

Town of Barnstable
Planning and Development Department
Staff Report



**1520 Iyannough Road & 131 Attucks Lane - Cape Cod Five
Approval Not Required (ANR) Plan**

Date: October 18, 2017
To: Mary Barry, Chair, Planning Board
From: Paul Wackrow, Principal Planner

Owners: Cape Cod Five Cents Savings Bank
Applicants: Shane M. Mallon of Baxter-Nye Engineering and Surveying
Property Address: 1520 Iyannough Road. 131 Attucks Lane, Hyannis
Assessor's Map/Parcel: 253/020-B00, T00, H00
254/012
Zoning: HB/B

An Approval Not Required Plan "1520 Iyannough Road & 131 Attucks Lane Barnstable, MA 02601" drawn and stamped by Shane M. Mallon of Baxter-Nye Engineering and Surveying, dated October 13, 2017, for Cape Cod Five Cents Savings Bank for 1520 Iyannough Road and 131 Attucks Lane, Hyannis 253/020-B00, T00, H00 and 254/012, has been submitted to the Board for endorsement as an Approval Not Required (ANR) plan.

The Plan proposes to consolidate four parcels and an unimproved portion of Old Strawberry Hill Road into one new lot as follows:

- Lot C containing 376,673 square feet (8.64 acres) with 415.33 feet of frontage on Iyannough Road/Route 132 and 1,224.8 feet of frontage on Attucks Lane.

Attucks Lane and Iyannough Road are paved public roads. The minimum frontage requirement in both the HB and B District is 20 feet.

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

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

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

Endorse the land division plan entitled "1520 Iyannough Road & 131 Attucks Lane Barnstable, MA 02601" drawn and stamped by Shane M. Mallon of Baxter-Nye Engineering and Surveying, dated October 13, 2017, for Cape Cod Five Cents Savings Bank for 253/020-B00, T00, H00 and 254/012, Iyannough Road and Attucks Lane, Hyannis as an Approval Not Required Plan.

SUBDIVISION REGULATIONS

801 Attachment 2



TOWN OF BARNSTABLE SUBDIVISION RULES AND REGULATIONS

FORM A

APPLICATION FOR DETERMINATION THAT PLAN DOES NOT REQUIRE APPROVAL

Date: 10 / 16 / 2017

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

Plan Title: 1520 Iyannough Road & 131 Attucks Lane
Barnstable, MA 02601

Plan Date: 10 / 13 / 2013

Assessor's Map and Parcel Number: Map (s): 253 254 Parcel (s): 020-B00, 020-T00, 020-H00 012

Zoning: HB/B Area: 8.64 +/- Acres Number of Lots: Two (2)

Drawn By: Baxter-Nye Engineering & Surveying
76 North Street
Address: Hyannis, MA 02601
508 771-7502
Phone: ()

The undersigned's title to said land is derived as follows:

PLEASE COMPLETE THE FOLLOWING

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

RECEIVED
OCT 17 2017
PLANNING & DEVELOPMENT

Building #3: / / date use

4. Has a plan of this land been submitted to the Planning Board before? Yes _____ No x (check one). If yes please provide the date of the plan, date of recordation with the Registry of Deeds or of the date of filing with Land Court. date of plan: _____/_____/_____/ date of recording: _____/_____/_____

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

Cape Cod Five Cents Savings Bank

Print Name of Owner

Print Name of Owner

Print Name of Applicant

Applicant's Authorization:

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

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

Company/Firm: Baxter-Nye Engineering & Surveying
Address: 78 North Street Hyannis, MA 02601
Telephone: (508) 771-7502 Date: 10 / 16 / 2017
Certification: _____ Certification #: _____
Signature: [Signature]

Received by Town Clerk:
Date: ____/____/____ Time: _____ Fee: _____

Signature: _____
Please make check payable to the Town of Barnstable.

SUBDIVISION REGULATIONS



TOWN OF BARNSTABLE SUBDIVISION RULES AND REGULATIONS

FORM A

APPROVAL NOT REQUIRED PLAN - SUBMISSION CHECKLIST

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

- ☒ One Copy of the completed Form A, and Form A Checklist.
- ☒ Filing Fee Paid \$ 250.00
- ☒ Copy of most recently recorded deed and copy of recent tax bill. Evidence of payment of taxes on all lots.
- ☐ If the applicant is not the owner, a copy of authorization to apply signed by land owner(s).
- ☒ Evidence of right of access over any private way that provides access and frontage.
- ☒ Ten copies of the plan at a reduced scale of 1"=100' or other suitable scale for distribution.
- ☒ GIS file (see Appendix A) and original mylar.
- ☒ Original cloth tracing and ^{(3) Three} ~~eight~~ prints of the plan containing the following information:
 - ☒ Locus Map at a scale of 1" = 2,000'.
 - ☒ Undemeath the locus map, the assessors map and parcel number(s), zoning district(s), zoning overlay district(s), and zoning area, frontage and dimensional requirements. North arrow.
 - ☒ Title block location and Fire District, owner, applicant, date scale and bar scale. Firm responsible and original seal on all copies with signature and date. Revisions with dates and descriptions..
 - ☒ Adjoining lots and owner(s). Frontage of any remaining adjoining land.
 - ☒ Location of existing buildings, including front, side and rear yard setbacks and street address.
 - ☒ Location and width of streets, ways and easements: legal status, name and pavement widths. Type of surface of way which gives frontage.
 - ☒ Location and area of wetlands on any buildable lot.
 - ☒ Lot sizes in sq. ft and/or acres; area of any remaining land; lot shape factor calculations on separate building lots.
 - ☐ Lots created for conveyancing purposes only, so noted.
- ☐ Note: "No determination as to compliance with the Zoning Ordinance requirements has been made or intended by the above endorsement".

THE PLANNING BOARD MAY DENY INCOMPLETE APPLICATIONS

Signature of registered land surveyor or registered engineer: [Signature]

Print name: Shane M. Mallon, PLS

Company/Firm: Baxter-Nye Engineering & Surveying Address: 78 North Street, Hyannis, MA 02601

Telephone: (508) 771-7502 Date: 10 / 16 / 2017 Certification: Certification #:

Jenkins, Elizabeth

From: Paul <lasthurrah@verizon.net>
Sent: Wednesday, September 13, 2017 2:21 PM
To: Jenkins, Elizabeth
Cc: lasthurrah@verizon.net
Subject: Re: Sea Captains Row - Request for Comments

Categories: Red Category

Good Afternoon Elizabeth,

You should remind everyone that their reply on this should go only to you!

My comments pretty much follow what I said at the meeting and concern some of the requested waivers as follows:

Sect 240-24,1,3 Parking relief is minimal and not a problem, I also do not have problem with set backs or floor area. Density relief needs to have a Traffic Study that shows this project will not seriously degrade any of intersections in the vicinity; It also should require a documented review by the DPW that sewer flow in the streets and effluent processing capacity 0are not adversely affected, I would also like to see a rationale for no impact fees.

Sect 240-24,1,7 See comments on density waiver above, I have no problem with the others,

Sect 240-1.11 No problem with off street parking,

Chapter 112 Art 1 No Comment

Chapter 9 Art III The Developer must a documented effort to coordinate the Design with Main Street Waterfront Historic Commission

Chapter 9 Art 1 I cannot support waiver on the Affordable Housing. The Developer needs to address this requirement in a way that is

acceptable to the Board and the Housing Coordinator,

I support the Project and I am willing to find innovative solutions to my objections.

Paul R Curley

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

From: Jenkins, Elizabeth <Elizabeth.Jenkins@town.barnstable.ma.us>
To: Planning Board <tobpb@town.barnstable.ma.us>
Cc: Mary Barry <Marymbarry@outlook.com>; Herrand, Karen <Karen.Herrand@town.barnstable.ma.us>
Sent: Tue, Sep 12, 2017 5:04 pm
Subject: Sea Captains Row - Request for Comments

Jenkins, Elizabeth

From: Stephen Helman <shelman2637@gmail.com>
Sent: Monday, September 11, 2017 10:15 PM
To: Jenkins, Elizabeth; Mary Barry
Subject: Thoughts

Categories: Red Category

I suggest that the two studio apartments be designated affordable housing. Also. might they consider placing plaques on the new housing indicating the Sea captain who once resided on that spot?
Stephen

Jenkins, Elizabeth

From: David Munsell <dmunsell01@comcast.net>
Sent: Friday, September 22, 2017 11:16 AM
To: Jenkins, Elizabeth
Subject: Captains Row

Hello Elizabeth,

Maybe better late than never!

- 1. Why the change from "Workforce Housing to Market Rate"?*
- 2. I would like to see Plax signs at areas of old Captains Houses and along Pleasant*



St. [] for permeate records.

- 3. Would like to see coordination of street lighting with the Bornstein project on South Street.*
- 4. Trucks leaving Steamship Authority are to make right turn only out of parking. NO TRUCKS ON PLEASANT STREET (from Steamship Authority)*
- 5. If the developer can prove there is a greater need for Market Rate Units, I would be in favor. In some cases it really burdens the developer to have Affordable Housing at 10% in a development. I would like the Town of Barnstable step up and build more Affordable Housing in other areas.*
- 6. If possible construct a small community bus stop in the area.*
- 7. I would like to see the developer work with the Steamship Authority to take over their repair shop and mix it into their plan. (This building as is does not fit)*
- 8. I would like to see a more detailed drawings of the columns, cornices, and trim details on the buildings. Would like to see them in more period of the time.*

I am sure there might be more questions.

Elizabeth, sorry to be late with this.

*David Munsell
September 22, 2017*

Jenkins, Elizabeth

From: Fred LaSelva <flaselva1@gmail.com>
Sent: Wednesday, September 13, 2017 8:04 AM
To: Jenkins, Elizabeth
Cc: Planning Board; Mary Barry; Herrand, Karen
Subject: Re: Sea Captains Row - Request for Comments

Categories: Red Category

here are my questions

1. my questions at the meeting pertaining to the rent he will charge was based on the following.
if his costs escalate to such a point that his rents will have to be driven up and at that point will this development be put out of economic reach of the potential renters as "market rate" ?
2. if the economics are driven to high will it force him to immediately move to a condo conversion ?
- 3 what safe guards are in place to prohibit rents from going as "market" to exorbitant luxury rentals ?
3a what safeguards are in place to insure this does not turn into a place for affluent transient people who want a short term stay location as opposed to meeting the needs of our younger population
4. what is the history of this developer by way of other projects that started out as rental and then were converted to condo ?
5. how many rental units has this developer done and where as opposed to condo units or seasonal units are they ?
- 6 at the meeting he stated he was all about the "windows" but then stated he was not going to manage the property but rather hire a management company to take care of the needs of the units ?
6a this approach seems contrary to his focus on the "broken windows"
- 7 what safeguards are in place to prohibit a change from rental in phase one to condo in further phases
8. it seems to me the Patriot Press building with a common area is a waste of space when it could be used as further housing. Is there a potential to change this to housing? What issues re being dealt with as to security of this space?
- 9 the exterior design of this project is to modern and although it uses some material the design does not reflect the historic nature of the area it is replacing. What changes can be made to make it more in keeping with this location.
9a this development must reflect the area not a modern version of some thing you would see in Boston
- 10 the use of common gardens seems to fluy in the face of demographic trend s away from cooking and perhaps this feature could be more appropriate to the real trends of usable common space for gathering not gardens?
11. will this development generate full value tax base to the town?
- 12 is the developer asking for any tax incentives

13 yes retail does follow residential but all we need to look at the trend of retail access by Amazon and others...it seems the real reason for this development is not the retail component but the housing component as such retail is not a part of this decision nor should it be.

14 I see the real risk for this developer as not the aspect of whether it will rent but if it can stay rentals and be profitable for him, How does he plan to insure that so that the town does not end up with a blight that starts great?

15 what is the town's expense in this development? is the developer budgeting for ALL expenses and this will not cost the town any out of pocket money ?

16 as a board we have turned down the requests by another developer for the same relief this one is asking for. why should we consider this any different ?

17 would it be permissible to ask this developer to supply the material for 6 habit for humanity houses to counter the affordable housing waiver ?

18 I would ask the developer to go back to his planners and develop a plan to lower the number of waivers

19 have we really looked at the demographic trends , looked at the way the newer generation actually shops and lives. have we taken into consideration the club house nearby that is a source of concern and how it will impact this development

20 what are we doing to prohibit a "group home" being purchased next to this development ?

thank you
fred

On Tue, Sep 12, 2017 at 5:04 PM, Jenkins, Elizabeth <Elizabeth.Jenkins@town.barnstable.ma.us> wrote:

Good afternoon Planning Board members:

At the request of the Planning Board Chair, I am seeking comments, suggestions, or requests for additional information on CapeBuilt Development's proposed Sea Captains Row project. Mary asks that comments be submitted by Wednesday, September 20th to allow CapeBuilt time to incorporate them into a draft Regulatory Agreement. A draft agreement will be available for the Board's consideration prior to the hearing in anticipation of additional discussion and to provide the option to vote.

Any questions, please don't hesitate to contact me.

Best,

Good evening. I'm Taryn Thoman, 30 year resident of the Town of Barnstable, 22 year veteran retailer on Main Street Hyannis, and Vice Chair of the Hyannis Main Street Waterfront Historic District Commission. I volunteered to join the commission a few years ago because I love the downtown area of Hyannis, and want to do what I can to help protect and preserve its historic character and architecture. I am not here to represent the views of the board, but my own views as a concerned resident and taxpayer.

I understand that Hyannis taxpayers bear an unfair financial burden because of the disproportionate number of non-profits in the downtown area, and I sympathize with their predicament. However the structures proposed for demolition, most of which date back to the 16 & 1800s, hold high historic value. These properties have been determined to have historic and architectural significance as evidenced by their being listed both on the National Register of Historic Places as Contributing Structures in the Pleasant-School Street National Register Historic District since 1987, and also in the Hyannis Main Street Waterfront Historic District since its inception in 1996. Preservation Massachusetts included Sea Captains Row on its current list of the Most Endangered Historic Resources in Massachusetts in 2016. The specific properties proposed for demolition constitute the historic neighborhood known as Sea Captains Row on Pleasant Street, and they were itemized in a September 11th letter to the Planning Board.

Preservation Massachusetts has offered to recommend qualified preservation professionals to assist with the evaluation of these properties, and to advise on their preservation and rehabilitation. They have connections with experts in the use of federal and state historic preservation tax credits, which could possibly be used to help rehabilitate the historic properties in an appropriate manner.

Historical research shows that Chief Iyannough gave the land for these sea captains, and his statue on the town green in honors that gift. Our town and arguably our nation owe their beginnings to Iyanough and the industrious sea captains whose homes are on the chopping block with little respect for their contributions. Merely branding a new multi-story housing complex "Sea Captains Row" while demolishing the authentic historic artifacts themselves, is hardly an honor to their memory, and a few plaques and vague architectural references do not justify wiping out the living history we have in those buildings. It has been argued that the area is so badly blighted that there is no saving it. The Maritime museum director stated at the Sept 11th Planning Board meeting that it's not the developer's job to save these buildings. I agree that it's not the responsibility of the developer to care about our town's architectural heritage, but he seems to suggest that we have to kill our history in order to save it.

It is the Town that has failed Sea Captains Row, and it is the Town that should reclaim these properties by eminent domain. With potential State and Federal funds and tax credits plus assistance from Preservation Mass, Pleasant Street can be revitalized and rehabilitated for a proud new life.

I have to say that I've never felt so much pressure to support such important waivers in a single meeting. The date of the application is August 21st. The developer only appeared at the HHDC last Wednesday for an informal discussion, and the board's vote to send final approval failed, contrary to the Barnstable Patriot Story. Given what's being proposed, I urge the Planning Board to exercise extreme caution in considering a waiver for the demolition of these National Register historic properties.

I'm also concerned about assorted contradictions from the various presentations of this project.

A retired reporter went to one of the early meetings on this matter, and took notes of the statements from the developer. She wrote an article in the Cape Cod Times stating that the apartments would rent anywhere from \$1100 to \$1500. When presented with these figures at the Sept 20th meeting of the HHDC, the developer denied ever having made such a statement, and claims he is unable to give us even ballpark figures for the proposed rentals. At the Sept 11th meeting with this board the developer stated "The biggest challenge to growing the area's economic development is providing housing that's affordable", but he won't place a figure on what he deems affordable in downtown Hyannis. Despite the fact that members of the McAvoy family lived in the main house as recently as two years ago, we were informed that no one could remember the last time any of the homes were occupied. When the developer was pressed to demonstrate why the buildings were irreparable, he wouldn't specify the damage. I noted that he told this board there was lead paint, which is hardly a reason to destroy 200 year old historic buildings. Amazingly he also claimed that the properties were not on an endangered list.

There is a sign at the top of Main Street welcoming visitors to "Historic Hyannis", but this development proposes to destroy the most significant and endangered part of our town's history. We must ask ourselves why? We've been told that the apartment buildings will be rented to young professionals. I see abutters, restaurant and retail owners praising the project because they're tired of the blight, but who are and where are these young professionals of Hyannis who can afford what appears to cost the same price as a mortgage payment to live in prefab housing?

I spent 3 hours on Pleasant Street yesterday. I was surprised at the number of giant trucks and cars speeding down the street, and cannot imagine adding to that traffic. I believe a proper and independent traffic study will show that

Pleasant and South Streets cannot support the additional traffic this project will bring.

There are only 75 proposed parking spaces for 98 bedrooms, potentially occupied by 196 people. I didn't see any visitor parking or any designated spots for the dumpsters (for which relief is sought). Parking and traffic are huge problems for downtown Hyannis, and these apartments will exacerbate that problem. Surely there is no way you can responsibly give a waiver from the parking regulations on this project or ignore the need for a professional traffic study.

We should not be in a rush to destroy our rich and unique history. These properties deserve an unbiased professional assessment by an independent structural engineer who's experienced in evaluating historic properties.

We need a traffic study. Has the issue of upgrading water and sewer lines to accommodate this development been addressed? Who will pay for that? What is the Town getting besides anticipated tax revenues? Has the mitigation fee been established? Are there other fees or costs being paid to the Town in an attempt to compensate for the destruction of our own history?

I urge the Planning Board to do all it can to spare these historic sea captains' homes from demolition. You have an awesome responsibility here. Once you tear these historic National Register properties down, you can't get them back again. They are truly irreplaceable, and their rehabilitation could make us all proud. Thank you.



**Town of Barnstable
Planning & Development Department**



Proposed Regulatory Agreement – 259 North Street, LP

Applicant: Stuart Bornstein d/b/a 259 North Street, LP
Property Addresses: 259 North Street, Hyannis, MA
Assessor's Map/Parcel: 308/073
Zoning: Hyannis Village Business (HVB)

General Description of Proposal

The subject Regulatory Agreement seeks to allow dental and medical clinics as a principal permitted use on the property at 259 North Street.

Section 240-24.1.13 defines Dental or Medical Clinics as follows:

A building or portion of a building in which the primary use is the provision of health care services to patients or clients. Such services may include the following: medical, dental, psychiatric, psychological, chiropractic, dialysis, acupuncture, reflexology, mental health professional, physical and/or occupational therapy, related medical services, or a laboratory which provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists. This definition excludes in-patient or overnight care, animal hospitals, veterinarians, or other similar services. The sale of merchandise is allowed only as an accessory use.

Background

The subject property is a .85 acre parcel with frontage on North Street between Bassett Lane and Sea Street Extension. It is developed with two structures:

- a 12,550 square foot, 2.5 story (plus basement) building closest to North Street, constructed in 1988, recently permitted by the Board for conversion into 14 residential condominium units; and
- an 8,055 sq.ft, one story office building constructed in 2001, currently housing Social Security Administration offices and a vacant tenant space. The lot is adjoining and accessible through the Town's public North Street parking lot.



The lot also contains 32 parking spaces which are encumbered by an easement that allows for public access.

The property has the benefit of Zoning Board of Appeals Special Permit No. 1994-56, which allowed for the construction of the second office building by allowing a reduction in required on-site parking.

That permit was modified by Permit No. 2001-107 to allow for a second office suite within the building. It was modified again by Permit No. 2005-48, permitting a further reduction in required on-site parking to allow for expanded use of the northerly building and additional offices suites.

In 2013, the Board endorsed an Approval Not Required Plan put forward by the Applicant to divide the lot. The plan was never recorded. Condition No. 4 of the 1994 Special Permit prohibits division of the lot.

Procedural Information

- Notice of the proposed regulatory agreement and public hearing was provided in the Barnstable Patriot, to abutting property owners, and to interested parties as required by §168-8(D).
- An affirmative majority vote of the Planning Board to execute the Regulatory Agreement is required.
- Upon an affirmative recommendation from the Planning Board, a two-thirds affirmative vote of the Town Council is needed to authorize the Town Manager to execute the regulatory agreement.



**Town of Barnstable
Planning Board**



Application for a Regulatory Agreement

(Attach additional sheets if necessary)

A regulatory agreement is a contract between the applicant and the Town of Barnstable, under which the applicant may agree to contribute public capital facilities to serve the proposed development and the municipality or both, to build fair affordable housing, to dedicate or reserve land for open-space community facilities or recreational use, or to contribute funds for any of these purposes. The regulatory agreement shall establish the permitted uses, densities, and traffic within the development, the duration of the agreement, and any other terms or conditions mutually agreed upon between the applicant and the Town. A regulatory 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.

For office use only: RA # _____

The undersigned hereby applies to the Planning Board of the Town of Barnstable for a Regulatory Agreement, in the manner and for the reasons set forth below:

1. Applicant Name⁴: 259 North Street LP Phone: 508-775-9316

Applicant Address: 297 North Street, Hyannis, MA 02601

Applicant Email Address: Tbusby@hollymanagement.com

2. Project Name: None - Requesting zoning change

Property Location: 259 North Street, Hyannis, MA 02601

If applicant differs from owner, state nature of interest:⁵ _____

3. Owner(s) of Record. Provide the following information for all involved parcels (attach additional sheets if necessary):

Map/Parcel	Owners Name	Land Ct. Certif. of Title #	Lot & Plan	Registry of Deeds Book/Page #	# Years Owned
308/073	259 North St, LP	5137680			22

⁴ The Applicant Name will be the entity in whose name the Regulatory Agreement will be executed.
⁵ If the applicant differs from owner, the applicant is required to submit one original notarized letter authorizing the application, a copy of an executed purchase & sales agreement or lease, or other documents to prove standing and interest in the property.

Owners Contact information (if different from applicant)

Name	Address	Phone number	Email

4. List all Zoning District(s) within which the property is located: HV3

5. Is this project located within the Groundwater Protection Overlay District? Yes [] No [✓]

6. Is this project located within the Hyannis Main Street Waterfront Historic District? Yes [] No [✓]

7. Does this project involve the demolition or alteration of a building or structure, or any portion of any building or structure, that is over 75 years old? Yes [] No [✓]

8. Is this proposal subject to the jurisdiction of the Conservation Commission? Yes [] No [✓]

9. Is this proposal subject to the jurisdiction of the Board of Health? Yes [] No [✓]

10. Is the Cape Cod Commission a party to the proposed Regulatory Agreement? Yes [] No [✓]

11. Total land area subject to the Regulatory Agreement: _____

Total land area upland: 85 Acres Total land area wetland: 0

12. Total estimated cost of construction: - 0 -

13. Existing Development – Describe existing buildings including number of buildings, Gross Floor Area of each building, height of each building and uses in each building (include Gross Floor Area of each use):

14. Existing Residential Uses: Provide existing density (units per acre), number of total residential units, number of market rate units, number of affordable units counted in the Town's DHCD inventory, and number of workforce units deed restricted, together with the number of bedrooms contained in each unit (also identified by market, affordable and workforce), and a description of which building said units are located (if more than one residential building exists on site):

15. General Description of proposed agreement:

Change zoning to medical

Proposed Level of Development - Number of Buildings: _____

Proposed Use(s): _____

Height of Proposed Uses: _____

Density of Proposed Uses: _____

16. List all zoning relief sought under the regulatory agreement, including a reference to each section of the zoning ordinance under which the applicant seeks relief. (Note: This information will form the basis of the legal advertisement for public hearings on this application and should include all relief that may be required to construct the project. Failure to list all required relief may result in an inability to approve the application and may result in the need to re-advertise the public hearing(s) on the application.):

Change zoning to medical

17. List all relief sought from general ordinances, rules and/or regulations of the Town of Barnstable, including a reference to each section under which the applicant seeks relief (Note: This information may form the basis of the legal advertisement for public hearings on this application and should include all relief that may be required to construct the project. Failure to list all required relief may result in an inability to approve the application and may result in the need to re-advertise the public hearing(s) on the application.).

18. List the state and/or Federal Agencies from which permits, funding, or other actions have been/will be sought:

None

19. Proposed duration of the Regulatory Agreement (Note: By law, the agreement cannot exceed 10 years. The duration of the agreement limits the amount of time during which the applicant may seek to obtain development permits to construct the development. All conditions and terms of an executed agreement are on-going obligations of the parties that shall be honored in perpetuity once the applicant exercises development rights under the Regulatory Agreement):

20. A description of the public facilities and infrastructure to service the development, including whom shall provide such facilities and infrastructure, the date any new facilities will be constructed, a schedule and a commitment by the party providing such facilities and infrastructure to ensure public facilities adequate to serve the development are available concurrent with the impacts of the development:

21. A description of any reservation or dedication of land for public purposes:

None

22. Description of Construction Activity (if applicable), including any demolition, alteration or rehabilitation of existing buildings and a description of building(s) to be demolished, altered or rehabilitated:

None

Attach additional sheet if necessary

Submission Requirements:

The following information must be submitted with the application at the time of filing, failure to do so may result in a denial of your request.

Plan Submissions: All plans submitted with an application shall comply with the requirements of Section 240-102 of the Zoning Ordinance. In addition, the following shall be provided:

- Three (3) copies of the completed application form, each with original signatures.
- Three (3) copies of a 'wet sealed' certified property survey (plot plan) and three (3) reduced copies (8 1/2" x 11" or 11" x 17") showing the dimensions of the land, all wetlands, water bodies, surrounding roadways and the location of the existing improvements on the land.
- Four (4) copies of a proposed site improvement plan and building elevations and layout as may be required plus three (3) reduced copies (8 1/2" x 11" or 11" x 17") of each drawing. These plans must show the exact location of all proposed improvements and alterations on the land and to the structures.

In addition, "pdf" electronic copies of all plans and materials are requested as well as all an electronic file of all plans (format AutoCad.dwg, AutoCad.dxf). Electronic and pdf's can be submitted by disk or e-mailed to karen.herrand@town.barnstable.ma.us.

Other required submissions:

- Review Fee(s) payable by certified check to the Town of Barnstable.
- Deed(s) or Purchase and Sale Agreement(s) for all involved parcels.
- Proof of filing of a Project Notification Form with the Massachusetts Historical Commission if the project is located outside of the Hyannis Main Street Waterfront Historic District.

Other: The applicant may submit additional supporting documents to assist the Board in making its determination. All supporting documents must be submitted eight days prior to the public hearing for distribution to the Board.

Signature:


Applicant's or Representative's Signature

Date: 9-13-17

Print Name

Stuart Bonstein

Representative's⁶
Address:

297 North St.
Hyannis, MA 02601

Phone: 508-775-9316

Fax No.: 508-775-6526

Representative's
E-Mail Address:

tbusby@hollymanagement.com

⁶ Note: All correspondence on this application will be processed through the Representative named at that address and phone number provided. Except for Attorneys, if the Representative differs from the Applicant/Owner, a letter authorizing the Representative to act on behalf of the Applicant/Owner shall be required.

NORTH STREET

DOC 119775

135' 0" WIDE PUBLIC WAY

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LOCUS MAP

SCALE 1"=2000'

ASSESSORS MAP JOB PARCEL 13-2

LOCUS IS WITHIN FEMA FLOOD ZONE X
(AREA OF MINIMAL FLOOD HAZARD) AS
SHOWN ON COMMUNITY PANEL #220000000
DATED 7/16/2014

OWNER OF RECORD

259 NORTH STREET LP
259 NORTH STREET
HYANNIS, MA 02601

REFERENCES

LCP 8094 C
CERT 137860
DOC 119775
DOC 868851
DOC 837025

ZONING SUMMARY

TOWN DISTRICT: HYANNIS VILLAGE BUSINESS DISTRICT

MIN. LOT SIZE 5,000 S.F.
MIN. LOT FRONTAGE 10'
MIN. FRONT SETBACK 4'
MIN. SIDE SETBACK -
MIN. REAR SETBACK -
MAX. BUILDING HEIGHT 42'
MAX. LOT COVERAGE 100%
FAR (AUDED USE ONLY) 3

SITE IS LOCATED WITHIN THE ADJUTER
PROTECTION OVERLAY DISTRICT

SITE PLAN

#259 NORTH STREET
HYANNIS, MA

259 NORTH STREET LP

DATE: MAY 3, 2017

Scale 1"=20'

0 10 20 30 40 50 FEET

DCE 615-056



DATE: DANIEL A. DULA, P.E., P.L.S.

down cape engineering, inc.
civil engineers
land surveyors
930 Main Street (Rte. 6A)
HYANNIS/THORP MA 02678

Jenkins, Elizabeth

From: cape33@verizon.net
Sent: Monday, October 16, 2017 9:37 AM
To: Jenkins, Elizabeth
Cc: jjulius@todayrealestate.com; jenlcullum@yahoo.com
Subject: Re: Follow up to Request for meeting
Attachments: 2017-159 PACKAGE (4).PDF

Planning Board Members,

I would like to make a request of the Board to consider a "working session" with members from the Planning Board, Town Council and petitioners to adjust the wording to be compliant to the correct format to submit for consideration. We have a scheduled hearing on the 23rd that we request be moved out to after the time we have worked collectively to adjust the language and format acceptable to the TOB for change to the zoning ordinance language. Please provide consideration for this request and advise if the hearing Monday October 23rd can be moved out until after we work collectively on the acceptable format.

Regards,

Laura Wentzel/John Julius

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

From: Jenkins, Elizabeth <Elizabeth.Jenkins@town.barnstable.ma.us>
To: cape33 <cape33@verizon.net>
Sent: Thu, Oct 12, 2017 4:28 pm
Subject: RE: Follow up to Request for meeting

Any correspondence to the Board should be directed to this office.
-Elizabeth



Elizabeth S. Jenkins, AICP | Director
Planning & Development Department | Town of Barnstable
200 & 367 Main Street | Hyannis, MA 02601
elizabeth.jenkins@town.barnstable.ma.us
508-862-4735

[Town Website](#) | [Business Barnstable](#) | [Arts Barnstable](#) | [Kennedy Legacy Trail](#)

From: cape33@verizon.net [<mailto:cape33@verizon.net>]
Sent: Thursday, October 12, 2017 3:53 PM
To: Jenkins, Elizabeth
Subject: Re: Follow up to Request for meeting

Do you have an email address for them so I can submit the request before October 23rd?

Thanks for your assistance,
Laura



Town of Barnstable
Planning & Development Department
www.townofbarnstable.us/planninganddevelopment



Memorandum

TO: Mary Barry, Planning Board Chair
FROM: Elizabeth Jenkins, Planning & Development Director
DATE: August 23, 2017
RE: **Order No. 2017-159 - Petition to Amend Zoning Ordinance to Prohibit Group Homes**

On May 18, 2017 a proposal to amend the zoning ordinance was submitted to the Town Council by 12 registered voters in the Town. The attached three-page proposal seeks to “adopt an amendment to zoning by-laws prohibiting the establishment of Group Homes in a Single Family (hereinafter SF) Residential Districts”.

Massachusetts General Law Chapter 40A Section 5 provides procedures for adoption and amendment of municipal zoning ordinances. This section indicates that adoption of zoning amendments may be initiated by the submission of a proposed zoning ordinance to the city council by request of ten registered voters.

Proposed zoning ordinance, whether through government officers or through petition as here, must come forward in a form suitable for adoption into the zoning ordinance. The text of the proposed amendment submitted by the petitioners raises concerns as to form as it does not cite a specific section of the ordinance to be amended. It is unclear how the text of the zoning ordinance would be amended based on the proposal, specifically what districts would be impacted and what specific sections of the ordinance would be amended. Further, the phrase “Group Homes” is not defined either in the petition or in the current zoning ordinance.

According to the petitioners, this amendment was precipitated by the purchase and operation of a property at 95 Chase Street, Hyannis by the group Homeless Not Hopeless. This property is developed with a single-family home and is zoned Residence B. Homeless Not Hopeless, Inc. is a Massachusetts Chapter 180 non-profit corporation whose mission¹ is to assist the homeless in attaining a “sustainable, satisfactory lifestyle” through the provision of short-term housing and “access to the most modern technology and methods possible for pursuing employment, networking, obtaining housing, and gaining access...to resources specific to client needs.”

Massachusetts General Law Chapter 40A Section 3 (the “Dover Amendment”) states: “[no] zoning ordinance or bylaw [shall] prohibit, regulate or restrict the use of land or structures for religious

¹ According to their articles of incorporation.

purposes or for educational purposes on land owned or leased by...[religious and governmental entities] and a nonprofit educational corporation.” The zoning exemption applies to primary and dominant educational uses. Educational uses have been defined by the Courts “according to the common and approved usages of the language”² recognizing that not all educational activities may be “within traditional areas of academic instruction” or taught by certified instructors³ and that the activities may serve “nontraditional communities of learners.”⁴ Additionally, G.L. c. 40A §3 also includes a provision which limits the imposition of local regulations on congregate living arrangements among non-related persons with disabilities that are not imposed upon families and groups of similar size or unrelated persons.

The Board should be aware that this proposal raises concerns about consistency with state law, specifically the Dover Amendment referenced above. Further, there is concern about potential conflict with the objectives of the ordinance and protections provided by the Federal Fair Housing Act and the Americans with Disabilities Act.

For the reasons outlined above, staff suggests that the Board should not recommend the ordinance in its current form. If the Board determines it can legally reach the merits, the Board has the option to recommend amendments to the proposal or to work with the petitioners to bring the ordinance forward in a suitable form.

The Planning Board is strongly encouraged to request assistance from the Town Attorney’s Office in evaluating these considerations prior to taking any action to further the substance of this petition.

² *Moulton v. Building Inspector of Milton*, 312 Mass. 145 , 148 (1942), quoting *Commonwealth v. S.S. Kresge Co.*, 267 Mass. 145 , 148 (1929).

³ *Cummington School of Arts, Inc. v. Assessors of Cummington*, 373 Mass. 597 (1977)

⁴ *Regis College v. Town of Weston* 426 Mass. 280, 284-293 (2012)

B. NEW BUSINESS (Refer to Planning Board)

BARNSTABLE TOWN COUNCIL

ITEM # 2017-159
INTRO: 06/01/17

2017-159 ORDER, PURSUANT TO M.G.L. CHAPTER 40A SECTION 5, SUBMITTING PROPOSED ZONING AMENDMENT PROHIBITING THE ESTABLISHMENT OF GROUP HOMES TO THE PLANNING BOARD

ORDERED: That the attached three page proposal to “adopt an amendment to zoning by-laws prohibiting the establishment of Group Homes in a Single Family (hereinafter SF) Residential Districts” submitted to the Town Council on May 18, 2017 by 12 registered voters is hereby submitted for review to the Planning Board pursuant to provisions M.G.L. Chapter 40A Section 5.

SPONSOR:

DATE	ACTION TAKEN
_____	_____
_____	_____

Petition to Adopt a Zoning Ordinance and By-law Prohibiting Group Homes (hereinafter, GH) in Residential Zone Areas.

WE THE UNDERSIGNED, owners of land on or near Chase Street, Hyannis, are negatively affected by the establishment of a GH seeking to be located at 95 Chase Street, Hyannis by Homeless not Helpless, Inc. (hereinafter, HnH) which has a current Principal Place of Business Address located at 119 Baxter Rd., Hyannis, 02601.

Petitioners, pursuant to M.G.L. Chapter 40A, Section 5, ask the Planning Board and Town Council to adopt an amendment to zoning and town by-laws prohibiting the establishment of GH in a Single Family (hereinafter SF) Residential Districts.

We cite the following reasons for our concern and dedicated opposition:

1. The project proposed by HnH is a GH proposed in a SF zone.
2. A GH is defined as: "A home where a number of unrelated people in need of care, support or supervision can live together."¹
3. The multiple Projects of HnH have been improperly classified as a property for educational purposes and HnH has been claiming illegally exemption under M.G.L. 40A, Section 3, from local zoning regulations.
4. HnH has been blankety labeled as educational and review needs to be considered and have them reclassified as a GH.
5. The Growth Incentive Zone (hereinafter GIZ) should be utilized for the HnH organization.²
6. The GIZ makes up 75% of Hyannis and the GH project proposed by HnH should be sited there. (See chart attached).
7. Chase Street is not within the GIZ.
8. Chase Street is a residential neighborhood which is populated with seniors, children, retirees, working single people, families in general and working families.
9. This proposed GH is a business and not a residential home.
10. The proposed GH will house some nine individuals, one as an on-site manager and eight persons, which we are told are recovering addicts and some formerly incarcerated individuals.
11. HnH requires of their renters, non related to one another, to each pay a monthly fee with penalties, which categorizes this as GH as well as a business property. It therefore belongs in GIZ zone.³
12. The town has a by-law in which no more than three unrelated persons may not rent rooms in any home in Barnstable and this home would be illegally run and in contradiction to the established by-law.

¹ <https://www.merriam-webster.com/dictionary/grouphome>

² <http://www.town.barnstable.ma.us/ComprehensivePlanning/051114-V01-FINAL-GIZ%20application.pdf>
the Cape Cod Commission requesting the designation of a Growth Incentive Zone, allowing more local control by raising Development Regional Impact thresholds. This streamlined regulatory approach, in conjunction with recently approved zoning changes and an increased capacity to manage growth by the Town will provide a clear incentive for those interested in investing in Downtown Hyannis. This Growth Incentive Zone will allow the Town to direct opportunity to the center of the Village of Hyannis by supporting village-scale density and mixed use zoning furthering a town-wide plan to create a healthy community and a sustainable economy. Downtown Hyannis is an area of Barnstable with existing growth infrastructure and capacity but many underperforming properties. This plan maximizes the infrastructure advantage while minimizing the negative impacts of growth. It highlights the potential for people to live and work on a smaller environmental footprint reinforced by steps taken to offset growth in areas of Town where development threatens those human and environmental measures that determine our quality of life Hyannis is a Village important to the commercial and marine history of Cape Cod and the region.

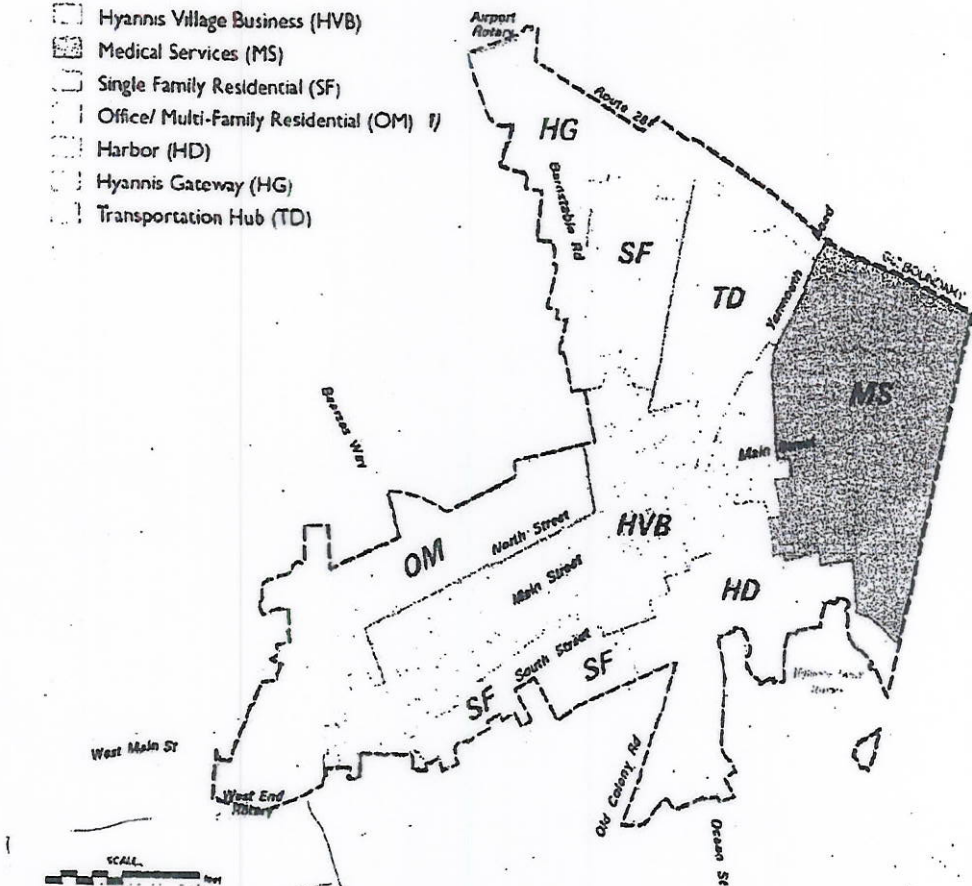
³ <http://homelessnothopeless.org/preliminary-application/>

13. It is discriminatory to place a 3rd group home in violation of existing town by laws in the same precinct, Precinct (13).
14. HHH has already 3 other homes situated each within one mile radius of the proposed home at 95 Chase Street.⁴
15. Allowance of another GH in a SF zone will have a negative effect and diminish home values within the Chase Street neighborhood.
16. The owners of homes within the Chase Street neighborhood own year round homes, year round rental homes, and have summer rental homes that all stimulate the Hyannis Economy and they have a legal right not be discriminated against due to their location.
17. It is incumbent upon this council as a governing body to amend the town by-law that regulates these GH to consider making a change pursuant to M.G.L. 40A, Section 5.

1. SIGNATURE [Signature] ADDRESS 47 Redwood Ln
 2. SIGNATURE Laura Winters ADDRESS 7 Harvard St.
 3. SIGNATURE [Signature] ADDRESS 7 Harvard St
 4. SIGNATURE [Signature] ADDRESS 47 Redwood Ln
 5. SIGNATURE [Signature] ADDRESS 52 Harvard St
 6. SIGNATURE Smith L. Lagergren ADDRESS 63 Harvard St.
 7. SIGNATURE [Signature] ADDRESS 402 South St
 8. SIGNATURE [Signature] ADDRESS 402 South Street
 9. SIGNATURE [Signature] ADDRESS 140 Chase St Hyannis, MA
 10. SIGNATURE [Signature] ADDRESS 180 old County Rd Hill
27 Foster Road, Hyannis
- [Signature] 27 Foster Road,
Kathleen M. Manning Hyannis

⁴ 22 Main Street, Hyannis, 44 Newton Street, Hyannis, 119 Baxter Road, Hyannis.

-  Hyannis Village Business (HVB)
-  Medical Services (MS)
-  Single Family Residential (SF)
-  Office/ Multi-Family Residential (OM) 1/
-  Harbor (HD)
-  Hyannis Gateway (HG)
-  Transportation Hub (TD)



turn This problem is illustrated by the fact that, despite an increase in Hyannis' overall median income between 1990

Map-1 Proposed GIZ Boundary

B. NEW BUSINESS (Refer to the Planning Board)

BARNSTABLE TOWN COUNCIL

ITEM# 2018-027

INTRO: 09/07/17

**2018-027 AMENDING CHAPTER 240-16.1 OF THE ZONING ORDINANCE
MASSACHUSETTS AFFORDABLE HOUSING (MAH) RESIDENTIAL
DISTRICT**

ORDERED:

Section 1.

That Section 240-16.1D of the Zoning Ordinance (Bulk regulations) is hereby amended by striking out footnote "1" and renumbering footnote "2" as footnote "1".

So as revised Section 240-16.1D shall read as follows:

D.

Bulk regulations

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Setbacks (feet)			Yard Maximum Building Height¹ (feet)
				Front	Side	Rear	
MAH	87,120	200	—	60	30	30	30

NOTES:

¹Height shall be measured from the grade plane to the plate.

Section 2.

That Section 240-16.1E of the Zoning Ordinance (Density requirements) is hereby amended by striking out the existing Section 240-16.1E and substituting in place thereof the following

"E.

Density requirements- The total number of residential units allowable within a multifamily affordable housing development shall not exceed 16 per acre of upland.

Section 3.

That Section 240.16.1F of the Zoning Ordinance is hereby amended as follows:

By striking out the parenthetical phrase at the end of the second sentence of Section 240.16.1F(6) "(with the exception that development under this section providing off-site inclusionary

housing in conjunction with a senior continuing care retirement community shall not be required to provide services offered within the senior continuing care facility).”

By striking out the second sentence in Section 240.16.1F (8) which reads: “When the multifamily affordable housing development is proposed to satisfy the inclusionary requirements for a senior continuing care retirement community, phasing shall be as determined by the SPGA”

By striking out the word “Affordable” before “Housing Inventory” in Section 240.16.1F (10) and substituting in its place the phrase “DHCD Subsidized”.

By striking out Section 240.16.1F (7) and Section 240.16.1F (11) and renumbering the remaining paragraphs.

So as revised Section 240-16.1F shall read as follows:

“F.

Affordable units- At least 25% of the dwelling units shall be affordable units, subject to the following conditions:

(1)

All affordable units shall remain affordable, as defined herein, in perpetuity. A use restriction shall assure this condition. The use restriction shall be structured to survive any and all foreclosures.

(2)

The continuing enforcement of the use restriction through subsequent resale of the affordable units shall be the subject of a monitoring agreement.

(3)

The use restriction and the monitoring agreement shall be drafted in compliance with the Local Initiative Program (LIP), and guidelines promulgated thereunder. The use restriction and the monitoring agreement shall be subject to review and approval by the Planning Board and approved as to form by the Town Attorney's office prior to the issuance of any building permits for any dwelling unit.

(4)

The affordable unit 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).

(5)

A right of first refusal upon the transfer of such affordable units shall be granted to the Town or its designee for a period of not less than 120 days after notice thereof.

(6)

Affordable units shall not be segregated within the MAHD. The affordable units shall satisfy the design and construction standards and guidelines of the Local Initiative Program with regard to distinguishability from market rate units. It is the intent of this section that the affordable units shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as LIP units.

(7)

Affordable units shall obtain occupancy permits issued at the rate of one affordable unit for every four market rate units.

(8)

In computing the number of required affordable units, any fraction of a unit shall be rounded up, and the result of this computation shall be the number of affordable units required to be built within the MAHD.

Affordable units shall only be located within any development permitted under this provision. This standard is not subject to variance.

(9)

No occupancy permit shall be granted unless the affordable dwelling units have been approved by the DHCD as eligible for the DHCD Subsidized Housing Inventory under the Local Initiative Program (LIP) Guidelines.”

Section 4.

By striking out in Section 240.16.1I (Definitions), the definition of NURSING OR CONVALESCENT HOME in its entirety

SPONSOR: Eric R. Steinhilber, Town Council President, Precinct 2

DATE	ACTION TAKEN
_____	_____
_____	_____

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

RATIONALE

In 2008, the Town created the Multifamily Affordable Housing Development Overlay District for the purposes of creating off-site inclusionary affordable housing in conjunction with a proposed continuing care retirement community. To date, the proposed zoning district has never been utilized for affordable housing due to certain conditions under the existing zoning ordinance making it economically unfeasible to develop such housing, including the requirement that a former nursing home had to be repurposed into affordable housing together with the requirement that all units on site had to be "affordable" in order to take advantage of the maximum density allowed. It is believed that these conditions have significantly impeded the ability to develop affordable housing within the so called MAH Residential District Overlay and that the removal of such will significantly increase the potentiality for developing such overlay sites into much needed affordable housing.

Proposed (Redlined) Changes to MAH Residential District

Chapter 240. Zoning

Article III. District Regulations

§ 240-16.1. MAH Residential District.

[Added 2-28-2008 by Order No. 2008-077; amended 1-20-2011 by Order No. 2011-039]

A. Purpose. The purpose of this section is to authorize by special permit privately initiated affordable housing by for-profit or not-for-profit organizations that:

(1) Provide for residential development in a manner that is consistent with existing neighborhood development in terms of density and housing types; and

(2) Authorize an increase in the permissible density of housing in a proposed development, provided that the applicant shall, as a condition for the grant of said special permit, provide housing for persons of low or moderate income.

B. Principal permitted uses. The following uses are permitted in the MAH District:

(1) Single-family residential dwelling (detached).

C. Special permit uses. For the purposes of this section, the Planning Board shall be the special permit granting authority. The following uses are permitted as conditional uses in the MAH District, provided that a special permit is first obtained from the Planning Board subject to the provisions of § 240-125C herein and subject to the specific standards for such special permit uses as required in this section:

(1) Multifamily affordable housing developments connected to the municipal sewage collection system.

D. Bulk regulations.

Zoning District	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet)	Minimum Lot Width (feet)	Minimum Yard Setbacks ¹			Maximum Building Height ^{1,2} (feet)
				Front	Side	Rear	
MAH	87,120	200	—	60	30	30	30

NOTES:

¹ ~~For developments within an existing structure previously used as a nursing or convalescent home, yard setbacks shall be the setback to the existing building footprint or the setbacks stated above, whichever is less.~~

² Height shall be measured from the grade plane to the plate.

Proposed (Redlined) Changes to MAH Residential District

E. Density requirements. The total number of residential units allowable within a multifamily affordable housing development shall not exceed ~~eight per acre of upland; provided, however, that within the redevelopment of an existing structure previously used as a nursing home or convalescent home which is 100% affordable, the total number of residential units allowable shall not exceed~~ 16 per acre of upland.

F. Affordable units. At least 25% of the dwelling units shall be affordable units, subject to the following conditions:

(1) All affordable units shall remain affordable, as defined herein, in perpetuity. A use restriction shall assure this condition. The use restriction shall be structured to survive any and all foreclosures.

(2) The continuing enforcement of the use restriction through subsequent resale of the affordable units shall be the subject of a monitoring agreement.

(3) The use restriction and the monitoring agreement shall be drafted in compliance with the Local Initiative Program (LIP), and guidelines promulgated thereunder. The use restriction and the monitoring agreement shall be subject to review and approval by the Planning Board and approved as to form by the Town Attorney's office prior to the issuance of any building permits for any dwelling unit.

(4) The affordable unit 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).

(5) A right of first refusal upon the transfer of such affordable units shall be granted to the Town or its designee for a period of not less than 120 days after notice thereof.

(6) Affordable units shall not be segregated within the MAHD. The affordable units shall satisfy the design and construction standards and guidelines of the Local Initiative Program with regard to distinguishability from market rate units ~~(with the exception that development under this section providing off-site inclusionary housing in conjunction with a senior continuing care retirement community shall not be required to provide services offered within the senior continuing care facility)~~. It is the intent of this section that the affordable units shall be eligible for inclusion in the DHCD Subsidized Housing Inventory as LIP units.

~~(7) Where the Planning Board finds that an applicant for a special permit under § 240-29 of the SCCRCOD (Senior Continuing Care Retirement Community Overlay District) can satisfy its inclusionary requirement under Chapter 9 by providing off-site, affordable units, affordable units created under this section may be used to fulfill this off-site inclusionary requirement.~~

(78) Affordable units shall obtain occupancy permits issued at the rate of one affordable unit for every four market rate units. ~~When the multifamily affordable housing development is proposed to satisfy the inclusionary requirements for a senior continuing care retirement community, phasing shall be as determined by the SPGA.~~

(89) In computing the number of required affordable units, any fraction of a unit shall be rounded up, and the result of this computation shall be the number of affordable units required to be built within

Proposed (Redlined) Changes to MAH Residential District

the MAHD. Affordable units shall only be located within any development permitted under this provision. This standard is not subject to variance.

~~(940)~~ No occupancy permit shall be granted unless the affordable dwelling units have been approved by the DHCD as eligible for the Affordable Housing Inventory under the Local Initiative Program (LIP) Guidelines.

~~(11) When a multifamily affordable housing development is proposed to satisfy the inclusionary requirements for a senior continuing care retirement community proposed or permitted under the provision of § 240-29 of this Code, such multifamily units shall not be required to provide an additional 10% of inclusionary units as a result of the multifamily affordable housing development but shall at a minimum provide the number of affordable units required by § 240-29 of this Code.~~

G. Decision. The Planning Board may grant a special permit for a MAHD where it makes the following findings:

- (1) The proposed MAHD complies with all applicable subdivision rules unless otherwise waived by the Board.
- (2) The proposed MAHD complies with the Zoning Ordinance and the requirements of this section.
- (3) The proposed MAHD provides affordable units consistent with the requirements set forth herein.
- (4) The proposed MAHD does not cause substantial detriment to the neighborhood.

H. Relation to other requirements. The submittals and special permit required herein shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Ordinance.

I. Definitions. As used in this section, the following terms shall have the meanings indicated:

AFFORDABLE UNIT

A dwelling unit reserved in perpetuity for rental or ownership by a qualified affordable housing unit purchaser or tenant as defined under § 9.2 of the Code, and priced to conform with the standards of the Massachusetts Department of Housing and Community Development (DHCD) for ownership units set forth in the Local Initiative Program Guidelines, in order that such affordable units shall be included in the DHCD Subsidized Housing Inventory.

APPLICANT

The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit for construction of a private-initiated affordable housing development (MAHD) hereunder. The applicant must own or be the beneficial owner of all the land included in the proposed MAHD, or have authority from the owner(s) to act for the owner(s) or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site.

Proposed (Redlined) Changes to MAH Residential District

MULTIFAMILY AFFORDABLE HOUSING DEVELOPMENT (MAHD)

A development of multifamily residential dwelling(s), including required affordable units and permissible accessory structures, authorized by special permit from the Planning Board as set forth herein.

~~NURSING OR CONVALESCENT HOME~~

~~Any dwelling or building with sleeping rooms for people who are housed or lodged with meals and nursing care for hire, as licensed by the Massachusetts Department of Public Health under MGL c. 111, § 71, as amended.~~

USE RESTRICTION

A restriction ensuring the continued affordability of a dwelling unit. A use restriction is a deed restriction or other legally binding instrument in a form consistent with Department of Housing and Community Development (DHCD) Local Initiative Program (LIP) guidelines which runs with the land and is recorded with the relevant registry of deeds or land court registry district, and which effectively restricts the occupancy of a low- or moderate-income housing unit to income eligible households during the term of affordability. A use restriction shall contain terms and conditions for the resale of a homeownership unit, including definition of the maximum permissible resale price, and for the subsequent rental of a rental unit, including definition of the maximum permissible rent. A use restriction shall require that tenants of rental units and owners of homeownership units shall occupy the units as their principal residences.