



Town Council Meeting
September 1, 2022



A quorum being duly present, President Matthew Levesque called the September 1, 2022, Town Council meeting to order at 6:10 PM.

An announcement was made by President Levesque regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

PRESENT: Nikolas Atsalis, Kristine Clark, Jennifer Cullum, Paul Hebert, Matthew Levesque, Jeffrey Mendes, Paul Neary, Paula Schnepf, Tracy Shaughnessy, Gordon Starr, **Absent:** Jessica Rapp Grasseti, Eric Steinhilber

The Pledge of Allegiance was led by Councilor Hebert, President Levesque followed with a moment of silence asking for all to remember the families of Steve O'Neil and Gary Lopez.

President Levesque asked Councilor Hebert to the podium, and spoke about all of Councilor Hebert's passions as member of the Town Council and presented him with a plaque. The Councilors took turns thanking Councilor Hebert and talked about his many accomplishments.

Councilor Hebert stated that the timing was right, and thanked each of the Councilors for their dedication and responsibility to make those hard decisions. I am very proud you have moved forward on the wastewater project, and he has lots to do in the future.

PUBLIC COMMENT:

Deb Dagwan gave her accolades to Councilor Hebert; she said "Paul put the town on the forefront."

John Julius spoke about Gary Lopez as a man with unlimited courage, tenacious, had so many accomplishments, and founded RAGE "Residents Advocating Government Equity, which brought school aid to this town. Keep his family in your prayers.

Joyce Persuitte asked the Town Council to look at curb side trash pickup. She would like the trash to be picked up at the end of her driveway. It would be a service that would be greatly appreciated.

Paul Thompson on ZOOM: Barnstable No Place for Hate organization affordable low cost housing on Cape Cod, Other towns on the cape are addressing and expanding low cost housing. The Council needs to require the development of Twin Brooks Housing; low cost housing must be addressed now.

Nancy Thompson refreshed everyone's memory on the letter that was sent previously. She read the letter of support from the July 18, 2022 meeting. We look forward to your response.

Jignesh Amin candidate for Precinct 3 acknowledged Councilor Hebert for his contribution to the community.

Close Public Comment

COUNCILOR RESPONSE TO PUBLIC COMMENT:

(Schnepp) likes the idea of curbside pickup; we need to look at this option. Currently, there are many things going on to address the housing issues, a housing production plan, and zoning is important,

TOWN MANAGER'S COMMUNICATIONS: Exhibit A

To be held to the end of the meeting (See attached)

ACT ON MINUTES:

Upon a motion duly made and seconded it was to accept the minutes of July 21, 2022 as presented.

VOTE: PASSES UNANIMOUS

COMMUNICATIONS- from elected officials, boards, committees, and staff commission reports, correspondence and announcements:

(Hebert) Chair of the Housing Committee has just resigned, please come forward to become part of the Housing Committee; (Atsalis) Presentation regarding the routes that may be used for the wastewater (Schnepp) We do have fireworks scheduled for Saturday night at 8 PM, Comprehensive Financial Advisory Committee needs new members. (Cullum) We have two weeks to receive your applications before our next meeting of the Appointments Committee; also Barnstable came up as one of the leading communities in the nation regarding the cleanup of harmful contaminants in our water, for a tour of the plant call Hans (Starr) encouraged people to do a ride around with the police department, everyone was wonderful and it was eye opening. From the Infrastructure and Energy Committee recycling group, everyone can get a compost bucket and bags at the Transfer Station. (Hebert) Shout out to the Department of Public Works regarding the Wastewater presentation with the Town Engineers who answered all the questions and concerns, and gave everyone their time and advice. (Clark) Spoke about the handling of the hazardous waste collections by the DPW and thanked them for it; there will be one more session this year. (Levesque) lots of interest on the Dockside property, there will be a discussion with a subcommittee comprised of 2 members of the Planning Board, 2 members of the Town Council and one person from Housing; Mill Billy Breakfast fundraiser for the scholarship fund

President Levesque read the following:

EXECUTIVE SESSION

I move to go into executive session pursuant to G.L. c. 30A, sec. 21(a) (3) to discuss strategy with respect to litigation since a discussion in open session may have a detrimental effect on the litigating position of the Town and Town Council. Specifically, the Council will discuss a lawsuit filed against the Town by TJA Clean Energy, LLC regarding claims relating to the solar energy provisions of G.L. c. 40A, sec. 3. The Council **will** return to public session after the executive session.

VOTE: ROLL CALL 10 YES

Roll Call: Atsalis, Clark, Cullum, Hebert, Levesque, Mendes, Neary, Schnepf, Shaughnessy, Starr.

7:40 returned to open session

2022-034 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I, GENERAL ORDINANCES, CHAPTER 240 ZONING BY EXPANDING THE GROUND-MOUNTED SOLAR PHOTOVOLTAIC OVERLAY DISTRICT TO INCLUDE THE PROPERTY LOCATED AT 810 WAKEBY ROAD, MARSTONS MILLS (ASSESSORS' MAP 013 PARCELS 004, 005, 052) AND BY REQUIRING A SPECIAL PERMIT FOR LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS LOCATED WITHIN ANY RESIDENTIAL DISTRICT LOCATED WITHIN THE OVERLAY DISTRICT INTRO: 10/07/2021, 05/19/2022, 09/01/2022

Continuing in Public Hearing

Jim Kupfer, Senior Planner of the Planning and Development Department gave the rationale and background of this item. He utilized a PowerPoint presentation of the property at 810 Wakeby Road, Marstons Mills.

Councilor questions and comments:

(Schnepf) Clarify what we are approving is an expansion of the by-right zoning that is in place (Kupfer) in the overlay district we have by-right, this includes the special permit criteria (Schnepf) for any other residential areas in town will always be a two-step process (Kupfer) Yes (Hebert) does this effect roof mounted solar (Kupfer) No (Clark) can this PowerPoint presentation be available to the public (Kupfer) Yes on the Town of Barnstable website.

Attorney Nober explained the rules regarding amendments: Mason Manual of Legislature states that an amendment once adopted cannot be amended, however because we are recommending the Town Council start off the vote by amending the main motion to adopt all of the Planning Board recommendations, treat the main motion as amended.

Senior Town Attorney, Charles McLaughlin asked the board to consider deleting section one from Item 2022-034 and move that section to a new Item number 2022-034A; the map amendment . By splitting into two items; 2022-034 and 2022-034A it will give an opportunity to vote on the special permit process, if it stays the under the same item number the entire ordinance would be voted down. This will allow the public for joint hearings and debate an opportunity for neighbors to make comment, the language will be for the benefit of the whole town.

Upon a motion was made and duly seconded to amend 2022-034 to remove section one, move it to a new item number 2022-034A and renumbering 2022-034 sections one to five.

VOTE: PASSES UNANIMOUS

Attorney McLaughlin made a recommendation to add in to 2022-034 the language recommended by the Planning Board:

Upon a motion duly made and seconded to further amend 2022-034 by incorporating the text from the Planning Board presented at this meeting

VOTE: PASSES UNANIMOUS

Attorney McLaughlin made an additional recommendation to add in to 2022-034 to conduct joint hearings on 2022-034 and 2022-034A and joint debates, and that they are voted on separately:

Upon a motion duly made and seconded it was to conduct simultaneously joint hearings and joint debates on 2022-034 and 2022-034A

VOTE: PASSES UNANIMOUS

Attorney McLaughlin asked for Document 2 to be put up on the screen; this is the consolidated agenda item plus the Planning Board recommendation

President Levesque opened Item numbers 2022-034 and 2022-034A to public comment

Public Comment:

Cody Jones described the construction process and the disaster with Pinegate in Carver; the poles that were used were treated with arsenic. The telephone poles were placed into a bog, and the town had to pay to remove them.

Kathryn McDonough spot zoning proposition, not a single abutter to this contentious property has not stepped forward. Because this land has always been used industrially why should it continue? Is the town now granting illegal uses? The original use is not and never was legal.

Attorney McLaughlin entered into the record the Planning Board recommendations voted on March 29, 2022. (Exhibit B)

(Schnepp) Brief summary as to why there is litigation regarding this property (McLaughlin) in 1985 enacted amendments spells out that towns may not control through zoning; in this instance municipalities may not regulate ground mounted solar, except in health, safety and welfare. TJA brought suit against Waltham and was denied the development of the road, Tracer Lane, municipalities may regulate if they can prove health, safety and welfare protection for the residents. TJA brought action against the town based on the litigation of Tracer Lane is not of sufficient size.

(Schnepp) by right they can go forward, the underlying zoning is 15 foot set-backs, a special permit will allow for more protections (McLaughlin) It will create a public process for review and a lot of protection for the town and fair amounts of open land in the town, the second part on 034A would recommend that you vote it to assist us in arriving at a known outcome. (Starr) is there any discussion of mitigation as in Falmouth they have a solar array on the golf course, that they are now giving to the town after 25 years (McLaughlin) Unclear of those negotiations, reluctant to give an opinion (Starr) how are we assured that the water gets tested under the site (Kupfer) testing being done, valid discussion that would happen at the Planning Board, could condition 21E. (Hebert) Are there going to be batteries on the site? (McLaughlin) were to abandon the batteries, required by the Planning Board. (Hebert) No batteries on the site is that correct (McLaughlin) if the permit was granted they would abandon all prior conforming and non-conforming uses they had, joint development of the document is to empower the Planning Board to require that is included in the draft ordinances; they have said to us no batteries.

(Cullum) sounds as though in the past that we have allowed things to happen on that property, make sure we have further inspections, can we assure the neighborhood that this will not happen (McLaughlin) Not a provision in the current revision to require bonding, one is we can compel the developer to prove third party review; catch is they will not get a letter of occupancy from the building commissioner (Cullum) Wants to make sure it does not happen in this project (Schnepp) there is criteria for the Site Plan Review and Special Permit conditions that would be

in place, the enforcement of the special permit? (McLaughlin) All of our projects are complaint driven (Florence) Construction control project requires engineers on site, geo tech for foundations if the project isn't completed there is enforcement: (Schnepp) During the process, how much can we control the noise in the neighborhood, products being used that are not permitted, where does the building department come in (Florence) if they fail to do what they are supposed to do we can stop the construction, can take them to court to enforce. Every pressure treated deck has arsenic; (Cullum) Special permits can be sold? (McLaughlin) Permitting is attached to the land so yes; if it is sold the permit goes with the land (McLaughlin) Practice in the industry, gets the projects up and running and then sell the property. We would require that we are periodically updated, it is up to us to make sure we have the infrastructure (Starr) Decommissioning Bond doesn't start until the project is finished (McLaughlin) normally, but we would have it in the beginning (Starr) the construction project is five years (Florence) Building permits expire after 6 months.

Close the public hearing

Open the floor to any amendments:

(Schnepp) Thanked the abutters and the staff for the time input to this project; starting with document number three the first three lines

Upon a motion duly made and seconded to move that item no. 2022-034 be further amended by amending Section 240-44.2 E.4.(h)(v) by inserting after the word "mowing" the words "and/or pollinator friendly installations" as presented at this meeting

VOTE: PASSES UNANIMOUS

(Starr) and/or pollinator friendly plants, does this mean not native plants (Kupfer) Ground surface cover, going to be type specific, just another opportunity (Starr) If they wanted to put in clover that was not native

VOTE: PASSES 9 YES, (Mendes left the dais)

Upon a motion duly made and seconded it was to further amend Item number 2022-034, section 240-44.2 (F) 2 as follows and as presented at this meeting:

(a) By inserting after the word "lots," the words "a minimum of 175 foot setback where residential dwelling unit exists within 50 feet of the property line shared by the subject property,"; and

(b) By adding the following sentence to the end of that section: "Undisturbed setback shall include the following, unless conditioned by the Planning Board: no removal or excavation of soil within the setback, no dumping or discharging of material within the setback, no motorized vehicles of any kind within the setback, no ongoing maintenance by anything other than an individual(s) removing debris by hand, and no other change in conditions to the setback unless reviewed and approved by the permit granting authority."

Adequate measures to contain and suppress noise and sound as deemed appropriate by the Planning Board, including, but not limited to, minimum 150 foot setback to residentially developed lots, a minimum of 175 foot setback where residential dwelling unit exists within 50 feet of the property line shared by the subject property, and 100 foot setback from all other property lines to the Ground-Mounted Solar Photovoltaic Installation. The above prescribed setbacks shall be undisturbed in perpetuity. Undisturbed setback shall include the following, unless conditioned by the Planning Board, no removal or excavation of soil within the setback, no dumping or discharging of material within the setback, no motorized vehicles of any kind

with in the setback, no ongoing maintenance by anything other than an individual(s) removing debris by hand, no other change in conditions to the setback unless reviewed and approved by the permit granting authority.

(Starr) how does this affect the lots that are not in our town, (McLaughlin) applicable to a residential property that is in or not in our town.(Starr) how do you buffer a 50 foot cliff (McLaughlin) planning board site specific.

VOTE: PASSES 9 YES, (Mendes left the dais)

(Schnepp) upon a motion duly made and seconded it was to further amend Item number 2022-034 section 240-44.2 (F) 3 by inserting the following sentence before the last sentence of that section, as presented at this meeting: "No Certificate of Completion/Occupancy shall be issued by the Building Commissioner until such time as all landscape requirements issued by the Permit Granting Authority have been satisfied."

(McLaughlin) Would it be appropriate to take a 5 minute recess? Clarification from the Building Commissioner indicates that it would be problematic to withhold a Certificate of Occupancy for incomplete landscaping could go before the State Building Code of Appeals Commission, crafted some language to substitute, please withdraw the last motion

(Schnepp) withdrew the motion and (Clark) the second

VOTE: PASSES 9 YES, (Mendes left the dais)

Upon a motion duly made and seconded to move that Item No. 2022-034 be further amended by amending section 240-44.2 (F) 3 by inserting the following sentence before the last sentence of that section as presented at this meeting, "Compliance with Screening requirements that our conditions of a Special Permit shall be enforceable, to the fullest extent permitted by law."
(F) 3.

Screening. The Ground-Mounted Solar Photovoltaic Installation shall be screened year-round from all adjacent residential lots. Natural vegetation should be preserved to the extent possible; where existing vegetation is insufficient to achieve year-round screening, additional screening shall be provided including, but not limited to, planting of dense vegetative screening, fencing, berms, use of natural ground elevations, and/or land contouring so that the year round screening exceeds that of the height of the proposed panels it is screening. Plantings shall be of varying heights and shall be staggered to effectively screen the installation from view. Plant material should be diverse and native to Cape Cod or New England. Screening shall be completed prior to connection of the installation. Compliance with Screening requirements that our conditions of a Special Permit shall be enforceable, to the fullest extent permitted by law. Plants shall be maintained and replaced if unhealthy by the owner/operator of the installation for the life of the installation.

Upon a motion duly made and seconded it was

ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning be amended as follows:

SECTION 1

- (1) By amending the definition of **AS-OF-RIGHT-SITING** in Section D of Article V, Section 240-44.2, Ground-Mounted Solar Photovoltaic Overlay District, by deleting the first sentence and inserting the following new sentence in place thereof:
“The ground-mounted solar photovoltaic installation may proceed without the need for a special permit, variance, amendment, waiver or other local discretionary approval, except that a special permit shall be required when located in a residential zoning district.”
- (2) By inserting the following definition of **HAZARDOUS PRODUCT** in said Section D immediately after the definition of **GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION**:
“HAZARDOUS PRODUCT
Any chemical or combination of chemicals which, in any form, is listed by trade name, chemical name, formula or otherwise as a product which is a hazard to public drinking water supplies if concentrations beyond a certain level are achieved therein. ‘Hazardous product’ shall also include any product for which there is any listing, declaration, or announcement in any form issued by the United States Environmental Agency, the Massachusetts Department of Environmental Protection, or by any other government agency having direct or indirect jurisdiction over public water supplies that such product is such a hazard or is a product known as an “emerging contaminant” suspected as being capable of being a carcinogen.”

SECTION 2

By amending Subsection (1) of Section E of Article V, Section 240-44.2 by adding the following sentence to the end of such subsection:

“Any ground-mounted, large-scale solar photovoltaic installation with 250 kw or larger of rated nameplate capacity located in a residential zoning district shall also be required to obtain a special permit from the Planning Board in accordance with Subsection (3).”

SECTION 3

By further amending Section E of Article V, Section 240-44.2 by adding the following new Subsection (3):

(3) Special Permit Provisions.

A Special Permit shall be granted by the Planning Board if the Planning Board determines the following criteria have been met.

- (a) Site Plan Approval in accordance with subsections (1) and (2).
- (b) Adequate measures to contain and suppress noise and sound as deemed appropriate by the Planning Board, including, but not limited to, minimum 75-foot setback from all residential abutter property lines to the Ground-Mounted Solar Photovoltaic Installation.
- (c) Vegetative and/or hardscape screening with coniferous planting and earth berms of sufficient height, as determined by the Building Commissioner, to screen adjoining residential properties from the Ground-Mounted Solar Photovoltaic Installation.
- (d) Federal Aviation Administration (FAA) approval of Solar Glare Study, if such a study is deemed necessary by the FAA.
- (e) Cape Cod Commission approval as required.
- (f) Full disclosure of all hazardous products proposed to be used at any time at a project site shall be provided in writing to the Planning Board with the Special Permit application; no application for a special permit shall be considered complete until such disclosure is submitted to the Planning Board. No such hazardous materials shall be

deployed or used at any time at a project site without approval of the Special Permit by the Planning Board.

- (g) Use, storage and containment of hazardous materials shall comply with all Federal, State, Regional, and local codes and regulations, including building, fire, and health codes.
- (h) Compliance with any other criteria found by the Planning Board as necessary to protect the public health, safety or welfare, which may include, without limitation, the revocation of any prior permits and previous uses that benefit the project site.”

SECTION 4

By amending Section I of Article V, Section 240-44.2 by deleting Section I in its entirety and inserting the following new Section I in its place:

- “1. Dimensional requirements. Ground-mounted solar photovoltaic installations are subject to the front, side and rear yard setbacks as set forth in the underlying zoning district(s), except that any ground-mounted, large-scale solar photovoltaic installation with 250 kw or larger of rated nameplate capacity located in a residential zoning district shall maintain a minimum 75-foot setback from all abutting residential property lines to contain noise as sound, as required by Subsection (3) (b).”

SECTION 5

By amending Section L of Article V, Section 240-44.2 by adding the following subsections after subsection 2(c):

- (3) Federal Aviation Administration (FAA) approval of Solar Glare Study is required, if such a Study is deemed necessary by the FAA.
- (4) The project proponent shall provide full disclosure of all hazardous products proposed to be used at any time at a project site shall be provided in writing to the Building Commissioner with the Site Plan Review application; no application for Site Plan Review shall be considered complete until such disclosure is submitted to the Building Commissioner. No such hazardous materials shall be deployed or used at any time at a project site without Site Plan approval.
- (5) Use, storage and containment of hazardous materials shall comply with all Federal, State, Regional, and local codes and regulations, including building, fire, and health codes.
- (6) The project shall demonstrate compliance with any other criteria found by the Building Commissioner as necessary to protect the public health, safety or welfare, which may include, without limitation, the revocation of any prior permits and previous uses that benefit the project site.”

VOTE: AS AMENDED PASSES 9 YES

Roll Call: Atsalis, Clark, Cullum, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr.

<p>2022-034A AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I, GENERAL ORDINANCES, CHAPTER 240 ZONING BE AMENDED TO INCLUDE THE PROPERTY LOCATED AT 810 WAKEBY ROAD, MARSTONS MILLS (ASSESSORS' MAP 013 PARCELS 004, 005, 052) INTRO: 10/07/2021, 05/19/2022, 09/01/2022</p>
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ORDERED: That the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 - Zoning be amended as follows:

SECTION 1

That Chapter 240, Article II, Section 6, The Zoning Map of the Town of Barnstable Massachusetts is hereby amended to expand the Ground-Mounted Solar Photovoltaic Overlay District to include the parcels shown on Assessors' Map 013 as Parcels 004, 005, and 052 as shown on the maps entitled;

- "Proposed Amendment to the Town Zoning Map Expanding the Ground Mounted Solar Photovoltaic Overlay District In Marstons Mills"
- "Proposed Amendment to the Marstons Mills Zoning Map expanding the Ground Mounted Solar Photovoltaic Overlay District In Marstons Mills"

Each dated October 1, 2021, as prepared by the Town of Barnstable Geographical Information System (GIS) Unit.

VOTE: PASSES 9 YES

Roll Call: Atsalis, Clark, Cullum, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr.

2023-002 SUPPLEMENTAL APPROPRIATION AND LOAN ORDER IN THE AMOUNT OF \$6,007,000 FOR THE PURPOSE OF FUNDING THE RECONSTRUCTION OF RUNWAY 6-24 PROJECT AT THE CAPE COD GATEWAY AIRPORT INTRO: 07/21/2022, 09/01/2022

Airport Manager, Katie Servis gave the rationale.

(Schnepf) expected life span (Servis) FAA looks to have a runway last for 20 to 25 years (Schnepf) how long will the runway be out of commission (Servis) Probably from April September in 2023 (Atsalis) Airport share of this (Servis) the 5 % is of the 18 million of the total project (Schnepf) this is supplemental appropriation due to costs (Servis) Yes (Starr) what is the parts per Trillion (Servis) don't know the exact numbers but I can get them for you; explained how the soil samples are handled, I will get you that information (Starr) Where do you take it (Servis) only a few locations, very limited.

Open public hearing seeing no one close public hearing

ORDERED: That the amount of \$13,045,000 appropriated under Town Council Order 2021-088 be increased by **\$6,007,000** for a total revised appropriation amount of \$19,052,000 for the purpose of funding the Airport's Design and Reconstruction of Runway 6-24 Project, including the payment of costs incidental or related thereto; and that to meet this appropriation, that the Town Treasurer, with the approval of the Town Manager, is authorized to borrow \$19,052,000 under and pursuant to M.G.L. c. 44, §§7 or 8, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and that in accordance with M.G.L. c. 44, §20, any premium received by the Town upon the sale of any bonds or notes authorized by this order, less any such premium applied to the payment of the costs of issuance of such bonds and notes, may be applied to pay such project costs, thereby reducing the amount authorized to be borrowed by this order by a like amount; and that the Cape Cod Gateway Airport Commission is authorized to contract for and expend the appropriation made available for these purposes.

VOTE: PASSES UNANIMOUS

Jump to 2023-017

2023-017 RESOLVE TO APPROVE THE APPOINTMENT OF SEAN O'BRIEN AS TREASURER/COLLECTOR FOR THE TOWN OF BARNSTABLE INTRO 09/01/2022

Mark Milne, Finance Director made the introductions

RESOLVED: That the Town Council hereby approves the appointment by the Town Manager of Sean O'Brien as the Director of Assessing for the Town of Barnstable.

VOTE: PASSES UNANIMOUS

2023-004 APPOINTMENT TO A BOARD/COMMITTEE/COMMISSION: INTRO 07/21/2022, 09/01/2022

RESOLVED: That the Town Council appoints the following individual to a multiple-member Board/Committee/Commission: **Council on Aging:** Ellen Queeney, as a regular member to a term expiring 6/2025

VOTE: PASSES UNANIMOUS

2023-005 REAPPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION: INTRO: 07/21/2022, 09/01/2022

RESOLVED: That the Town Council reappoints the following individuals to a multiple-member Board/Committee/Commission: **Planning Board:** Raymond Sexton, as a regular member to a term expiring 06/2025; Robert Twiss, as a regular member to a term expiring 06/2025; **Sandy Neck Board:** William Monroe, as a member at large to a term expiring 06/2025; William Carey, as a member at large to a term expiring 6/2025

VOTE: PASSES UNANIMOUS

2023-008 ORDER ACCEPTING THE PROVISIONS OF M.G.L. CHAPTER 59, SECTION 5N AND AMENDING CHAPTER 183 OF THE GENERAL ORDINANCES TO ADD A PROGRAM FOR A VETERANS PROPERTY TAX WORK-OFF ABATEMENT INTRO: 07/21/2022, 09/01/2022

Finance Director Mark Milne gave the rationale
Open Public Hearing

Public Comment:

Greg Quilty if there are enough veterans that apply for this, it should go to the ones receiving town benefits, they should have priority, any documents make it clear what a Massachusetts veteran is that you be discharged under honorable conditions.

Betty Ludtke this is fantastic, concerned with the income restrictions, don't think there should be any income restrictions; encourage as much participation as possible. Strongly recommend you take out the income restrictions.

Response:

Director Milne: If we find that we are getting a lot more applications, we can amend, if we are not getting applications due to the income level, we can amend those numbers designed to supplement the town workforce. We can modify as we go forward.

(Clark) How do they find out about it on the website (Milne) We will have it posted on the website, under the HR department and on channel 18 through Town Talk.

Close public hearing

ORDERED:

SECTION 1. That the Town Council hereby accepts the provisions of Massachusetts General Laws, Chapter 59, § 5N, effective for the fiscal year beginning July 1, 2022.

SECTION 2. That the General Ordinances, Part I, of the Code of the Town of Barnstable are hereby amended by deleting Chapter 183 in its entirety and inserting the following new Chapter 183 in its place:

“Chapter 183. Senior Citizen and Veterans Property Tax Work-Off Abatement Programs

§ 183-1. Purpose.

In accordance with the provisions of M.G.L. c. 59, § 5K and M.G.L. c. 59, § 5N, the Town is offering programs which allow certain eligible seniors aged 60 and older and veterans the opportunity to perform work for the Town in exchange for an abatement of property taxes for the maximum amount of \$1,500 yearly.

§ 183-2. Eligibility.

- A. In order to be eligible to apply for the Senior Property Tax Work-off Program, an individual shall meet all of the following requirements:
 - a. Owns and occupies a residential property in the immediate fiscal year preceding the fiscal year in which the taxpayer applies to volunteer his/her services;
 - b. Has reached 60 years of age by July 1 of the fiscal tax year for which the tax credit is given;
 - c. Has a gross yearly income from all sources of not more than \$40,000 for single taxpayers and \$50,000 for married taxpayers; and
 - d. Otherwise qualified municipal employees may participate in the program as long as they are able to secure an exemption to M.G.L. c. 268A, § 20.

- B. In order to be eligible to apply for the Veterans Property Tax Work-off Program, an individual shall meet all of the following requirements:
 - a. If the veteran has a service-connected disability or is deceased, the veteran’s spouse or surviving spouse may earn the abatement instead;
 - b. Owns and occupies a residential property in the immediate fiscal year preceding the fiscal year in which the taxpayer applies to volunteer his/her services;
 - c. Has a gross yearly income from all sources of not more than \$40,000 for single taxpayers and \$50,000 for married taxpayers; and
 - d. Otherwise qualified municipal employees may participate in the program as long as they are able to secure an exemption to M.G.L. c. 268A, § 20.

§ 183-3. Program administration.

- A. The Town Manager or his/her designee shall be responsible for administering the Senior and Veterans Tax Work-Off Programs.
- B. The Town Manager or his/her designee shall review and approve the volunteer services to be included in the programs and place and/or assign eligible residents to perform such services.
- C. The Town Manager or his/her designee shall certify the amount of volunteer services performed by each participating taxpayer to the Barnstable Board of Assessors on or before December 1 of the year for which tax credits are to be given. Upon timely receipt

of this certification, the Board of Assessors shall credit the real property tax obligations of the participating taxpayers in an amount not to exceed \$1,500 per taxpayer. A copy of each taxpayer's certification will be given to that taxpayer. This credit shall be in addition to any exemption or abatement for which the volunteer may otherwise be eligible.

- D. There shall be a maximum number of 20 residents who may participate in the programs in a given year.

§ 183-4. Program criteria.

- A. The hourly rate at which the volunteer services are to be credited shall be the minimum wage of the Commonwealth in effect at the time the services are provided.
- B. The Town will pay the volunteer's share of FICA taxes.
- C. The maximum amount by which the real property tax obligation of any one volunteer may be reduced in any given tax year shall not exceed \$1,500 for each program.
- D. Tax credits may be applied only toward real property, which the volunteer occupies as a principal residence and has property tax liability.
- E. Only one tax abatement per property per year shall be allowed.
- F. Participation will be awarded using a lottery system if qualified applications received exceed the number of available slots.
- G. Taxpayers in the program may not participate in two consecutive years unless the number of applicants is less than the eligible slots.

VOTE: VOTE: PASSES 9 YES

Roll Call: Atsalis, Clark, Cullum, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr.

<p>2023-012 APPROPRIATION ORDER IN THE AMOUNT OF \$62,000 FOR THE PURPOSE OF FUNDING THE LOCAL MATCH REQUIREMENT FOR A FEDERAL GRANT FROM THE NATURAL RESOURCE CONSERVATION SERVICE IN THE AMOUNT OF \$320,000 FOR THE LONG POND FISHWAY PROJECT AS OUTLINED IN THE FISCAL YEAR 2023 - FISCAL YEAR 2027 CAPITAL IMPROVEMENT PLAN AND AUTHORIZATION TO EXPEND SAID GRANT INTRO: 07/21/2022; 09/01/2022</p>

Rob Steen, Assistant Director of the Department of Public Works gave the rationale
Open public hearing seeing no public close public hearing

Councilor questions and comments:

(Clark) all for using someone else's money; we don't want to leave money on the table
(Schnepf) Town is responsible for the permitting and construction costs up to 112 thousand versus the 62,000, (Steen) previously granted \$50,000

ORDERED: That the amount of **\$62,000** be appropriated and added to the amount appropriated under Town Council Order 2022-116, resulting in a revised appropriation amount of \$112,000, representing the local match requirement for the acceptance of a grant from the U.S. Department of Agriculture Natural Resource Conservation Service in the amount of \$320,000, and that to meet this appropriation, that \$62,000 be provided from the Capital Trust Fund, and that the Town Council does hereby authorize the Town Manager to contract for and expend this appropriation and grant for the purpose of funding the Long Pond Fishway Design, Permitting and Construction Project as outlined in the Fiscal Year 2023 – Fiscal Year 2027 Capital Improvement Plan, including the payment of costs incidental or related there

VOTE: VOTE: PASSES 9 YES

Roll Call: Atsalis, Clark, Cullum, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr.

Jump to 2023-014

2023-014 APPROPRIATION ORDER IN THE AMOUNT OF \$150,000 FOR THE PURPOSE OF FUNDING THE LOCAL MATCH REQUIREMENT FOR A FEDERAL GRANT FROM THE NATURAL RESOURCES CONSERVATION SERVICE IN THE AMOUNT OF \$1,529,333 FOR THE UPPER MARSTONS MILLS FISHWAY PROJECT AND AUTHORIZATION TO EXPEND SAID GRANT INTRO: 07/21/2022; 09/01/2022

Rob Steen, Assistant Director of the Department of Public Works gave the rationale
Open public hearing seeing no public close public hearing

Councilor questions and comments:

(Starr) how much work do you do in house in a project like this? (Stein) In house is managing the project; this is where we utilize outside help

ORDERED: That the amount of **\$150,000** be appropriated and added to the amount appropriated under Town Council Order 2014-108, resulting in a revised appropriation amount of \$543,500, representing the local match requirement for the acceptance of a grant from the U.S. Department of Agriculture Natural Resources Conservation Service in the amount of \$1,529,333, and that to meet this appropriation, that \$150,000 be provided from the Capital Trust Fund, and that the Town Council does hereby authorize the Town Manager to contract for and expend this appropriation and grant for the purpose of funding the Upper Marstons Mills Fishway Design, Permitting and Construction Project, including the payment of costs incidental or related thereto.

VOTE: PASSES 9 YES

Roll Call: Atsalis, Clark, Cullum, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr.

2023-013 AUTHORIZING THE TOWN MANAGER TO EXECUTE A REGULATORY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND S&C REALTY INVESTMENT CO., LLC, FOR 442 MAIN STREET, HYANNIS INTRO: 07/21/2022; 09/01/2022

Elizabeth Jenkins, Director of Planning and Development gave the rationale and turned the podium over to Attorney John representative of the LLC, and exhibited the plan on North Street, Winter Street and Main Street.

Open public hearing seeing no one close public hearing

Councilor questions and comments:

(Atsalis) Clarification entering from North Street take a right into the parking lot () Yes, North Street is entrance only, leave onto Winter Street. I think this is a great use of historic property, huge improvement for Main Street, I will support. (Neary) Could we see the elevation? picture of this project (Kenney) Yes, brought up the elevation pictures on the screen. (Starr) Where is the monument sign going? (Kenney) On the edge of North Street by the entrance. (Starr) what kind of fencing will be put up? (Kenney) don't believe there will be any fencing, wants to invite people in (Cullum) thinks it is a good project, checks a lot of blocks, will support. (Shaughnessy) This is really a small family owned company, a responsible owner, the alley between that building and the Charter School will be a great improvement, will support.

ORDERED: That the Town Council hereby authorizes the Town Manager pursuant to Section 168-5, General Ordinances of the Code of the Town of Barnstable (the "Code"), to enter into and execute a Regulatory Agreement between the Town of Barnstable S&C Realty Investment Co., LLC for the property at 442 Main Street, Hyannis, Massachusetts, and shown on Assessor's Map 309 as Parcel 223, consisting of 35,531 square feet of land and located in the Hyannis Village Business District (HVB) zoning district; the Hyannis Main Street Waterfront Historic District; and the Aquifer Protection (AP) overlay district (hereafter, the "Property"); and further authorizing the redevelopment of the Property by enclosing the existing drive-through; creating a food service establishment/coffee shop restaurant in the back of the building with a new drive-through window; creating a patio area with seating for customers in the alley along the easterly side of the building; maintaining the first floor retail area in the front of the building for commercial tenants; adding five (5) residential apartments on the second floor; reconfiguring the parking lot; adding sidewalk to connect the sidewalk along Winter Street to the sidewalk along North Street; and adding new lighting, landscaping, and signage, all as shown on the plans submitted and attached hereto as **Exhibit A** (hereafter, the "Redevelopment Plans", and such proposed site work, new buildings and improvements all as shown on the Redevelopment Plans are hereafter referred to herein, collectively, as the "Redevelopment"), and granting the requested zoning relief pursuant to and as described in this Regulatory Agreement.

REGULATORY AGREEMENT

S&C REALTY INVESTMENT CO., LLC
442 MAIN STREET
HYANNIS, MA 02601

This Regulatory Agreement ("Agreement") is entered into by and between the applicant, **S&C Realty Investment Co., LLC** (the "Applicant" and/or "Developer"), a Massachusetts limited liability company with a mailing address of 169 Main Street, Stoneham, MA 02180, and the **Town of Barnstable** (the "Town"), a municipal corporation with a mailing address of 367 Main Street, Hyannis, MA 02601, on this ____ day of _____, 2022, pursuant to Section 240-24.1 of the Barnstable Zoning Ordinance and Chapter 168 of the Code of the Town of Barnstable.

WITNESSETH:

WHEREAS, this Agreement shall establish the following: permitted uses, densities, signage, and traffic within the proposed Redevelopment (as defined herein), the duration of this Agreement, and any other terms and conditions mutually agreed upon between the Applicant and the Town;

WHEREAS, pursuant to section 168-3 of the Code of the Town of Barnstable, the Town of Barnstable is authorized to enter into a Regulatory Agreement with a qualified applicant within the Downtown Implementation District as the Town's Local Comprehensive Plan has been certified by the Cape Cod Commission as consistent with the Regional Policy Plan and said certification has not been revoked, and the Town has adopted the enabling regulation contained in §§ 168-1 through 168-10;

WHEREAS, Developer has an agreement to purchase the property located at 442 Main Street, Hyannis, Massachusetts consisting of 35,531± square feet, shown on Town of Barnstable

Assessor's Map 309 as Parcel 223, the parcel is referred to herein as the "Property";

WHEREAS, the Property is developed with a two-story building consisting of approximately 11,736 square feet, formerly used as a bank with a two lane drive-through;

WHEREAS, the Property borders Main Street to the south, Winter Street to the west, and North Street to the north, and has access to Winter Street and North Street;

WHEREAS, the Property consists of approximately 35,531 square feet of land and is located in the Hyannis Village Business District (HVB) zoning district; the Hyannis Main Street Waterfront Historic District; and the Aquifer Protection (AP) overlay district.

WHEREAS, Developer proposes to: redevelop the property by enclosing the existing drive-through; creating a food service establishment/coffee shop restaurant in the back of the building with a new drive-through window; creating a patio area with seating for customers in the alley along the easterly side of the building; maintaining the first floor retail area in the front of the building for commercial tenants; adding five (5) residential apartments on the second floor; reconfigure the parking lot; adding sidewalk to connect the sidewalk along Winter Street to the sidewalk along North Street; and adding new lighting, landscaping, and signage, all as shown on the plans submitted and attached hereto as **Exhibit A** (hereafter, the "Redevelopment Plans", and such proposed site work, new buildings and improvements all as shown on the Redevelopment Plans are hereafter referred to herein, collectively, as the "Redevelopment");

WHEREAS, the Redevelopment is consistent with the Town of Barnstable's Design and Infrastructure Plan in that the proposed project provides a sidewalk which connects the existing sidewalks onto Winter Street and North Street; improves curb cuts along Winter Street and North Street; and provides access from Main Street to the North Street parking lot; the scale, placement, materials, design, and details of the re-developed building comply with the Design and Infrastructure Plan guidelines; and the project provides the infrastructure necessary to support the project.

WHEREAS, the Town and Applicant desire to set forth in this Agreement their respective understandings and agreements with regard to the Redevelopment;

WHEREAS, the Applicant is willing to commit to the reuse of the Property in accordance with this Agreement and desires to have a reasonable amount of flexibility to carry out the reuse and therefore considers this Agreement to be in its best interests;

WHEREAS, this Agreement shall vest land use development rights in the Property for the duration of the Agreement, and such rights shall not be subject to subsequent changes in local development ordinances, with the exception of changes necessary to protect the public health, safety or welfare;

WHEREAS, the Redevelopment will not require regulatory review under the Massachusetts Environmental Policy Act (MEPA);

WHEREAS, the Property is located in the Downtown Hyannis Growth Incentive Zone (GIZ) as originally approved by the Cape Cod Commission by decision dated April 6, 2006 and re-designated by decision dated April 19, 2018, and as authorized by Barnstable County Ordinance 2005-13, as amended by Barnstable County Ordinance 10-19, 14-05, 17-11, and 18-11, Chapter G,

Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application;

WHEREAS, the Redevelopment is not subject to review by the Cape Cod Commission as a Development of Regional Impact due to its location in the GIZ and due to the adoption of Barnstable County Ordinance 2006-06 establishing a cumulative development threshold within the GIZ, under which this Redevelopment may proceed;

WHEREAS, the Redevelopment has undergone formal site plan review and the Town of Barnstable Site Plan Review Committee determined the Redevelopment Plans approvable by decision dated May 10, 2021, and Developer shall submit final plans consistent with the terms and conditions contained in this Agreement to the Building Commissioner to determine whether any modifications to the Site Plan Review approval are necessary prior to any building permits being issued for the Redevelopment;

WHEREAS, the Redevelopment has undergone formal review by the Hyannis Main Street Waterfront Historic District Committee on September 15, 2021 and October 6, 2021 and received a Certificate of Appropriateness for the proposed exterior renovations and addition to the building and a Certificate of Appropriateness for business signage;

WHEREAS, the Redevelopment proposal has undergone a public hearing before the Planning Board opened on May 9, 2022 and closed on May 9, 2022 on the Agreement application and received an affirmative majority vote from the Planning Board on May 9, 2022;

WHEREAS, the Redevelopment proposal has undergone a public hearing opened on _____ and closed on _____ on the Agreement application before the Barnstable Town Council and has received a two-thirds vote approving the Agreement on _____, 2022;

WHEREAS, this Agreement authorizes only the uses, intensity of uses, dimensions and signage specified herein. Any substantial deviation from the authorized terms of this Agreement shall require review by the Town Council and Planning Board pursuant to Chapter 168-10 of the Code;

NOW, THEREFORE, in consideration of the agreements and covenants set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which each of the parties hereby acknowledge to each other, the Applicant and Town do enter into this Agreement, and hereby agree and covenant as follows:

1. Description of Existing and Proposed Conditions:

A. Existing Conditions

The Property is developed as follows:

- A two-story building consisting of approximately 11,376 square feet, formerly used as a bank;
- The Property contains two curb-cuts, one off of North Street and one onto Winter Street;
- No landscaping;
- A two-lane drive-through; and
- A parking lot with 35 spaces.

B. Proposed Redevelopment

The proposed Redevelopment involves development as follows and as shown on the Redevelopment Plans listed below:

- Adding a 2,524 square foot two-story addition to the North Elevation of the building;
- The second floor will contain two (2) two-bedroom apartments and three (3) one-bedroom apartments;
- The new addition will be brick matching as nearly as possible the existing brick (“Old Port”);
- Install new Anderson, white vinyl windows to match as nearly as possible the existing windows in appearance;
- Replace existing wood shutters with vinyl shutters to match as nearly as possible the existing appearance;
- The existing entrance way off of North Street and exit onto Winter Street will be reconfigured;
- Significant landscaping and vegetation improvements;
- Architectural and site design in accordance with the Design and Infrastructure Plans;
- Construction of a sidewalk connecting the existing sidewalks on Winter Street and North Street;
- Drive-through menu, directional signage, and a free-standing monument based sign (with brick base to match existing building brick) located next to the entrance along North Street;
- A total of 33 paved parking spaces.

2. The Developer agrees to construct the Redevelopment on the Property in accordance with the Redevelopment Plans which are submitted herewith and which are entitled as follows:

- a. “Proposed First Floor Plan Date: 10/06/21, Job Location Hyannis, MA 442 Main St. Hyannis, MA” drawn by James D. Smith Architects, Sheet A-1.0;
- b. “Proposed Second Floor Plan Date: 10/06/21, Job Location Hyannis, MA 442 Main St.” drawn by James D. Smith Architects, Sheet A-2.0;
“Proposed Elevations; Signage Information Plan Date: 10/06/2021, Job Location Hyannis, MA 442 Main St.” drawn by James D. Smith Architects, Sheet A-3.0;

- c. “Existing Conditions Plan, Prepared For Couto Management Group, LLC Date: March 4, 2021” drawn by Baxter Nye Engineering & Surveying, Sheet C1.0;
- d. “Site Layout Plan, Prepared For Couto Management Group, LLC Date: March 4, 2021” drawn by Baxter Nye Engineering & Surveying, Sheet C2.0;
- e. “Grading, Drainage & Utility Plan, Prepared For Couto Management Group, LLC Date: March 4, 2021” drawn by Baxter Nye Engineering & Surveying, Sheet C3.0;
- f. “Details Plan, Prepared For Couto Management Group, LLC Date: March 4, 2021” drawn by Baxter Nye Engineering & Surveying, Sheet C4.0 and C4.1; and
- g. “General Notes & Legend Plan, Prepared For Couto Management Group, LLC Date: March 4, 2021” drawn by Baxter Nye Engineering & Surveying, Sheet C5.0.

The Redevelopment has undergone formal site plan review and the Town of Barnstable Site Plan Review Committee determined the Redevelopment Plans approvable by decision dated May 10, 2021, and Developer shall submit final plans consistent with the terms and conditions contained in this Agreement to the Building Commissioner to determine whether any modifications to the Site Plan Review approval are necessary prior to any building permits being issued for the Redevelopment.

3. The Redevelopment provides, without limitation, the following multi-modal transportation, economic, place-making, site design, traffic safety, and community benefits:
 - a. Redevelopment and significantly improved aesthetics at a historic, Main Street, Hyannis property.
 - b. Substantially increased landscaping.
 - c. Construction of a sidewalk along the Property’s frontage along Winter Street and North Street connecting the existing sidewalks in accordance with the Department of Public Works specifications and review and approval by the Town Engineer.
 - d. Safe and well-marked interior pedestrian connections within the Property.
 - e. Exterior site lighting improvements, including use of LED lights.
 - f. Addition of five (5) new apartments on Main Street, Hyannis.
 - g. Improved access to and from Main Street to the North Street parking lots.

4. Outdoor storage is prohibited including storage in trailers, containers, trucks or other storage units. This prohibition shall be prominently noted on the final approved site plans.

5. The Developer currently owns and operates a coffee shop with drive through at the address 149 North Street Map 309 Parcel 226-001. The Developer agrees to abandon the drive-through use at 149 North Street within one year of receipt of an occupancy permit for the coffee shop with drive-through at the Property.

6. Prior to an occupancy permit granted, the Developer shall grant a public access easement from the North street parking lot to Main Street between the Property and 438 Main Street. Said easement shall be reviewed as to form by the Town Attorney and shall be granted in perpetuity and recorded at the Barnstable Registry of Deeds by the Developer.

7. This Agreement shall run with the land, and all of the terms, conditions, and obligations contained in this Agreement shall be binding on any successor or assignor of the Applicant for as

long as the Property is used in accordance with this agreement and unless and until it is redeveloped further into some other use.

8. Prior to the issuance of the first building permit, the Developer shall provide a letter of credit or cash escrow in an amount equivalent to 150% of the total scope of the landscape plan proposed. Said letter of credit or cash to be expended on the replacement of landscape materials if such replacement becomes necessary. The letter of credit or cash escrow shall be approved by the Planning and Development Director, said letter of credit or cash escrow to be expended to replace landscape materials if such replacement becomes necessary because of the failure of Developer or its tenants to do so. An "acceptable" letter of credit is a letter of credit issued by a bank incorporated in the Commonwealth of Massachusetts or currently licensed to do business in the Commonwealth, and having at the time of issue of the letter of credit a Standard & Poor ("S&P") Rating of "BBB+" or better and/or a Bankrate.com rating of 4-star or better. Further, an acceptable letter of credit shall be approved as to issuer by the Treasurer of the Town of Barnstable and as to form by the Office of the Town Attorney. Any unexpended portion of said letter of credit or cash escrow shall be released by the Planning Board to the Developer or its successor(s), as directed by the Developer, after three years from the date of the landscape installation, such date to be determined by the Building Commissioner, upon the request of the Developer.

9. Developer is responsible for obtaining all applicable permits and licenses.

10. No Certificate of Occupancy shall be issued until all conditions of this Agreement have been met and Design and Infrastructure Plan approval has been issued.

This Agreement is transferable to a person or entity other than the Applicant (hereafter, the "Transferee") with prior written notice to the Town Manager and contingent upon the Applicant being in compliance with all the requirements of this Agreement. However, no such notice to the Town shall be effective unless it includes a written acknowledgement by the Transferee that they have read this Regulatory Agreement, and any amendments thereto, and they agree to be bound by the terms and conditions set forth herein, in which event after such assignment the transferor shall be relieved of liability from and after the date of transfer. Upon receipt of such written notice of transfer, and subject to a determination by the Town Manager that that the Applicant is in compliance with all the then applicable requirements of the Agreement, the Transferee and the Town Manager shall execute a minor amendment of this Regulatory Agreement acknowledging the

Transferee is a signatory of this Regulatory Agreement, agreeing to be bound by the terms and conditions set forth herein, and any subsequent amendments hereto, and assuming liability as of the date of transfer. No Planning Board or Town Council approval is required for such a minor amendment acknowledging such a transfer in ownership.

11. The development rights granted hereunder shall be exercised and development permits needed to commence construction may be obtained hereunder for a period of five (5) years from the effective date of this Agreement, provided, however, that prior to the expiration of said five year period, the Developer may request an extension to obtain development permits necessary to

commence construction, said extension shall not exceed two years. Upon receipt of necessary development permits, construction shall proceed continuously and expeditiously, but in no case shall construction exceed two years from receipt of necessary development permits. In the event that this Agreement and/or any necessary development permits for the Project are appealed, the timeframes set forth in this section shall be tolled for the length of any such appeals.

12. Construction and demolition debris from the Project shall be removed and reused or recycled to the maximum extent possible.

13. No uses shall use, store, generate, treat or dispose of hazardous waste or hazardous materials and shall not generate hazardous waste as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.353, except in compliance with all applicable laws.

14. To the extent that the Redevelopment Plans referenced in this Agreement do not depict all the findings and conditions set forth in this Agreement, revised plans and/or notations shall be provided in the final site plan. The Redevelopment shall remain in substantial conformance with the Site Plan Review approval dated May 10, 2021 and all conditions thereof and any modifications thereto as reflected in the final approved site plan.

15. Upon completion of all work, a registered engineer or land surveyor shall submit a letter of certification, made upon knowledge and belief in accordance with professional standards that all work has been done in substantial compliance with the approved site plan (Barnstable Code Section 240-104(G)). This document shall be submitted before the issuance of the final certificate of occupancy.

16. The term of this Agreement shall be five (5) years from the effective date of the Agreement (the "Term"), and the development rights authorized herein must be exercised prior to expiration of the Term or this Agreement shall be null and void, subject to the potential tolling due to litigation referenced in paragraph 12. Once the development rights authorized herein have been timely exercised, all terms and conditions of this Agreement shall remain in effect until the Property is no longer used in accordance with the Redevelopment Plans.

17. The Town hereby grants the following waivers from the Town of Barnstable Zoning Ordinance for the Redevelopment, as requested by the Developer:

- a. Section 240-24.1.11(A)(3), Site Development Standard prohibits drive-through windows in the Hyannis Village Zoning Districts.
 - i. Redevelopment proposes one drive through window for restaurant use.
- b. Section 240-24.1.3(D) (2) (a) and Section 240-56, Schedule of Parking Spaces.
 - ii. Redevelopment proposes 33 parking spaces and Ordinance requires 34 parking spaces.
- c. Sections 240-24.1.11(A) (6); 240-71; and 240-65 Signage.

iii. Section 240-71A limits maximum height of all signs on buildings to 12 feet. The project proposes two signs on the South elevation of the building (“Tenant Sign” and “Dunkin” sign) and one sign on the North elevation (“DD” sign) which exceed the height limitation.

iv. Section 240-71 B limits the maximum square footage of all signs to the lesser of 50 square feet or 10% of the building face. The project proposes 71.84 square feet of signage.

v. Section 240-71C provides that the maximum size of any freestanding sign shall be 12 square feet. The project proposes two freestanding signs which exceed 12 square feet; the Monument Sign (14.27 sq. ft.) and the Menu Board (24.16 sq. ft.).

vi. Section 240-65A limits each business to two signs. The project proposes seven (7) signs for the Dunkin store as follows:

Monument Sign	14.27 sq. ft.
South Elevation	8.69 sq. ft. (“Dunkin”)
South Elevation	3.14 sq. ft. (“DD”)
East Elevation	2.00 sq. ft. (“DD”)
East Elevation	2.00 sq. ft. (“DD”)
North Elevation	17.58 sq. ft. (“DD”)
Menu Board	24.16 sq. ft.

The project also proposes one additional sign for a Tenant (South Elevation 8.69 sq. ft.). Further Tenant signage may be requested at a future date.

vii. Section 240-65D allows one freestanding sign per business, which may not exceed half the allowable size as permitted. The project proposes two freestanding signs for the Dunkin restaurant (Monument Sign on North Street and Menu Board).

viii. Section 240-65J limits the size of a menu sign or board to three square feet. The project proposes a menu sign containing 24.16 square feet.

ix. Section 240-75A allows for directional signs provided such signs do not exceed one square foot in area or be more than three feet high. The project proposes five directional signs each containing 2.75 square feet, and each being 4 feet 10 inches tall.

x. Section 240-75 B allows a total of four directional signs. The project proposes five directional signs.

18. The failure of this agreement to address a particular permit, condition, term, or restrictions shall not relieve the qualified applicant of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction;

19. This Regulatory Agreement may not be used to prevent the Town of Barnstable or other

governmental agency from requiring the qualified applicant to comply with the laws, rules and regulations and policies enacted after the date of the regulatory agreement, if the Town of Barnstable or governmental agency determines that the imposition of and compliance with the newly effective laws and regulations are essential to ensure the public health, safety or welfare of the residents of all or part of the jurisdiction.

- 20. The failure of this Agreement to address a particular permit, condition, term, or restrictions shall not relieve the qualified applicant of the necessity of complying with the law governing said permitting requirements, conditions, term or restriction;

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IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed on the day and year first above written.

Applicant:

Town of Barnstable:

Signature: _____

Signature: _____

Print: _____

Print: _____

Date: _____

Date: _____

**EXHIBIT A
REDEVELOPMENT PLANS**

VOTE: PASSES 9 YES

Roll Call: Atsalis, Clark, Cullum, Hebert, Levesque, Neary, Schnepf, Shaughnessy, Starr.

2023-016 ORDER TO APPROVE AN AMENDMENT TO THE HOST COMMUNITY AGREEMENT BETWEEN THE TOWN OF BARNSTABLE AND PARK CITY WIND LLC ("HCA 2") AMENDING THE SPECIAL MITIGATION PROVISIONS INTRO: 07/21/2022; 09/01/2022

Senior Town Attorney, Charles McLaughlin gave the rationale

ORDERED: To authorize and direct the Town Manager to execute an amendment to the Host Community Agreement between the Town of Barnstable and Park City Wind LLC, dated May 6, 2022 (“HCA 2”), deleting in the second paragraph of Section 9(d) of the Agreement the words “for the purpose of making improvements to public facilities on the route selected by PCW for cable installation or to an area within reasonable proximity of the cable route” and inserting the following words in their place: “to be used for the benefit of and improvements to Craigville Beach or to purchase or improve other Article 97 protected land located in the Town of Barnstable, as determined by the Town of Barnstable.”

VOTE: PASSES 9 YES

2023-018 RESOLVE AUTHORIZING THE TOWN MANAGER OR THE POLICE CHIEF AS THE TOWN MANAGER’S DESIGNEE TO ASSIGN POLICE OFFICERS AT POLLING PLACES INTRO: 09/01/2022

Ann Quirk, Town Clerk gave the rationale

RESOLVED: In accordance with Section 72 of Chapter 54 of the Massachusetts General Laws, as amended by Section 13 of Chapter 92 of the Acts of 2022 (the “VOTES” Act), the Town Council does hereby authorize and direct the Town Manager, or the Police Chief as the Town Manager’s designee, in consultation with the Town Clerk and the Town registrars, to “detail a sufficient number of police officers or constables for each building that contains the polling place for 1 or more precincts at every election therein to preserve order and to protect the election officers and supervisors from any interference with their duties and to aid in enforcing the laws relating to elections.”

VOTE: PASSES 9 YES

2023-019 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 911 DEPARTMENT SUPPORT AND INCENTIVE GRANT IN THE AMOUNT OF \$270,026 FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY INTRO: 09/01/2022

Barnstable Police Chief, Sonnabend gave the rationale

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2023 911 Department Support and Incentive Grant from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security in the amount of **\$270,026** for the purpose of funding overtime costs associated with shift shortages in the 911 center and a portion of the base salaries civilian dispatchers working in the 911 center.

VOTE: PASSES 9 YES

2023-020 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 STATE 911 DEPARTMENT TRAINING GRANT IN THE AMOUNT OF \$22,743.95 FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY INTRO: 09/01/2022

Barnstable Police Chief, Sonnabend gave the rationale

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2023 State 911 Department Training grant in the amount of

\$22,743.95 from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security for the purpose of funding costs associated with the mandatory training of all 911 dispatchers who perform emergency dispatch operations.

VOTE: PASSES 9 YES

2023-021 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 STATE 911 DEPARTMENT EMERGENCY MEDICAL DISPATCH GRANT IN THE AMOUNT OF \$16,584.46 FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY INTRO: 09/01/2022

Barnstable Police Chief, Sonnabend gave the rationale

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2023 State 911 Department Emergency Medical Dispatch Grant in the amount of **\$16,586.46** from the Commonwealth of Massachusetts, Executive Office of Public Safety and Security for the purpose of funding costs associated with emergency dispatch operations.

VOTE: PASSES 9 YES

Jump to 2023-027

2023-027 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 JAIL/ARREST DIVERSION PROGRAM COMPONENT GRANT IN THE AMOUNT OF \$92,000 FROM THE COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF MENTAL HEALTH INTRO: 09/01/2022

Barnstable Police Chief, Sonnabend gave the rationale

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2023 Jail/Arrest Diversion Program Component Grant from the Commonwealth of Massachusetts, Department of Mental Health in the amount of **\$92,000** for the purpose of funding costs to support police jail diversion programs, trainings, outreach, and stakeholder engagement.

VOTE: PASSES 9 YES:

2023-028 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 JAIL/ARREST DIVERSION PROGRAM CO-RESPONDER GRANT IN THE AMOUNT OF \$99,000 FROM THE COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF MENTAL HEALTH INTRO: 09/01/2022

Barnstable Police Chief, Sonnabend gave the rationale

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2023 Jail/Arrest Diversion Program Co-Responder Grant from the Commonwealth of Massachusetts, Department of Mental Health in the amount of **\$99,000** for the purpose of funding the costs of contracting for the services of a full-time licensed clinician as part of the Barnstable Police Department's Co-Response Jail Diversion Program.

VOTE: PASSES 9 YES

2023-022 APPOINTMENTS TO A BOARD/COMMITTEE/COMMISSION: INTRO 09/01/2022

RESOLVED: That the Town Council appoints the following individuals to a multiple-member Board/Committee/Commission: **Airport Commission:** Mark Guiod, as a regular member, to a term expiring 06/2025: **Human Services Committee:** Kimberly Crocker Crowther as a

representative member to a term expiring 06/2025; **Land Acquisition and Preservation Committee:** Katherine Gulliver, as a regular member to a term expiring 06/2025
VOTE: TO A 2ND READING, UNANIMOUS

2023-023 AMENDING THE CODE OF THE TOWN OF BARNSTABLE, PART I, GENERAL ORDINANCES, ARTICLE III, §240-39 BY REPEALING AND REPLACING THE SHOPPING CENTER REDEVELOPMENT OVERLAY DISTRICT INTRO: 09/01/2022

Rationale by Director of Planning and Development, Elizabeth Jenkins explained this is a rewrite of the towns existing overlay district; Shopping Center Redevelopment Overlay District (SCROD) to encourage a mixed use environment to expand to multi-family, hotel and office uses.

ORDERED: That the Code of the Town of Barnstable, Part I, General Ordinances, Chapter 240 Zoning, Article III, § 240-39 Shopping Center Redevelopment Overlay District be amended by deleting § 240-39 in its entirety and inserting the following new § 240-39 in its place:

“§ 240-39. Shopping Center Redevelopment Overlay District.

A. Purposes.

1. The purpose of this § 240-39 is to permit the renovation and redevelopment of a large-scale integrated retail shopping and mixed-use center on a large site with convenient highway access. The Shopping Center Redevelopment Overlay District is established as a special district which overlays another nonresidential zoning district or districts (including a Groundwater Protection Overlay District).
2. The Shopping Center Redevelopment Overlay District permits the redevelopment and expansion of a shopping center subject to the specific regulations and requirements contained in this § 240-39. If there is an inconsistency between the provisions of this Overlay District Section 240-39 and the underlying zoning district, even where the Overlay District provisions are less stringent than provisions of the underlying zoning district, the provisions of this Overlay District section 240-39 shall govern. The regulations of this § 240-39 relating to use, building and lot dimensions, development intensity, parking, signage and advisory site plan review shall apply only to a regional shopping center, and not to any other use that is allowed or permitted in the underlying zoning district.
3. The provisions of this § 240-39 are designed to assure that all development activities associated with a regional shopping center will be carried out so as to provide for and maintain:
 - (a) Protection of neighboring properties against harmful effects of uses on the development site;

- (b) Protection of neighboring properties against harmful effects of uses on the development site;
- (c) Convenience and safety of vehicular and pedestrian movement within the development site and in relation to adjacent streets, properties or improvements;
- (d) Satisfactory methods of stormwater management and groundwater recharge shall be provided with due regard to the protection of the Town's groundwater resources;
- (e) Satisfactory methods for storage, handling and disposal of sewage, refuse and other wastes resulting from the normal operations of the establishments on the development site;
- (f) Convenience and safety of off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishments on the development site;
- (g) Adequate off-street parking and traffic mitigation measures that will enhance the efficiency of the transportation system taking into consideration the overall Town traffic needs.
- (h) Harmonious relationship to the terrain and to existing buildings in the vicinity of the development site; and
- (i) Attractive and functional design with due regard to the existing conditions of the development site and the use thereof for a regional shopping center, in order to promote the interests of the community.

B. Location. The boundary of the Shopping Center Redevelopment Overlay District is shown on a map of land entitled "Shopping Center Redevelopment Overlay Zoning District" filed with the Town Clerk, which map, together with all explanatory matter thereon, is hereby incorporated in and made a part of this chapter.

C. Relationship to underlying districts and regulations.

(1) The Shopping Center Redevelopment Overlay District shall overlay all underlying districts so that any parcel of land lying in a Shopping Center Redevelopment Overlay District shall also lie in the zoning district or districts in which it is otherwise classified by this chapter.

(2) All regulations of the underlying zoning district(s) shall apply within the Shopping Center Redevelopment Overlay District to the extent that they are not inconsistent with the specific provisions of this § 240-39. To the extent the provisions of this § 240-39 are in conflict with or are inconsistent with other provisions of this chapter, the provisions

of this § 240-39 shall govern and prevail even if such other provisions are more restrictive than those set forth in this § 240-39.

D. Definitions. The following definitions shall be applicable to land and its use within the Shopping Center Redevelopment Overlay District:

ADVISORY SITE PLAN REVIEW - The process set forth in § 240-39L of this chapter, and shall not constitute a development permit within the meaning of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989) or the Regional Policy Plan promulgated pursuant thereto.

AMUSEMENT USES -The principal use of stores or common areas in a regional shopping center for the operation of a coin-operated video arcade, game room, indoor playground, bowling alley or similar use (but restaurant and theater uses and amusement uses that are accessory to retail uses shall not constitute amusement uses).

GROSS FLOOR AREA - The meaning set forth in § 240-128 of this chapter.

GROSS LEASABLE AREA - Gross floor area, exclusive of mall areas, stairs, escalators, elevators, utility, storage and equipment rooms, mall offices, exit and service corridors, toilet rooms, maintenance areas, and mezzanine areas not used for the public sale or display of goods or services.

HOTEL – One or more buildings providing temporary lodging accommodations offered to the public on a daily rate for compensation. The building or buildings have an interior hall and lobby with access to each room from such interior hall or lobby, supervised by a person in charge at all hours. Accessory uses may include a restaurant, conference center facility, meeting rooms, health club and other customary uses.

INITIAL REDEVELOPMENT The expansion of existing improvements within the Shopping Center Redevelopment Overlay District which increases the gross floor area of all buildings within the district above that which is in existence on January 1, 1996, by 50,000 square feet of gross floor area or more in the aggregate pursuant to a special permit issued under § 240-39N hereof. ¹

MEZZANINE(S) - An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than 10% of the gross floor area of the store or area of the building in which the level or levels are located. Mezzanines which are not used for the public sale or display of goods shall not be treated as an additional story for purposes of calculating maximum building height. Mezzanine space may be used for storage and for backroom office functions incident to the operation of gross floor area within the regional shopping center, but shall not be rented for such purposes to persons not operating gross floor area within the

¹ Editor's Note: The former definition of "major store," which immediately followed this definition, was repealed 1-17-2019 by Order No. 2019-064.

regional shopping center. Mezzanines which are used for the public sale or display of goods shall be treated as gross leasable area.

MULTIFAMILY DWELLING - A structure containing three or more dwelling units offered for sale or rent, each of which shall contain separate living, sleeping, cooking, and bathroom facilities for the families residing there.

OFFICE – Includes professional, business, dental and/or medical offices, which are defined as a room, or group of rooms used for conducting the affairs of a business, service industry, or government entity.

REDEVELOPMENT AREA - Land within the boundaries of the Shopping Center Redevelopment Overlay District, which is used or proposed for use as part of a regional shopping center, and encompassing one or more individual lots on which the regional shopping center will be situated.

REGIONAL SHOPPING CENTER - A concentration of stores and establishments devoted to retail shopping center uses and amusement uses including an enclosed structure (which may consist of several buildings) containing a total of not less than 500,000 square feet of gross floor area and located on a redevelopment area, together with ancillary utility facilities, parking areas and driveways, landscaped areas, and stormwater detention facilities. A regional shopping center may also contain offices, hotels, and multifamily dwellings. A regional shopping center may consist of one or more lots and one or more buildings under separate ownership provided that:

(1) The lots and buildings are subject to an operating agreement or leasehold arrangements, provided that the areas used in common, including the central enclosed mall area, the parking structures and the exterior parking and circulation areas, will be under integrated management; and

(2) The separate lots and buildings are developed with a unified approach to architectural and landscape design, pedestrian ingress and egress, parking, truck loading, vehicular entrances and exits, drainage, groundwater recharge and utilities.

RETAIL SHOPPING CENTER USES — A concentration of retail stores and service establishments, including restaurants, movie theaters and such other uses as are customarily found in a regional shopping center, together with ancillary utility facilities, parking areas and driveways, landscaped areas, and stormwater detention facilities. Retail shopping center uses may include one area devoted to outdoor, tent-type sales of home and garden goods, provided that any such area is operated incident to a retail store having not less than 40,000 square feet of gross floor area and occupies not more than 5,000 square feet of area.

E. Application of requirements.

(1) A redevelopment area may consist of more than a single building lot, and in such event the requirements of this chapter shall not be applied to individual building lots, but shall be applied to the entire redevelopment area as if the redevelopment area were a single building lot notwithstanding the fact that the building lots within the redevelopment area may be in different ownership.

(2) The regional shopping center and other improvements within the redevelopment area may be developed in phases and may be developed and occupied under one or more building permits and occupancy permits.

(3) The provisions of this § 240-39 shall not apply to any expansion of existing improvements within the Shopping Center Redevelopment Overlay District until the exercise of rights under a special permit issued under § 240-39N with respect to the initial redevelopment, and any such expansion which does not constitute the initial redevelopment shall be subject to all of the requirements of the underlying zoning district(s) including, without limitation, the requirement of a special permit for certain uses and structures within the district. Following the exercise of rights under a special permit issued under § 240-39N with respect to the initial redevelopment, this § 240-39 shall apply to all improvements thereafter constructed within the Shopping Center Redevelopment Overlay District.

F. Permitted and prohibited uses.

(1) The following uses are permitted by right in the Shopping Center Redevelopment Overlay District:

(a) Retail Shopping Center Uses.

(b) Office.

(c) Hotels.

(d) Multifamily Dwellings.

(e) Amusement uses, provided that no more than 75,000 square feet of gross leasable area in a regional shopping center shall be devoted to amusement uses unless a special permit is issued therefor by the Zoning Board of Appeals.

(2) The following uses are prohibited in the Shopping Center Redevelopment Overlay District:

(a) All uses prohibited in § 240-35F (2) [GP Groundwater Protection Overlay District] of this chapter.

- (b) Parking and/or storage of transport vehicles for fuel, including but not limited to oil, coal and gas.
- (c) Parking and/or storage of transport vehicles for toxic and/or hazardous substances.
- (d) Drive-through restaurant or drive-through bank, except that a drive-through bank shall be permitted in so much of the Shopping Center Redevelopment Overlay District as lies within the underlying Highway Business District, subject to the special permit provisions of § 240-39N and a drive-through restaurant may be permitted only on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone" as shown on the map entitled "Shopping Center Redevelopment Overlay District Amendment,"² dated February 20, 2015, subject to the special permit provisions of § 240-39N.
- (e) Gasoline and oil filling stations.
- (f) Casinos and other gambling establishments (other than the incidental sale of lottery tickets as part of a use otherwise permitted in the Shopping Center Overlay District).

G. Bulk and dimensional regulations.

(1) Land located within the Shopping Center Redevelopment Overlay District and used for a regional shopping center shall be subject to the dimensional controls set forth below:

- (a) Minimum area of redevelopment area: 50 acres.
- (b) Minimum lot size (individual building lots): none.
- (c) Minimum lot frontage (individual building lots): 20 feet.
- (d) Minimum side, front and rear yards (other than at the perimeter of the redevelopment area): none.
- (e) Minimum front yard setback (at perimeter of the redevelopment area): 30 feet.

[1] One hundred feet along Iyannough Road/Route 132 Road except 50 feet along that portion of Route 132/Iyannough Road on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone."

[2] Within 100 feet of Route 28/Falmouth Road, the minimum setback shall be 20 feet, but there shall be a maximum setback of 50 feet.

- (f) Minimum side and rear yards (at perimeter of redevelopment area): 30 feet.
- (g) Maximum lot coverage as percentage of lot area of redevelopment area: 50%.
- (h) Maximum building height:

² Editor's Note: The map is on file in the office of the Town Clerk.

- (1) The maximum building height for retail shopping center uses shall be 42.5 feet or two stories, whichever is lesser.
- (2) The maximum building height for hotel and multifamily dwelling uses shall be 55 feet or four stories, whichever is lesser.
- (3) The maximum building height may be increased by special permit issued by the Zoning Board of Appeals under § 240-39N.

(2) Except as specifically stated to the contrary in Subsection G(1), the bulk and dimensional requirements set forth therein shall be applied to a redevelopment lot as if it were one lot, even though it may be comprised of several lots in different ownerships. More than one building may be located on a single lot within the Shopping Center Redevelopment Overlay District.

(3) Skylights, mechanical penthouses, rooftop mechanical features, and architectural features not designed for human occupancy (collectively, the "special features") shall be excluded in determining the height of any building within a regional shopping center. However, in no case shall such special features exceed ten (10) feet above the height of the building absent special permit relief issued pursuant to § 240-39N.

H. Maximum increase in gross leasable area. Retail shopping center uses within a regional shopping center shall not exceed 1,200,000 square feet of gross floor area within the redevelopment area, measured on an aggregate basis, unless the Zoning Board of Appeals has issued a special permit in accordance with the provisions of this § 240-39N. The maximum gross floor area of 1,200,000 square feet set forth above shall be reduced by 20,000 square feet of gross floor area for every acre by which the total area of the redevelopment area is less than 59 acres. For purposes of this § 240-39, the floor area of parking structures shall not be treated as gross floor area or gross leasable area.

I. Limitation on impervious surfaces; outdoor recreational areas; buffer strip landscaping.

(1) Impervious Surfaces. No more than 70% of the total redevelopment area shall be rendered impervious by the installation of buildings, structures and paved surfaces, measured on an aggregate basis, unless groundwater mitigation land is provided at a one-to-one ratio for any overage of impervious cover in the redevelopment area. Groundwater mitigation land shall mean land located within the same or a more restrictive Groundwater Protection District in a zone of contribution to the well fields operated as of January 1, 1996 by the Barnstable Water Company and/or the Barnstable Fire District which land is permanently restricted by or on behalf of the owners of the redevelopment area to be left in an open and natural state. However, even with the dedication of groundwater mitigation land, no more than 82.7% of the total redevelopment area shall be so rendered impervious. Rooftop and surface water

drainage systems shall be designed and maintained in accordance with the standards set forth in § 240-39L(4)(j). For purposes of this § 240-39I, roadways (other than interior access drives) built in accordance with municipal specifications (as the same may be modified or waived by the Planning Board) and used as public way(s) or private way(s) shall not be treated as impervious surfaces and shall not be treated as part of the area of the district for purpose of such calculation.

(2) Outdoor Recreational Areas. Any new development or redevelopment within the Shopping Center Redevelopment Overlay District that proposes a hotel or multi-family use shall include an outdoor

recreational area for use by hotel guests or multi-family residents and visitors. Outdoor recreational areas should consist of a contiguous space containing a minimum width of 15 feet and a minimum tree canopy of 10%.

(3) Landscaped Buffer. As a part of the portion of the redevelopment area to be maintained in pervious condition, a landscaped buffer strip of variable width shall be provided and maintained along the redevelopment area's frontage on Route 28, Route 132 and any extension of Enterprise Road which is laid out in conjunction with the redevelopment. Said landscaped buffer strip shall be a minimum of 15 feet in depth from the property line. The design of this buffer strip may include sidewalks/bikepaths, berms, indigenous planting materials and other ground cover. Cross over access drives and signs provided for herein shall be permitted in the landscaped buffer strip, but parking areas are prohibited. All other roadway frontages shall have a landscaped buffer strip of at least 10 feet.

J. Parking and loading. Uses within the Shopping Center Redevelopment Overlay District shall be subject to the following minimum off-street parking and loading requirements:

- (1) Required off-street parking for retail shopping center uses within a regional shopping center shall be provided at a ratio of not less than 4.0 parking spaces for each 1,000 square feet of gross leasable area.
- (2) Required off-street parking for office uses within a regional shopping center shall be provided at a ratio of not less than 1.0 parking space for each 300 square feet of gross leasable area plus 1.0 parking space per separate suite.
- (3) Required off-street parking for hotel uses within a regional shopping center shall be provided at a ratio of not less than .75 parking spaces per guest unit.
- (4) Required off-street parking for multifamily dwellings within a regional shopping center shall be provided at a ratio of not less than 1.5 parking space per dwelling unit.

- (5) The foregoing parking requirements may be reduced by Special Permit from the Zoning Board of Appeals if lesser off-street parking is shown to be adequate given such special circumstance as:
- (a) Use of a common parking area by different uses having different peak hours of demand.
 - (b) Habits or other characteristics of occupants which result in reduced auto usage.
 - (c) Characteristics of use invalidating normal methods of calculating parking demand.
 - (d) Supplementary parking provided off premises.
 - (e) Demonstrated measures to lower parking demand to the regional shopping center.
- (6) All off-street parking spaces required by this § 240-39J shall be located within the redevelopment area, except that parking spaces may be located outside of the redevelopment area on another non-residentially zoned lot provided (a) such other lot is located within 300 feet of the redevelopment area on which the use for which such spaces are required is located, and (b) such lot is in common ownership with, or subject to a long term lease or easement for the benefit of, all or a portion of the redevelopment area. In addition, parking spaces may be located at such other locations as may be approved by the Zoning Board of Appeals as part of any Traffic Demand Management Plan which shall be incorporated as part of the special permit issued under § 240-39N hereof.
- (7) Each off-street parking space shall have minimum dimensions of nine by 18 feet, excluding the driveway to such space. Parking stalls within the Shopping Center Redevelopment Overlay District which are designed at 90° shall have the following minimum dimensions:
- (a) Ninety-degree parking dimensions:
 - Stall width: nine feet, zero inches.
 - Stall length: 18 feet, zero inches.
 - Aisle width: 24 feet, zero inches.
 - Bay width: 60 feet, zero inches.
 - (b) All parking stalls which are designed at angles other than 90° shall comply with the minimum parking space dimensions set forth in § 240-104 of this chapter.

(8) Parking Lot Landscaping

- (a) Application. This section shall apply to any new development or redevelopment within the Shopping Center Redevelopment Overlay District in which the limit of work exceeds one (1) acre (43,560 square feet). This section shall not apply to ordinary maintenance or repairs to buildings or parking areas within the Shopping Center Redevelopment Overlay District.
- (b) Procedure. Any project that satisfies the triggering requirements set forth in Subsection (a) above shall delineate on the accompanying plans the proposed limit of work. Only parking and loading areas within the limit of work shown on the plans shall be subject to the minimum requirements set forth below.
- (c) The surfaced area of a parking lot and all entrance and exit drives shall be set back from the side and rear lot lines, by a landscaped side and rear yard buffer at least five (5) feet in width.
- (d) A ten-foot minimum, landscaped perimeter buffer shall be maintained between a building and the surfaced area of a parking lot or drive, except at entrances, building loading and utility locations. A walkway may be located within the landscaped perimeter buffer, provided that the landscape area is not reduced to less than 40% of the area of the perimeter buffer.
- (e) At least 7% of the interior of a parking lot with 21 or more parking spaces shall be landscaped. Planting along the perimeter of a parking area shall not be considered as part of the 7% interior landscaping. Interior landscaped islands shall be distributed throughout the parking lot. At least one tree with a minimum 2.5-inch caliper or larger shall be provided per twelve spaces or any portion thereof, located within interior landscaped islands. Existing naturally occurring trees in good condition located in landscaped islands shall be credited towards this requirement only in those areas where the existing trees are located. No landscaped island shall have an overall width of less than six feet. A walkway may be located within an interior landscaped island, provided that the walkway is separated from the surfaced area of the drive or parking lot by a minimum of four feet of landscaped area. These interior landscape requirements shall not apply to interior parking spaces, parking garages, or parking lots used for sale and/or display of motor vehicles.
- (f) Where landscaped setbacks to parking areas, landscaped buffers to buildings, and landscaped islands within parking areas are required in Subsections (c) through (e) above, the following requirements shall apply:
 - i. Existing natural trees and shrubs shall be retained within landscaped islands, and side and rear yard landscaped buffers to parking lots and

drives wherever possible and supplemented with other landscape materials, in accordance with accepted landscape practices. Specimen trees shall be retained and, if practical, relocated within the site where necessary. Where natural vegetation cannot be retained, these areas shall be landscaped with a combination of low-maintenance grasses, trees and shrubs commonly found on Cape Cod. A list of recommended plant materials is on file with the Town Clerk and may also be obtained from the Planning Department. Plant materials shall be of sufficient size and density to create an attractive appearance. Brick or stone mulch shall not be used in place of ground covers in landscaped islands. Where mulch is used, it shall be in such a manner that it will not wash into leaching catch basins located in a parking lot, or adjacent roadway.

- ii. All landscaped areas shall be continuously maintained, substantially in accordance with any site plan approved pursuant to Article IX. No occupancy certificate shall be issued until the landscape plan has been implemented according to an approved site plan, except that the Building Commissioner may issue an occupancy certificate prior to installation of landscape materials, provided that the applicant posts security with the Town for 150% of the estimated cost of installation and plant materials.

- (g) Landscape buffers and islands may be reduced by an amount sufficient to ensure the creation of a functional, attractive parking lot, subject to approval of site plan review.

K. Signs in the Shopping Center Redevelopment Overlay District. Only the following types of signs shall be permitted in the Shopping Center Redevelopment Overlay District:

(1) Large freestanding exterior signs:

(a) Maximum number: three signs.

(b) Maximum height: not to exceed 22 feet above grade.

(c) Maximum area: not to exceed 170 square feet per side exclusive of structures holding the sign. Reasonable efforts shall be exercised to minimize the size of any such supporting structures.

(2) Wall signs identifying uses permitted by right in the Shopping Center Redevelopment Overlay District having gross leasable area of greater than 25,000 square feet or having exterior public entrances; the food court; and the regional shopping center, provided that no wall sign shall extend higher than the top of the parapet wall:

(a) Maximum letter height: five feet for signs accessory to anchor and major stores, and four feet for other such signs. This letter height restriction shall not apply to emblems, logos, or other designs associated with the sign display.

(b) Maximum area:

[1] Anchor stores (for each tenant with a gross leasable area of 45,000 square feet or more): The maximum sign area for any one display shall not exceed 200 square feet for the first sign; the maximum sign area for any additional display shall be 150 square feet. There shall only be one sign display per eligible elevation. An additional sign allowance of 30 square feet shall be provided for entrance door and awning signs.

[2] Major stores (for each tenant with a gross leasable area of 12,000 square feet or more): The maximum sign area for any one display shall not exceed 120 square feet. There shall only be one sign display per eligible elevation. An additional sign allowance of 15 square feet shall be provided for entrance door and awning signs.

[3] In-line store (for each tenant with an exterior entrance): The maximum sign area for any one display shall not exceed 50 square feet for tenants with storefronts less than 50 linear feet in length. An additional square foot of sign area shall be allowed for each linear foot of storefront above 50; the maximum sign area for any one display shall not exceed 75 square feet. There shall only be one sign display per tenant. An additional sign allowance of 10 square feet shall be provided for entrance door and awning signs.

[4] Mall entrances: The maximum sign area for any one display shall not exceed 50 square feet. There shall only be one sign per each eligible mall entrance.

(3) Wall signs designating loading areas, service courts, employee entrances and similar areas:

(a) Maximum number: no limit.

(b) Maximum mounting height above ground: eight feet.

(c) Maximum area: six square feet.

(4) Freestanding directional signs indicating access and egress to the site, as well as direction to department stores, services or other areas within the regional shopping center:

(a) Maximum number: three times the total number of vehicular entrances.

- (b) Maximum height to top of sign above ground: seven feet.
 - (c) Maximum area: 16 square feet per side.
- (5) Hanging parking structure signs at vehicular entrances to parking structures:
- (a) Maximum number: one per vehicle ramp access point to parking structures.
 - (b) Maximum height: one foot, six inches.
 - (c) Maximum area: 16 square feet per side.
 - (d) In addition, directional and parking area identification signs shall be permitted within the parking structures, and safety/height limitation markings shall be permitted on the exterior of the parking structures.
- (6) Parking lot identification signs.
- (a) Maximum number: one per light post.
 - (b) Maximum size: three square feet per side.
- (7) ³Banners which do not advertise particular stores or articles for sale shall be permitted.
- (8) In addition to the signs otherwise permitted under this § 240-39K, wall signs for freestanding buildings, including hotels, multifamily dwellings, and movie theaters (meaning buildings which are not physically connected to the enclosed mall of the regional shopping center) which are otherwise permitted in the underlying zoning district under this chapter shall be permitted in the Shopping Center Redevelopment Overlay District.
- (9) In addition to the wall signs permitted under § 240-39K(2), one exterior wall sign for each movie theater, hotel, and multifamily dwelling located within a regional shopping center shall be permitted with a size of up to 150 square feet.
- (10) In addition to the signs permitted under § 240-39K(1) hereof, up to two freestanding exterior signs for each movie theater, hotel, and multifamily dwelling located within a regional shopping center shall be permitted as follows:

³ Editor's Note: Former Subsection K(7), pertaining to electronic reader boards, which immediately preceded his subsection, was repealed 1-17-2019 by Order No. 2019-064. This order also provided for the redesignation of former Subsection K (8) through (13) as Subsection K (7) through (12).

(a) Maximum number: two.

(b) Maximum height: 14 feet above grade.

(c) Maximum area: not to exceed 175 square feet per side, exclusive of structures holding the sign.

(11) In addition to the signs permitted under § 240-39K (1) hereof, one freestanding exterior sign shall be permitted on that area within the SCROD identified as "Drive-Through Restaurant Sub Zone," provided that the maximum height of freestanding signs does not exceed 12 feet above grade and the maximum area of the freestanding signs does not exceed 50 square feet per side, exclusive of the structure holding the sign.

(12) No special permit shall be required for signs that are in conformance with the standards set forth above.

L. Advisory site plan review and provisions.

(1) Findings. Owing to their physical characteristic and the nature of their operations, a regional shopping center may affect neighboring properties and adjacent sidewalks and streets. It is in the interest of the community to promote functional and aesthetic design, construction and maintenance of a regional shopping center and to minimize any harmful effects on surrounding areas.

(2) Purposes. The provisions of this section are designed to assure that all development activities associated with a regional shopping center will be carried out in furtherance of the purposes articulated in § 240-39A, taking into account the existing condition of the redevelopment area, the large-scale character of developments such as the regional shopping center, the customary site layout of regional shopping centers, and the necessity to permit natural light to illuminate the common areas of the regional shopping center (hereinafter referred to as the "design constraints").

(3) Advisory site plan review/when required. The provisions of this § 240-39L shall apply to development within the Shopping Center Redevelopment Overlay District in lieu of the site plan review provisions of Article IX of this chapter. At least 60 days prior to filing any DRI application with the Cape Cod Commission, the proponent of a regional shopping center shall make an informal filing with the Building Commissioner, in draft form, of such plans and materials relating to the DRI application as the proponent intends to file with the Commission with its DRI application and such relevant plans and materials relating to the MEPA process as are then available. Within 30 days following such informal submission, the Building Commissioner and other members of the Site Plan Review Committee established under Article IX of this chapter and such other Town staff as may be designated by the Building Commissioner shall review, comment upon and make recommendations with respect to the plans and materials so submitted, provided that the Building Commissioner

shall have the right to extend such thirty-day period by an additional 30 days at the request of the Site Plan Review Committee. In conducting its review the Site Plan Review Committee shall consider the consistency of such plans and materials with the site development standards set forth in Subsection L(4) hereof. The informal filing and review described in this Subsection L (3) requires no approval and therefore does not constitute a development permit within the meaning of the Cape Cod Commission Act (Chapter 716 of the Acts of 1989) or the Regional Policy Plan promulgated pursuant thereto; however, the Cape Cod Commission shall be invited to have representatives participate in the advisory site plan review process.

(4) Site development standards.

(a) A reasonable effort shall be made to improve, conserve and protect natural features that are of some lasting benefit to the site, its environs and the community at large.

(b) Slopes which exceed 10% shall be protected by appropriate measures against erosion, runoff, and unstable soil, trees and rocks. Measures shall be taken to stabilize the land surface from unnecessary disruption. Such stabilization measures shall be the responsibility of the property owner.

(c) The placement of buildings, structures, fences, lighting and fixtures on each site shall not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties.

(d) At any driveway, a visibility triangle shall be provided in which nothing shall be erected, placed, planted or allowed to grow so as to materially impede vision from within motor vehicles between a height of three feet and eight feet above the average center-line grades of the intersecting street and driveway, said triangle being bounded by the intersection of the street line and the edges of a driveway in a line joining points along said lines 20 feet distant from their projected intersection.

(e) Adequate illumination shall be provided to parking lots and other areas for vehicular and pedestrian circulation. All illumination shall be directed and/or shielded so as not to interfere with traffic beyond the perimeter of the site.

(f) All areas designed for vehicular use shall be paved with a minimum of either 2 1/2 inches bituminous asphalt concrete, a six-inch portland cement concrete pavement, or other surface, such as brick or cobblestone, as approved by the Town Engineer.

(g) All parking spaces shall be arranged and clearly marked in accordance with the parking lot design standards contained in § 240-39J herein. Signs and pavement markings shall be used as appropriate to control approved traffic patterns.

(h) All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical and telephone lines, shall, whenever practicable, be placed underground. Electric, telephone, cable TV, and other such utilities shall be underground, except for transformers, electric switching boxes or similar equipment and gas meters, which may be above ground.

(i) All surface water runoff from structures and impervious surfaces shall be disposed of on site, but in no case shall surface water drainage be across sidewalks or public or private ways. In no case shall surface water runoff be drained directly into wetlands or water bodies (except for drainage structures in place as of the effective date of this § 240-39). All drainage systems shall be designed to minimize the discharge of pollutants by maximizing appropriately designed vegetated drainage channels and sedimentation basins that allow for adequate settling of suspended solids and maximum infiltration (with due regard to the design constraints). Dry wells, leaching pits and other similar drainage structures may be used only where other methods are not practicable. Subject to ambient surcharge conditions, roof runoff shall be recharged to the ground via a system of dry wells and/or infiltration systems. Nontoxic roof materials shall be used to minimize the leaching of toxic materials to the groundwater. To minimize water utilization, all new plumbing fixtures shall be designed to meet water conservation measures as required under the State Building and Plumbing Codes. All such drainage structures shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants. All calculations shall be for a twenty-five-year storm and shall be reviewed by the Town Engineer. The materials submitted shall include provision for an appropriate maintenance program for such drainage structures to be implemented and maintained by the proponent. The materials submitted shall show adequate measures to mitigate pollution of surface or groundwater to minimize erosion and sedimentation. All drainage shall be designed so that all runoff shall be disposed of on site, groundwater recharge is maximized, and neighboring properties will not be adversely affected.

(j) The materials submitted shall describe estimated average daily and peak hour vehicle trips to be generated by the site and traffic flow showing adequate access to and from the site and adequate circulation within the site. The proponent of a regional shopping center will include in such materials reasonable measures to lower traffic demand to the regional shopping center such as, by way of example only, working with other major retailers along the 132 corridor to promote bus and shuttle bus activity, encouraging carpooling among employees, and/or similar measures, which materials shall be referred to as the "Traffic Demand Management Plan." Reasonable efforts shall be made to provide vehicular and pedestrian connections within the redevelopment area to adjoining properties devoted to retail use.

- M. Affordable Housing Units. Notwithstanding any other provisions as may be set forth in this Zoning Ordinance, any multifamily dwelling development in the Shopping Center Redevelopment Overlay District shall comply with either subsection (1) or (2) below, whichever calculation results in a greater number of restricted units. If the total number

of restricted units is the same under subsection (1) and subsection (2), then the subsection with the greater number of deed restricted affordable units for individuals and families with the lowest percentage of Area Median Income (AMI) shall be required. The determination as to which calculation applies shall be made at the time that development permits are sought for a proposed multifamily development.

(1) The provisions of the Town of Barnstable Code, Chapter 9, Inclusionary Affordable

Housing Requirements in effect at the time development approvals are sought for any multifamily dwelling development within the SCROD; or

(2) Ten percent (10%) of the multifamily dwelling units shall be deed restricted as affordable units for individuals and families earning up to 65% of the area median income and an additional three percent (3%) of the multifamily dwelling units shall be deed restricted as affordable housing units for individuals and families earning up to 80% of the median income for the Town of Barnstable, as determined annually by the Department of Housing and Urban Development. The affordable units shall conform to all Department of Housing and Community Development (DHCD) standards that must be met to qualify these units for inclusion in the DHCD Subsidized Housing Inventory (SHI) as Local Initiative Program units.

(3) No certificate of occupancy permit shall be issued until recordation of the Regulatory Agreement and Declaration of Restrictive Covenants.

N. Special permit provisions.

(1) Special permit for regional shopping center.

(a) No building permit or occupancy permit shall be issued for any expansion of a regional shopping center which increases the gross floor area of the regional shopping center above that existing on the effective date of this § 240-39 by more than 50,000 square feet of gross floor area unless the Zoning Board of Appeals has issued a special permit approving such use in accordance with the provisions of this § 240-39N. In addition, no building permit or occupancy permit shall be issued for a drive-through bank or drive-through restaurant unless the Zoning Board of Appeals has issued a special permit or a modification of a special permit issued under this section, approving such use, subject to the provisions of this § 240-39N.

(b) A special permit may provide for phased development (and, if applicable, a projected phasing plan shall be provided to the Zoning Board of Appeals as part of the special permit process under § 240-39N). A special permit shall become void two years from the date of issue unless any construction work contemplated thereby (or first phase thereof, if applicable) shall commence and proceed in good faith continuously to completion, or,

if no construction work is contemplated by the special permit, the use authorized thereby is commenced.

(c) Any work done in deviation from a special permit granted pursuant to this § 240-39N shall be a violation of this chapter, unless such deviation is approved in writing by the Zoning Board of Appeals. However, a special permit may be granted based upon plans showing one or more permissible building areas and/ or permissible parking structure areas, in which buildings and other structures are to be located, rather than with the locations of the buildings and other structures finally established. Provided the boundaries of such permissible building areas and/or permissible parking structure areas are approved by the Zoning Board of Appeals in connection with the special permit, once the special permit is granted, no separate approval of the Zoning Board of Appeals will be required for the actual location of the buildings or improvements within such permissible building areas and/or permissible parking structure areas [provided that no material change to the design or materials described in § 240-39N(2)(a) shall be made without the approval of the Zoning Board of Appeals.] The Zoning Board of Appeals may amend or modify a special permit upon the application of the developer of a regional shopping center and, if the Zoning Board of Appeals determines that such amendment or modification is minor in nature, such amendment or modification may be approved without a hearing upon the submission of plans and information that may, in the discretion of the Zoning Board of Appeals, be less extensive than the plans and information required in this § 240-39N. Amendments or modifications determined by the Zoning Board of Appeals not to be minor in nature shall require a public hearing.

(d) The purpose of the special permit for a regional shopping center is to assure that the development of a regional shopping center is carried out in a manner which is (1) consistent with the purposes set forth in § 240-39A hereof and the site development standards set forth in § 240-39L(4) hereof,

(2) consistent with the terms and conditions of any DRI permit issued by the Cape Cod Commission and the certificate of the Secretary of Environmental Affairs on the final environmental impact report, (3) with due regard given to the Design Guidelines for Cape Cod prepared by the Cape Cod Commission in light of the design constraints, and (4) consistent with such additional reasonable conditions as may be imposed by the Zoning Board of Appeals as are not inconsistent with the foregoing. The Zoning Board of Appeals shall grant a special permit for a regional shopping center upon its determination that the standards for the issuance of such special permit set forth in this Subsection M(1)(d) have been complied with, giving due regard to the design constraints.

(2) Required contents of special permit application. The application for a special permit under this § 240-39N shall include:

(a) Building elevation plans for all exterior facades of buildings and structures, at a scale of 1/16 inch equals one foot, or such scale as may be required by the Zoning Board of

Appeals for detail drawings, indicating surface materials and colors, together with not less than three representative cross sections.

(b) A tabulation of the areas of the proposed site elements, including buildings (footprints and gross leasable area and gross floor area), parking structures and surface parking areas (square footage and number of parking spaces), stormwater management facilities, and landscaped areas (square footage, number of trees and other plantings).

(c) Updated versions of the materials submitted to the Building Commissioner in connection with the advisory site plan review process described in § 240-39L above.

(d) Any request for gross leasable area in excess of the use limitations set forth in § 240-39F (1) (e).

(e) Any request to permit the structure to exceed the maximum height limitation set forth in § 240-39G (1) (h).

(f) Any request to permit rooftop features to exceed the rooftop feature height limitation set forth in § 240-39G (3) (b).

(g) Any request to exceed the maximum allowable 1,200,000 square feet of gross leasable area for retail shopping center uses set forth in § 240-39H.

(h) Any request to permit a reduction in the required parking ratios under § 240-39J (5).

(i) All materials relating to any request to permit off-site parking under § 240-39J(6).

(j) A description of the operating agreement and/or leasehold agreements contemplated in the definition of "regional shopping center."

(k) Additional information as may be required by the Zoning Board of Appeals as reasonably necessary to making the determinations required by this section.

(3) Required procedures for special permit.

(a) At least two copies are required of all plans, drawings and written information. Copies of application materials shall also be submitted to the Zoning Board of Appeals electronically.

(b) The Zoning Board of Appeals may solicit the advice of any other Town agency or department it deems necessary to properly make the determinations required by this section.

(c) In issuing a special permit under this § 240-39N, the Zoning Board of Appeals shall give due regard to and shall not be inconsistent with the decisions and

recommendations of the Cape Cod Commission as set forth in any DRI permit or similar approval.

- (d) The Zoning Board of Appeals shall also include as a condition of its special permit the performance of any written commitments made by the developer of a regional shopping center to the Zoning Board of Appeals, the Planning Board or the Town Council intended to reduce or limit the impacts, financial or otherwise, of the regional shopping center on the Town. Such conditions shall be based on the written information furnished to the Zoning Board of Appeals by the Planning Board and Town Council. Such conditions shall be binding on the applicant for such special permit provided they are consistent with the provisions of Section 15 of Chapter 716 of the Acts of 1989 (the Cape Cod Commission Act).
- (e) The Zoning Board of Appeals may include as a condition of its special permit that, prior to the issuance of a certificate of occupancy for the regional shopping center, the Building Commissioner shall be provided with evidence that the operating agreement and/or leasehold arrangements contemplated in the definition of "regional shopping center" are in place.

(f) If the proposed improvements which are the subject of an application for a special permit under this § 240-39N have not been subject to the review of the Cape Cod Commission because at the time of such application the Cape Cod Commission or the DRI process has been abolished, then the proposed improvements shall be subject to site plan review under Article IX of this chapter.”

VOTE: TO THE PLANNING BOARD UNANIMOUS

2023-024 APPROPRIATION ORDER IN THE AMOUNT OF \$75,000 FOR THE PURPOSE OF FUNDING THE LOCAL MATCH REQUIREMENT FOR A FEDERAL GRANT FROM THE U.S. DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION SERVICE IN THE AMOUNT OF \$200,000 FOR DESIGN AND CONSTRUCTION OF STORMWATER IMPROVEMENTS AT OLD SHORE ROAD, COTUIT AND AUTHORIZATION TO EXPEND SAID GRANT INTRO: 09/01/2022

ORDERED: That the amount of **\$75,000** be appropriated for the purpose of funding permitting and construction expenses for the implementation of Stormwater Improvements at Old Shore Road, Cotuit, representing the local match requirement for the acceptance of a grant from the U.S. Department of Agriculture, Natural Resources Conservation Service in the amount of **\$200,000**, and that to meet this appropriation, that \$75,000 be provided from the Capital Trust Fund, and that the Town Council does hereby authorize the Town Manager to contract for and expend this appropriation and grant for the purpose of funding design, permitting, and construction of Stormwater Improvements at Old Shore Road in Cotuit, including the payment of costs incidental or related thereto.

VOTE: TO A PUBLIC HEARING ON 9/15/2022 UNANIMOUS

2023-025 APPROPRIATION ORDER IN THE AMOUNT OF \$145,000 FOR THE PURPOSE OF FUNDING STORMWATER IMPROVEMENTS AT SHUBAEL POND, MARSTONS MILLS INTRO: 09/01/2022

ORDERED: That the amount of **\$145,000** be appropriated for the purpose of funding stormwater improvements at Shubael Pond, Marstons Mills, including the payment of costs incidental or related thereto; and that to meet this appropriation, that \$145,000 be provided from the Capital Trust Fund, and that the Town Council does hereby authorize the Town Manager to contract for and expend this appropriation made available for these purposes.

VOTE: TO A PUBLIC HEARING ON 9/15/2022 UNANIMOUS

2023-026 APPROPRIATION ORDER IN THE AMOUNT OF \$95,000 FOR THE PURPOSE OF FUNDING AN ALUM TREATMENT FOR SHUBAEL POND, MARSTONS MILLS INTRO: 09/01/2022

ORDERED: That the amount of **\$95,000** be appropriated for the purpose of funding an alum treatment for Shubael Pond, Marstons Mills including the payment of costs incidental or related thereto; and that to meet this appropriation, that \$95,000 be provided from the Capital Trust Fund, and that the Town Council does hereby authorize the Town Manager to contract for and expend this appropriation made available for these purposes.

VOTE: TO A PUBLIC HEARING ON 9/15/2022 UNANIMOUS

2023-029 AUTHORIZATION TO EXPEND A FISCAL YEAR 2023 COASTAL ZONE MANAGEMENT COASTAL HABITAT AND WATER QUALITY GRANT FROM THE COMMONWEALTH OF MASSACHUSETTS IN THE AMOUNT OF \$27,000 FOR THE SNOWS CREEK CULVERT PROJECT INTRO: 09/01/2022

Rob Steen, Assistant Director Department of Public Works gave the rationale

Councilor questions and comments:

(Neary) will this project be completed (Steen) the design piece will be completed

RESOLVED: That the Town Council does hereby authorize the Town Manager to contract for and expend a Fiscal Year 2023 Coastal Zone Management Coastal Habitat and Water Quality Grant from the Commonwealth of Massachusetts in the amount of **\$27,000** for the permitting and design of the Snows Creek Culvert.

VOTE: PASSES UNANIMOUS

Accept as written the Town Manager's report

A motion was made and duly seconded to go past 11 o'clock

Roll Call: 8 Yes, 1 No Levesque

Atsalis, Clark, Cullum, Hebert, Neary, Schnepf, Shaughnessy, Starr,

Elizabeth Jenkins, Director of Planning and Development gave a report of the newly formed Local Comprehensive Planning Committee (LCPC) gave an update to the Town Council.

The LCPC elected the following:

Chair: Steve Costello

Vice Chair: Felicia Penn

Secretary: Wendy Northcross

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED TO ADJOURN:

VOTE: PASSES UNANIMOUS

Meeting adjourned by Councilor Hebert

Adjourned at 11:06 PM:

Respectfully submitted,

Ann M. Quirk
Barnstable Town Clerk

NEXT MEETING: September 15, 2022