but not all of the registered properties held by an owner. These remedies shall be non-exclusive.

§ 190-17 Judicial Appeals

Any person aggrieved by a final decision of the Hearing Officer and Inspectional Services Department with respect to a notice of violation or any other order issued under this section may seek relief therefrom in any court of competent jurisdiction.

§ 190-18 Penalties

- A. Any person who violates any provision of this chapter may be subject to a fine in accordance with the following:
- Warning 1st Offense
 - \$100 2nd Offense
 - \$200 3rd Offense
 - \$300 4th Offense – and each subsequent offense

Each day that a violation exists constitutes a separate offense.

§ 190-19 Enforcement

The Town may enforce the provisions of this chapter by any or all of the following: the noncriminal disposition process of M.G.L. c. 40, s. 21D; by seeking to restrain a violation by injunction; and by filing a complaint in any court of competent jurisdiction.

§ 190-20 Regulations

The Inspectional Services Department may adopt regulations, policies and procedures for the implementation of this chapter.

§ 190-21 Severability

Each provision of this Chapter shall be construed as separate. If any part of this Chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. In the event of a conflict between this chapter and any other chapter of the General Ordinances, this chapter 190 shall control.”

SECTION 2. **ORDERED** that the Code of the Town of Barnstable, General Ordinances Chapter 170, Rental Properties, be amended as follows:

- A. By adding to § 170-2, Definitions, “Dwelling,” after the words “rooming houses,” the words “except any required to be registered pursuant to § 190-3 Short Term Rental Registration” of Chapter 190 Short Term Rental Properties.
- B. By adding to § 170-2, Definitions, “Licensed Facility,” after the words “registered under this chapter” the words “or Chapter 190 Short Term Rental Properties.”

SPONSOR: Town Council Committee to Review Zoning & Permitting Regulations: Paula K. Schnepf, Chair, Councilor Precinct 12, Britt Beedenbender, Councilor Precinct 4, Kristine Clark, Councilor Precinct 11, Jennifer Cullum, Councilor Precinct 13, Gordon Starr, Councilor Precinct 1

DATE	ACTION TAKEN
_____	_____
_____	_____

- ___ Read Item
- ___ Motion to Open Public Hearing
- ___ Rationale
- ___ Public Hearing
- ___ Close Public Hearing
- ___ Council Discussion
- ___ Move/Vote

BARNSTABLE TOWN COUNCIL

ITEM# 2020-192
INTRO: 06/18/2020

SUMMARY

TO: Town Council
FROM: Mark S. Ells, Town Manager
THROUGH: Town Council Committee to Review Zoning & Permitting Regulations
DATE: June 18, 2020
SUBJECT: Order amending the General Ordinances by adding Chapter 190 Short Term Rental Properties and amending Chapter 170 Rental Properties

RATIONALE: This proposed Short Term Rental General Ordinance aims to create enforceable standards for the operation and occupancy of Short Term Rentals that promote the safety of our residents and guests and provide a clear understanding of what is permitted in terms of renting a residential dwelling in the Town of Barnstable. Appropriate regulation of short term rentals will allow for varied accommodations and experiences for visitors, while retaining the quality of life in residential neighborhoods. Currently, Short Term Rentals are neither expressly permitted nor prohibited in the Town of Barnstable; the use is not addressed in any municipal ordinance. Short term rentals are being, and historically have been, operated in all villages in Barnstable. According to the latest data set provided by the Massachusetts Department of Revenue, there are 663 short term rentals currently registered in the Town of Barnstable.

This ordinance defines Short Term Rentals in a manner consistent with the Commonwealth's Short-Term Rental Law (Chapter 337 of the Acts of 2018, revising G.L. c. 64G, Section 3A), which includes Short Term Rentals among the list of establishments subject to the local excise tax. Short Term Rentals are broadly defined as residential dwellings, or portions or dwellings that are rented out in advance for less than 31 days (including weekly rentals).

The proposed approach to Short Term Rentals is two-fold: a general ordinance to register Short Term Rentals with the Inspectional Services Department and regulate them by requiring that certain standards, including life safety standards, are met; and an amendment to the zoning ordinance to recognize short-term rentals as an allowed use of a residential dwelling.

This item is the proposed general ordinance creating a registration process and associated requirements for the operation of Short Term Rentals. This process is separate and distinct from the current rental registration requirements of Chapter 170 to address the unique aspects of Short Term Rentals. The item establishes that all Short Term Rentals in the Town of Barnstable must be registered with the Inspectional Services Department, with registration renewals due every two years. Upon registration, owners of short term rentals must sign an affidavit attesting to compliance with pertinent health, safety, and other regulations. Registrations are not transferable to new owners. Upon registering, owners must provide their own contact information as well as contact information for someone who is available 24 hours a day and able to respond in-person to the Short Term Rental if necessary.

The proposed general ordinance limits the number of Short Term Rental registrations that may be issued to a single owner, as defined, to two. The intention of this limitation is to reduce the potential that multiple dwellings will be purchased exclusively for Short-Term Rentals use and is a measure to protect the Town's housing stock from this form of speculative investment. Limits on the number of licenses



Town of Barnstable Planning Board



www.town.barnstable.ma.us/PlanningBoard

Board Members

Raymond B. Lang – Chair Mary Barry – Vice Chair David Munsell - Clerk Paul R. Curley Stephen Helman Mark R. Ferro Steven Costello
John Norman – Town Council Liaison

Staff Support

Elizabeth Jenkins, AICP, Director
Anna Brigham, Principal Planner
Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

Town of Barnstable PLANNING BOARD Minutes April 24, 2017

Raymond B. Lang – Chairman	Present
Mary Barry – Vice Chairman	Present
David Munsell, Clerk	Present
Paul Curley	Present
Stephen Helman	Present
Mark Ferro	Present
Steven Costello	Present

Also in attendance were Karen Herrand, Principal Assistant, Growth Management Dept.

Notice of Recording: This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

Approval Not Required Plans:

Thomas E. Driscoll - 900 Phinneys Lane, Centerville – Map 251 Parcel 104-H00 and T00 has submitted a plan entitled “Proposed 3 Lot Subdivision (Form A – Approval Not Required), 900 Phinney’s Lane in Hyannis, (Barnstable) Massachusetts, dated October 22, 2016” drawn by Matthew C. Costa, P.L.S., Cape & Islands Engineering, Inc.

Attorney Peter Freeman in attendance. He gives an explanation of the ANR, DPW is involved with this ANR. Adequate real frontage. He refers to the staff report, Exhibit A. They are in all four corners and they have the curb cut. He refers to the plan, Exhibit B. All prefer the common driveway. Zoning by law also allows access to lots by common driveway.

Elizabeth Jenkins states that an ANR has 3 standards in order to grant an ANR. The plan must front on, meet frontage, and vital access standard, meant to enforce the underlying premise that the process is there in order to ensure there is practical access. Enforce that all lots. Concerns, can there be access to the lot that is meaningful and adequate, up to landowners to decide about a common driveway. Is the access illusory there is a guardrail that protects the slope, 6% slope. Currently no permit that would allow access. Pulio case talks about.

Peter Freeman takes issue comments that they have submitted a plan, it is not illusory, it can be done. We do have the road opening permit from DPW. It would be preferable to have just one curb cut. Argues that this would be legally correct.

David Munsell asks for clarification re Exhibit C, DPW, trench permit.

Elizabeth Jenkins refers to this and explains that the case law raises whether or ether or not can gain access for lot 2 independently.

David Munsell asks if our Legal Dept. has been consulted? One of the most unusual ANR's he's ever seen.

Elizabeth Jenkins replies that she did let Legal know/aware but a formal request for an opinion has not been asked for yet.

Chair Ray Lang asks about the frontage, is the shape triangular? Refers to the plan, Exhibit B (2 plans). Is the common driveway in existence or will it be in existence?

Attorney Freeman replies , not in existence.

Chair Ray Lang asks if only part of guardrail being removed. Attorney Freeman states yes, correct.

Elizabeth Jenkins interjects that there has been no approval to remove any part of the guardrail. It does not extend over lot 1. No contemplation of removal/flared out frontage, which narrows to 15 ft. panhandle, there is a guardrail there (perspective).

Stephen Helman asks for clarification about the driveway with guardrail in place, would he be making a sharp right turn onto this proposed driveway coming from Route 132 from Route 28, you are already at a sharp turn, police think this is a good idea?

Elizabeth Jenkins clarifies that the perspective plan has never been clarified by fire/police. Attorney Freeman explains that they do not want to use this plan. Fire and Police were satisfied.

Chair Ray Lang is not comfortable voting on this. This ANR that should come before Planning Board as a subdivision. He sees this as a subdivision plan.

Attorney Freeman replies that maybe he should discuss with project engineer and sign an extension. He would be willing to sign an extension for an ANR.

Chair Ray Lang suggests continuing this, check with Fire Dept. and make sure it is clarified for safety reasons also.

Elizabeth Jenkins confirms that we can extend this and not have it issued by a constructive grant.

Steven Costello asks who will approve removal of the guardrail.

Attorney Freeman replies that would be DPW if that particular plan is approved.

David Munsell states that he has a right of way from 6A to his lot and there are 2 lots, have driveway in common.

Chair Ray Lang entertains a motion to continue to May 8, 2017, at 7 p.m.,

Subdivisions:

Continued Business

Road Rescission – Sub Nos. 362 & 658 Offshoot Rd

Beach Point, LLC has requested to modify Subdivision Nos. 362 & 658. The request is to rescind the southerly end of Offshoot Road and incorporate the road layout into Lot 12 of the subdivision. The plan for this subdivision modification is entitled “Definitive Plan of #127 & #133 Maushop Avenue and Modification of Offshoot Road, Barnstable, MA” prepared for Beach Point, LLC, dated October 23, 2016. The subject properties are shown on Assessors Map 278 as Parcels 046-002 & 046-003. *Continued from January 9, 2017, January 23, 2017, February 13, 2017, February 27, 2017, March 13, 2017, March 27, 2017, and April 10, 2017, to April 24, 2017.*

David Houghton, Assistant Town Attorney in attendance. Explains that they did provide an opinion, Legal memorandum, Exhibit D.

Attorney Peter Freeman in attendance, representing Marcy Dugas of Dorcas Ave. and Joe Dugas. He gives a brief history. Draft conditions just received last Friday, he refers to memorandum, Exhibit D. Key points what happened to the Development Agreement for lots, 10, 11 and 12. Sub. Approval from April of 2006 did require a Development Agreement, including covenant shall be recorded with plan and returned or decision shall be null and void. The legal memorandum doesn't address that. They were thinking they could work with/work out.

His client's objectives are to achieve:

One: They would like a condition of Planning Board approval – shall be no access between Offshoot rd. and the abutting Barrell Hill subdivision. No connection.

Second: The status of repairs of potholes, damage to /caused by heavy equipment . Require to do immediate patching of the potholes. Brian Burback /Andrew Maher

In addition thinks language should be broader to include that it be broadened for drainage/repair obligations. Wanted addresses to be Offshoot Rd. If there are other houses there, Mr. Maher did agree to that.

Subject to condition re Board of Health letter, all drainage be contained on site on each lot, her refers to this letter, Exhibit E. Make specific to all drain for lots 11 and 12. Supplement the covenant to state that notice be recorded at Registry that future owners of lot 11 and 12 to make the repairs as required as the conditions state. Makes more sense to work out details, rather than revoke the subdivision.

Also possibility of lot 12 not being developed? Discussion with Mr. Maher re this, not happened yet, in the works.

David Houghton states/replies that this issue the Planning Board is to approve the request for modification or not. This case went to Land Court. The matter couldn't be resolved. Resolution, key part was that the covenant was sufficient. No Development Agreement then. This should have been done back at that time. A court would decide this in that manner.

Paul Curley asks David Houghton if there is any pediment not to preclude the parties coming together to make resolutions on their own and not have to go to court.

David Munsell agrees. Get an assessment on the road and the work that needs to be done. A lot of wear on the road. Need some type of agreement done.

Andrew Maher in attendance. They have had a couple of draft agreements going back and forth. He will continue to work with them in order to get it done. They have an easement there already for utilities. Their plan is to sell the lot, he believes what they are asking for will take place with sale. Pothole issue; they will address that and will repair, they will not do anything futuristic for pothole repairs. He has spoken to Mr. Burbick. Intend to live there and have a nicely done road.

Name: Offshoot Rd., they support whatever the Town would approve he cannot legally bind and put in a document.

There were 7 open points: they made an offer to sign in advance of this meeting. Would like a vote tonight.

Chair Ray Lang asks for clarification, is there a bldg. permit?

Dan Ojala in attendance. He refers to the plan, Exhibit F. Lot 10, only aspect, lot released from covenant. Definitive Plan Beach Point LLC.

Mary Barry states that/refers to Andrew Maher, what is the one exception?
Andrew Maher, they did not agree to utility access.

Steven Costello, clarifies the whole road, Maushop to be repaired?

Dan Ojala replies yes, they will do a before and after look at the road. Erosion and construction. They are comfortable with the Board of Health letter, but this is unrealistic to think that no water will run down. They cannot stop all the run off. There are many aspects of this, it would be a civil matter.

Lot 11 no concern over that, isn't a concern. Lot 12 will never be developed. 12 if left natural not a problem, civil matter.

Chair Ray Lang asks to clarify the parties working together? Suggests coming back.

Elizabeth Jenkins states that it can be statutorily issued as a constructive grant. We would need consent of the applicant.

Stephen Helman reiterates that this has been continued many times.

Public Comment:

Marcy Dugas in attendance, 45 Dorcas Drive. She disagrees with the parties having a lot of opportunity to come. A lot of money spent on issues that should have been done by the Planning Board. There is building being done on a lot that doesn't exist.

Chair Ray Lang states that she is out of order, asked Marcy Dugas to please sit down.

Richard Carrol, 61 Maushop Ave., he is asking for clarification about why are we not considered abutters? Construction is being done aggravates the situation of a passable road.

David Munsell asks if one of the Planning Board members could sit in on the next meeting of negotiating?

Elizabeth Jenkins replies that it is up to Applicant to sign an extension?

Attorney Freeman and Town Attorney Houghton state that this is acceptable to them.

Andrew Maher states that he would not like to extend this matter any further.

Chair Ray Lang entertains a motion to close the public hearing, moved by Mark Ferro, seconded by Mary Barry, so voted unanimously.

Stephen Helman reads into record the Draft Motion and Conditions to Endorse Modification:

- a. Definitive Plan of #127 & #133 Maushop Avenue and Modification of Offshoot Road, Barnstable, MA prepared for Beach Point, LLC dated (last revised) February 5, 2017 drawn and stamped by Down Cape Engineering; and
- b. Sketch showing pavement extension per meeting with Fire Dept, Dated February 5, 2017 by Down Cape Engineering. The Barnstable Deputy Fire Chief and the Town Engineer find that the proposed turn-around will provide adequate access for the development of Lots 11 and 12.

This approval is inclusive of waivers to the Subdivision Rules and Regulations previously granted and requested in the memorandum from Down Cape Engineering, Inc. dated November 10, 2016, a copy of which shall be attached hereto. The Board finds granting said waivers will not adversely affect the development of Lots 11 or 12 for single-family homes.

This approval is subject to the following conditions:

1. The development shall be subject to all Subdivision Rules and Regulations, except those waived by the Board as stated herein.
2. Lots 11 and 12 remain subject to a covenant recorded in Book 22043 as Page 323.
3. The development shall be subject to all requirements of Board of Health letter dated December 22, 2016.
4. Prior to the endorsement of the subdivision plan, the Applicant shall:
 - a. Complete and endorse a Development Agreement with the Planning Board for completion of Phase II of the subdivision as approved herein.
 - b. Submit a Form S – Road Maintenance and Repair – requiring the Developer and successors in title to be responsible for all maintenance (including snow removal) and repair for Phase II of Offshoot Lane.
 - c. Road inspection fees as applicable.
 - d. A returnable check for \$1,000 to ensure recordation of the development agreement.
5. The developer shall comply with condition No. 7 of the 2006 Development Agreement that any potholes and damage to Maushop Avenue caused by erosion from construction of Offshoot Road shall be repaired.
 - a. Prior to issuance of any permits or commencement of any site work for Lots 11 and 12, the Developer shall submit a report, including an “existing conditions video” to the Town Engineer detailing the condition of Maushop Avenue.
 - b. Prior to issuance of Certificate of Occupancy for each dwelling on Lots 11 and 12, the Developer shall submit a subsequent report to the Town Engineer detailing any changes in the condition of Maushop Avenue, including, but not limited to a report of any new or further deteriorated potholes or erosion.

- c. The Developer shall be responsible for repair of any damage to Maushop Avenue as determined necessary by the report. Work completed in fulfillment of this condition shall be completed under the supervision of the Town Engineer.
- 6. This request modifies Condition No. 5 of the Board's Definitive Plan decision dated April 6, 2006. All other conditions of the decision dated April 6, 2006 shall remain in full force and effect.
- 7. The Development Agreement and Form S shall be recorded at the Barnstable County Registry of Deeds together with the approved Definitive Plan Modification. A copy of the recorded documents shall be returned to the Planning Board within 30 days of the endorsement of approval.
- 8. Chair Ray Lang entertains a motion to approve the Draft Motion/Conditions, moved by Paul Curley, seconded by Steven Costello, so voted unanimously.**

Regulatory Agreements:

Application No. 2017-01

Shoestring Properties, LLC

Shoestring Properties, LLC seeks to enter into a Regulatory Agreement with the Town of Barnstable to redevelop the properties 110 School Street and 53 South Street, Hyannis. The properties are shown on Assessor's Map 326 as Parcels 121 and 125. They are zoned HD – Harbor District. The Applicant proposes to demolish all existing improvements and construct a multi-family residential condominium complex consisting of 33 market rate units in nine buildings. Parking will be located in underground garages, with street-level guest parking. Proposed accessory improvements include a fountain area, swimming pool with pool deck, courtyard area and trash sheds. The Applicant seeks multiple waivers from the zoning ordinance and general ordinances. *Continued from February 13, 2017, and March 13, 2017, to April 24, 2017.*

Attorney John Kenney in attendance, representing the Applicant. He gives a history of the last time they were here. Makes reference to the new. He has been to a couple different Commissions, also back to Hyannis Main Street Waterfront Historic District Commission (HHDC) on May 3, 2017. Still asking for a waiver in order not to have to go before them. Went to Civic Assoc. It seemed to be favorably received by them. They may take a formal position at the next meeting. Housing Committee tomorrow for workforce housing, inclusionary. They are still seeking this waiver. Density, height, mitigation, use of public way. Steamship Authority has some input. Workforce Housing, inclusionary zoning. The project is becoming cost heavy. Density: Project, Height: offset by the terrain of the property. - There is mitigation, utilities will be placed underground. New water main to be installed. ADA compliant sidewalks to the property. Grant an easement for public sidewalks. Parking for both public and private. Workforce Housing: Hyannis has done it's share.

Mark Ferro asks what the total value would be for the development?

Stuart Bornstein in attendance. He replies that the units are market in Hyannis. Doesn't think they'll get more than a million dollars, for the best unit. \$25 to \$27 million margin. This is a guesstimate with the construction prices rising. Hyannis doesn't have a high price range. Would like to bring up the level of Hyannis, higher end market that would benefit all.

Mark Ferro clarifies and agrees with development, but a lot of opposition here as well. There are some issues, the view and some others.

Stuart Bornstein replies we do not block any views.

Mark Ferro comments that the 10% of workforce housing should be done. There is a need. Stuart Bornstein replies that we cannot, as a seasonal economy can't pay .

Elizabeth Jenkins clarifies that his inclusionary zoning obligation would be 3 units.

Stephen Helman clarifies that the affordable housing needs are for year round citizens, we need affordable housing here. We are obligated to do this. He's having difficulty with this waiver and the height.

Paul Curley asks about mitigation, density. Who's looked at the water supply and the sewerage for this? How arrive at this mitigation amount?

Attorney Kenney states that Stuart Bornstein crunched numbers.

Dan Ojala in attendance. Explains mitigation: streetscape to be improved, lowering beneath the ground the utilities, past Steamship Authority. Do have to keep transformer above the flood zone. Sidewalks, curb, granite to define street edges, street trees, he refers to the plan, Exhibit G.

Gravity sewer, main, reliable. water main aged, will be replaced, working with Hyannis water. Large pump station on South St., Does not anticipate any issues with the sewer.

Paul Curley asks about hydraulics/pressure. Traffic in area? Would like to see something re traffic analysis.

Mary Barry states that she thinks the design is much better, her concern is still the density, she agrees that traffic could be an issue. It may be too much for such a small space. Concerns with it fitting in the neighborhood as well.

David Munsell states that the Growth Incentive Zone (GIZ) is to bring contractors/developers in the area, to build, so they didn't have to go through the Cape Cod Commission (CCC). Incentives for growth. Most developments have waivers. Mixed use never happened on Main Street Hyannis. Comments about taxes to be collected from these properties. Describes what's in the area. Landscape/Streetscape improvements will look good, Bollard lighting. He doesn't think it's the responsibility of the Developer to provide affordable units.

Elizabeth Jenkins clarifies that it is Growth Management's (GM) responsibility to facilitate, bring the info to the Planning Board. We have provided information from the legal perspective.

Steven Costello comments/asks how many of the 33 units have true water views, unobstructed.

Dan Ojala replies, about 20 would have a direct water view.

Steven Helman— time frame for the project? Is it assumed that construction will be done , what happens if more people want a higher end unit, possible sold at lesser price? 33 units and the density - HHDC he doesn't see the harm in including them in the Regulatory Agreement. .

Chair Ray Lang asks about Site plan, Exhibit G, floor drain? Is/does this drain into sewerage? Parking spaces - part on town and developer's land. 4 parking spaces. Move bldg's around to see how many units can have water views. South St. water would come to School St. Garages underground, will water drain properly.

Atty Kenney responds to questions:

Parking: Give town easement for public use of sidewalks, in exchange be looking for license for the parking, to be used exclusively for people in condo units, this is not new concept, has been done before. An exchange.

Dan Ojala: Drain issue. School St is not wide enough for on street parking now, widening, utilizing a small part.

Floor Drains – plumbing code now calls for floor drains in case a leak in a vehicle, those go to a tank or sewer system. Discharged into sewer, it is allowed.

Grading: 2 ft. contours, water goes from 24 to 25 to 26, sheet 4. There will be water from the highpoint down. Strip drains, subsurface drainage. Some mitigation plantings as well.

Chair Ray Lang asks for Public Comment:

Laura Shufelt in attendance. She is speaking in opposition to the inclusionary ordinance, it would be unprecedented to waive it, never been done. The need for affordable housing has become increasingly more necessary. Agrees with 3 units of affordable, per median income, should be mandated off site. She's seen too many unfavorable outcomes where mixed income doesn't work well. She suggests to satisfy with for sale of homes, outside of Hyannis. Guidelines to be approved. Homes to have approved capital lease assessment, sold to buyers at \$210,000 price. Need children to keep the Cape viable.

Mary Ann Agresti, Architect, property owner near Main St. This size project needs a separate Historic review. This project needs this type of review.

Bud Breault in attendance, Airport Manager. They are concerned with the terms because it is a potential incompatible construction re air use. Ask to complete and file FAA and air space obstructions.

Ted Williams in attendance. He comments that Hyannis is right on the edge of making it or not in his opinion. He thinks this is a great catalyst project. There would have to be waivers. He thinks this is a great benefit for the Town.

Valerie Moore, behalf of Steamship Authority, in attendance. They have reached a tentative agreement with the issues they had in regards to the communications. They would like a condition to be placed in order to have this agreement.

Dominic Alessandra in attendance. He comments that he would like to see an image of the historical nature of the neighborhood.

Wayne Kurker in attendance, owner of Hyannis and Dockside Marina. He comments that aesthetics are extremely important here. In this case the relief being requested should be up to Historic. Doesn't agree with all the waivers being asked for.

Marian Thompson (Gleed her husband) in attendance. They are only 10 ft. from the hotel and the Dockside restaurant. She agrees that Historic needs to be involved. The height is a concern to them. This will be very shocking to have something that tall there. They rent seasonally. The proximity of the proposed pool may be an issue to them, right next to their house. Thinks it is definitely an improvement, thinks good use of space. These plans are an improvement. 33 units seems so massive of a request to ask for.

Chair Ray Lang comments that this is a major project and needs major consideration. He wants to see the GIZ do well. He would like a list of all the latest correspondence

Paul Curley asks if we will be looking at a draft regulatory agreement?

Elizabeth Jenkins replies that we can get a draft agreement from the Applicant, which will allow a starting place for the Board to go by.

Attorney Kenney is in agreement and they have provide with the application. He will work with Staff to refine it. The HHDC did like what was presented, they are asking for a waiver and a final decision from that Commission. We are treating this like a comprehensive permit. We are not asking for a waiver not to go to the Historic Commission. They are looking for one decision, not multiple decisions.

Chair Ray Lang entertains a motion to continue to May 22, 2017 (which will have draft reg. agreement) moved by Stephen Helman, seconded by Paul Curley, so voted unanimously.

Zoning Amendments:

Recreational Marijuana Moratorium - Town Council Item No. 2017-108

The purpose of this hearing is to take comment on the proposed zoning ordinance amendment to add a new §240-129.1 establishing a temporary moratorium on recreational marijuana establishments and marijuana retailers and associated activities, as defined, through and including June 30, 2018. (December 31, 2018)

This amendment was referred to the Planning Board for a public hearing by Town Council Item No. 2017-108.

Chair Ray Lang entertains a motion to open the public hearing, moved by Stephen Helman, seconded by David Munsell, so voted unanimously.

Elizabeth Jenkins gives an explanation of this proposed zoning amendment. Make amendment to extend to Dec. 31, 2018.

Stephen Helman asks what is the authority to override this.

Elizabeth Jenkins replies that this zoning amendment addresses the retail establishments that would be selling. Individual towns are also being considered to opt out. This is for the sale. State is grappling with this now. This will give some time to consider and respond .

Mark Ferro asks if this could be another extension?

Elizabeth Jenkins replies yes, zoning, so same process.

Chair Ray Lang asks for any public comment – None.

Chair Ray Lang entertains a motion to close the public hearing, moved by Paul Curley, so voted unanimously.

Chair Ray Lang entertains a motion to recommend this Zoning Amendment moratorium extension to December 30, 2017, to Town Council, moved by Stephen Helman, seconded by Mary Barry, so voted unanimously.

Correspondence:

Request for review of proposed relocation of Way - 109 and 117 Eel River Rd, Osterville

Request received from Attorney Albert Schulz - Request received to continue to May 8, 2017.

Notice from Division of Fisheries & Wildlife – NHESP draft map of Endangered Species – comment until June 3, 2017

Environmental Notification – Erosion Control Project – 100 Cross St., Cotuit dated April 7, 2017

Matters Not Reasonably Anticipated by the Chair:

Future Meetings: Regularly Scheduled Meetings: May 8th and May 22, 2017 @ 7:00 PM.

Chair Ray Lang entertains a Motion to adjourn, moved by Paul Curley, seconded by Mary Barry, so voted unanimously.

The meeting adjourned at 10:37 p.m.

Respectfully Submitted _____
by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on _____

Further detail may be obtained by viewing the video via Channel 18 on demand at <http://www.town.barnstable.ma.us>

List of Exhibit Documents

Exhibit A – ANR – Driscoll, 900 Phinney’s Ln, Staff Report

Exhibit B – ANR – Driscoll, 900 Phinney’s Ln, - Plan

Exhibit C- ANR – Driscoll, 900 Phinney’s Ln, Trench Permit/DPW

Exhibit D- Sub. No. 362 & 658 – Offshoot Rd., Legal Memorandum

Exhibit E – Sub. No. 362 & 658 – Offshoot Rd., Letter from Board of Health

Exhibit F – Sub. No. 362 & 658 – Offshoot Rd.,- Plan

Exhibit G – Reg. Agreement No. 2017-001 – Shoestring Properties, LLC Dockside Project – Plans



Town of Barnstable Planning Board



www.town.barnstable.ma.us/PlanningBoard

Board Members

Steven Costello – Chair Jeffrey Swartz – Vice Chair Patrick Foran - Clerk Mary Barry Stephen Robichaud Aimee Guthinger
Mathew Levesque – Town Council Liaison

Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director
Paul Wackrow, Senior Planner
Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

Town of Barnstable PLANNING BOARD Minutes June 22, 2020

Steven Costello – Chairman	Present
Jeffrey Swartz – Vice Chairman	Present
Patrick Foran – Clerk	Present
Marry Barry	Present
Stephen Robichaud	Present
Aimee Guthinger	Present

Also in attendance via remote participation were Paul Wackrow, Senior Planner, Planning & Development and Karen Herrand, Principal Assistant, Planning & Development.

In accordance with the Governor’s Order Implementing a Phased Reopening of Workplaces and Imposing Workplace Safety Measures to address COVID-19 (COVID-19 Order No. 33) this meeting will be closed to the public to avoid group congregation. Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be viewed via the Channel 18 website at <http://streaming85.townofbarnstable.us/CablecastPublicSite/>

2. Real-time access to the Planning Board meeting is available utilizing the Zoom link or telephone number and Meeting ID provided below. Public comment can be addressed to the Planning Board by utilizing the Zoom link or telephone number and Meeting ID provided below:

Link: <https://zoom.us/j/93357436397>

Phone: 1-888 475 4499 Meeting ID 933 5743 6397

3. Applicants, their representatives and individuals required or entitled to appear before the Planning Board may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provided above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Paul.Wackrow@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

Application materials may be accessed by contacting paul.wackrow@town.barnstable.ma.us or calling 508-862-4703.

Application materials will be available at www.townofbarnstable.us/PlanningBoard

Call to Order:

Roll Call Attendance

Steven Costello – here

Jeff Swartz - here

Patrick Foran - here

Mary Barry - here

Stephen Robichaud - here

Aimee Guthinger - here

Notice of Recording: This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

Approval Not Required Plans:

Robert P. Madonna has submitted an Approval Not Required Plan for 330, 370, 390, 400 & 420 Main Street, Route 6A, West Barnstable - plan entitled “Plan of Land in Barnstable MA (West Barnstable Fire District) prepared for Robert P. Madonna 330 Main St.- Parcel ID 134-026-000, 370 Main St. – Parcel ID 133-002-001, 390 Main St. – Parcel ID 133-002-002, 400 Main St. – Parcel ID 133-002-003 & 420 Main St. – Parcel ID 133-002-004 prepared by Bracken Engineering, Inc. dated March 5, 2020”.

Applicant has requested to continue to next meeting, July 13, 2020.

Chair Steven Costello entertains a motion, moved by Stephen Robichaud to continue consideration of the ANR Application for 330, 370, 390, 400 & 420 Main Street, Route 6A, West Barnstable to July 13, 2020, seconded by Jeff Swartz,

Roll Call Vote:

Steven Costello – aye

Jeff Swartz- aye

Patrick Foran - aye

Mary Barry – aye

Stephen Robichaud - aye

Aimee Guthinger not present to vote, the motion passes.

Special Permits:

Monika I. Atsalis and/or HMI Parking Services, LLC, seek a Special Permit pursuant to Section 240-24.1.9.B(1) - Parking facilities within the WP Overlay District to allow for the parking of up to thirty (30) cars on the property at 110 Ridgewood. The subject property is addressed 110 Ridgewood Avenue, Hyannis, MA and is shown on Assessor’s Map 328 as Parcel 215. The subject property is in the TD – Transportation Hub District and the WP – Well Protection Overlay District.

Chair Steven Costello entertains a motion to open the public hearing, moved by Mary Barry, seconded by Jeff Swartz,

Roll Call Vote:

Steven Costello - aye

Jeff Swartz - aye

Patrick Foran – aye

Mary Barry - aye

Stephen Robichaud - aye

Aimee Guthinger - aye

So voted unanimously.

Attorney John Kenney in attendance for the Applicant.
Demetrius Atsalis also in attendance.

Attorney Kenney gives an explanation for the proposed application, reference to the plan, Exhibit A, EC1.0.

Some discrepancy regarding pre conforming use. Use for overflow of lot. Ocean Street cars go from Ocean St. to Ridgewood Ave. lot, sometimes they will escort to Ridgewood Ave. lot. Section 240.24.1.2e, Planning Board is the Special Permit Granting authority here. Should be consistent and meet 7 criteria. Individual zoning regulations. Recommends more improved, section 7, sharing of parking spaces, consistent with the DIP. Buckler's doesn't need in this specific time frame, Sunday. He refers to his memorandum, Exhibit B. This is an existing area, making no changes to the location. Section M may meet the criteria for this. Remove from Waterfront area to this area, outside the congested area. Section 240, 25c. project must not derogate, his client has been using this area for the past 14 years with no complaints. Not detrimental to the area. Danger of risk to WP is nominal. No site changes. No lot changes. Does not change the overall effect or public water supply. Wellhead protection regulations. Proposed does not fall into any of the prohibited uses. Refers to Staff Report, Exhibit C. Condition No. 6 - has a proposed amendment.

Chair Steven Costello asks if any public comment. None. No comments from the public that have come in either.

Jeff Swartz comments/asks why is this coming now, thinks it's good to get right now.

Demetrius Atsalis replies that he has been permitted for 16 years for parking. Had a plan that was accepted in 2011, this should have happened years ago. He chose this area because of how the parking is here presently.

Patrick Foran states, yes operating here for many years anyway, doesn't see any issues.

Mary Barry clarifies it's a valet lot, also good re use of property. Maximize at 30 spaces?

Demetrius Atsalis replies yes, also 90 percent Friday through Sunday. Yes, downsized to 30 cars.

Aimee Guthinger doesn't see any problems/permit it.

Steven Costello asks for duration/time for a Special permit for this.

Paul Wackro answers no time limit, it will address this outstanding use, started the first parking here in 2005.

Attorney Kenney would like to address Condition No. 6, Staff Report – Suggested Conditions, Exhibit C.

Chair Steven Costello entertains a motion to close the public hearing, moved by Mary Barry, seconded by Jeff Swartz,

Roll Call Vote:

Steven Costello - aye

Jeff Swartz – aye

Patrick Foran - aye

Mary Barry - aye

Stephen Robichaud - aye

Aimee Guthinger - aye

Attorney Kenney – suggests delete the 2nd sentence and amend Condition No. 6 to only have the general public should not have direct access to the lot. Bottom of pg. 5 of Staff Report, Exhibit C.

Paul Wackrow states could make a motion to amend Condition No. 6 of the draft conditions, to read the general public shall not be allowed direct access to parked cars.

Jeff Swartz asks if any others can just call and get a parking spot there.

Mary Barry states that you would get into a different type of rules if it was for a public access facility.

Mary Barry make a motion for the Special Permit findings as follows:

1. Monika I. Atsalis and/or HMI Parking Services, LLC. is seeking a Special Permit to allow a parking facility at 110 Ridgewood Avenue, Hyannis.

2. The Subject property is addressed 110 Ridgewood Avenue, Hyannis Map 328, Parcel 215, a 1.72 acre lot located in the Transportation Hub District (TD) and Well Protection Overlay District (WP).
3. The request to operate a parking facility falls within a category specifically excepted in the ordinance for the granting of a special permit; the applicant seeks a Special Permit under Section 240-24.1.9.B. (1) for parking facility within the WP Overlay District.
4. On April 13, 2020, Building Commissioner Brian Florence issued a determination that “the use of 110 Ridgewood Av, as a parking lot is of no significant detriment to the achievement of any of the purposes set forth in Section 240-99 [Site Plan Review, Purpose] as the use of the property has been for the purpose of parking motor vehicles.”
5. The property at 110 Ridgewood Avenue is owned by Charles W. Buckler and Elaine F. Buckler, Trustees of The 100 Ridgewood-Elliott Nominee Trust, who have supplied authorization for Monika I. Atsalis and/or HMI Parking Services, LLC. to file an application for use of the property for parking cars.
6. The proposal meets the special permit granting criteria of 240-24.1.2 E (1) (f) as the proposed parking facility contributes to travel demand management by providing parking outside the core of Downtown Hyannis.
7. The proposal is generally consistent the Downtown Hyannis Design and Infrastructure Plan’s strategies for Economic and Cultural Development.
8. After an evaluation of the evidence presented, the proposal fulfills the spirit and intent of the Zoning Ordinance and would not represent a detriment to the public good or the neighborhood affected.

Section 240-24.1.D(1)

9. The nature and extent of the risk of contamination to the proposed well that will result from the grant of the special permit is unchanged from existing conditions
10. The nature and degree to which the proposal eliminates existing threats to the public water supply, is neutral with proposed site changes.
11. The overall effectiveness of existing land uses and/or protective measures on the public water supply well are unchanged as parking spaces already exist, and granting or denying the permit would not affect this criterion positively or negatively.
12. Granting the special permit may accommodate an overriding community interest by locating a surface parking lot outside of the core of Downtown Hyannis.

seconded by Jeff Swartz,

Roll Call Vote:

Steven Costello - aye
Jeff Swartz - aye
Patrick Foran - aye
Mary Barry - aye
Stephen Robichaud - aye
Aimee Guthinger - aye
So voted unanimously.

Chair Steven Costello entertains a motion, moved by Mary Barry to grant Planning Board Special Permit 2020-02 subject to draft conditions 1 through 8 in the staff report dated June 20, 2020, updated June 22, 2020, and to amend Condition No. 6 by striking out the second sentence and replacing with “the general public shall not be allowed to have direct access to parked cars at this facility”, seconded by Jeff Swartz,

Roll Call Vote:

Steven Costello - aye
Jeff Swartz - aye
Patrick Foran - aye
Mary Barry - aye
Stephen Robichaud - aye
Aimee Guthinger - aye
So voted unanimously.

Approval of Minutes:

June 8, 2020

Chair Steven Costello entertains a motion to approve the draft minutes of June 8, 2020, moved by Jeff Swartz, seconded by Mary Barry,

Roll Call Vote

Steven Costello - aye

Jeff Swartz - aye

Patrick Foran – aye

Mary Barry - aye

Stephen Robichaud - aye

Aimee Guthinger - aye

So voted unanimously.

Correspondence:

Chapter 91 401 Dredging Project – Barnstable Harbor & Blish Point – DPW

106 Notice – EBI Consulting/American Tower Corp.- Telecommunications Facility Installation – 2049 Meetinghouse Way, W. Barnstable

Paul Wackrow explains/background of Section 106, National Historic Preservation Act. Planning Board got this communication that relates to a cell phone mono pole at 2049 Meetinghouse Way, usually sent to Barnstable Historical Commission (BHC) and the applicable if in a Historic District. We have forwarded this to the BHC to see if they have any comments. They have some concerns with the compatibility, West Parish is on the National Register. Wanted to bring up to the Board, if any questions/comments. May need Zoning Board of Appeals (ZBA) and/or Historic, probably not for Planning Board to come back to.

Upcoming Events/Workshops

Matters Not Reasonably Anticipated by the Chair:

Future Meetings: July 13, 2020, and July 27, 2020, @ 7:00 p.m.

Jeff Swartz states that the committee for nomination/elections consists of Mary Barry and Stephen Robichaud, requests that this be placed as the first item on the next Planning Board Agenda.

Adjournment

Chair Steven Costello entertains a motion to adjourn, moved by Jeff Swartz, seconded by Stephen Robichaud,

Roll Call Vote:

Steven Costello - aye

Jeff Swartz – aye

Patrick Foran – aye

Mary Barry – aye

Stephen Robichaud – aye

Aimee Guthinger – aye

So voted unanimously.

The meeting adjourned at 7:44 p.m.

Respectfully Submitted _____
By Karen Herrand, Principal Assistant, Planning & Development

Approved by vote of the Board on _____

Further detail may be obtained by viewing the video via Channel 18 on demand at
<http://www.town.barnstable.ma.us>

List of Exhibit Documents

Exhibit A – SP No. 2020-02 – Atsalis/HMI Parking Services – 110 Ridgewood Ave., Hy Map/Par 328/215 – Plan EC1.0

Exhibit B - SP No. 2020-02 – Atsalis/HMI Parking Services – 110 Ridgewood Ave., Hy Map/Par 328/215 – Attorney John Kenney’s Memorandum dated June 22, 2020

Exhibit C - SP No. 2020-02 – Atsalis/HMI Parking Services – 110 Ridgewood Ave., Hy Map/Par 328/215 – Staff Report updated June 22, 2020